


**Item No. 9.2**  
**Halifax Regional Council**  
**June 24, 2014**

**TO:** Mayor Savage and Members of Halifax Regional Council

Original signed by 

**SUBMITTED BY:** \_\_\_\_\_  
Richard Butts, Chief Administrative Officer

Original Signed by Director

\_\_\_\_\_  
Brad Anguish, Director, Community and Recreation Services

**DATE:** May 23, 2014

**SUBJECT:** Noise By-Law Exemption – Halifax Jazz Festival

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**ORIGIN**

May 20, 2014 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, by the JazzEast Rising Association, outlined as Appendix A.

**LEGISLATIVE AUTHORITY**

By-Law N-200, Respecting Noise, Part 6; Grant of Exemptions by Council.

**RECOMMENDATION**

It is recommended that Halifax Regional Council approve the JazzEast Rising Association's application for an exemption from the provisions of the Noise By-Law pursuant to the contents of this report and any matters raised at the public hearing.

## **BACKGROUND**

In September, 1999 HRM Council adopted By-Law N-200, Respecting Noise. The By-law states under Section 3 of the **General Prohibition** section:

3. (1) No person shall engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood.
- (2) Without limiting the generality of subsection (1), the activities listed in Schedule “A” during the prohibited times and places as set out therein are deemed to be activities that unreasonably disturb the peace and tranquillity of a neighbourhood.
- (3) For the purpose of a prosecution pursuant to subsections (1) or (2), evidence that one neighbour is unreasonably disturbed by a noise is prima facie evidence that the neighbourhood is unreasonably disturbed by the noise.

Part 6 of the By-Law, “**Grant of Exemptions by Council**”, allows for any person to send an application to Regional Council requesting an exemption from any or all provisions of the Noise By-Law for which that person may be prosecuted. The By-Law states that an applicant or any person opposed to an application may be heard at a session of Council. Notice of the Council Session is required to be mailed to assessed property owners located within 100 feet of the properties which are subject to the hearing.

In deciding whether or not to grant an exemption, Council is to give consideration to:

- the social or commercial benefit of the proposed activity to the municipality;
- the viewpoints of community residents;
- the proposed hours of operation of the proposed noise-emitting activity; and
- the proposed duration of the subject activity.

An excerpt from the Noise By-Law detailing the exemption process is attached as Appendix B.

## **DISCUSSION**

Jazz East Rising is requesting an exemption to By-law N-200 for the 2014 TD Halifax Jazz Festival which is being held at 1521 Lower Water Street.

The organizing committee advises set-up for the event will take place on July 2 and 3, 2014. The work will be completed each day between 7:00 a.m. to 9:00 p.m. The performances will take place nightly from July 4-12, 2014. They are scheduled to begin at 8:00 p.m. and conclude by 11:30 p.m. with the site being closed by midnight. Noises in relation to the performances are exempt as per:

### **Prescribed Exemptions, Part 4;**

- (2) Notwithstanding any other provisions of this By-law, this By-law shall not apply to:
  - (g) noises in relation to municipal parades, street dances or other community activities until one o'clock in the forenoon.

The exemption from By-Law N-200 Respecting Noise is being requested for the following portion of the event schedule:

**Event tear down:**

Saturday, July 12<sup>th</sup> beginning at midnight and ending Sunday, July 13<sup>th</sup> at 1:30 a.m.

The tear down will resume from 9:00 a.m. to 9:00 p.m. on Sunday, July 13, 2014. Site clean-up will continue during daytime hours on July 14 and 15, 2014.

Notice of the Council Session at which the hearing is proposed to take place has been sent to property owners within 100 feet of the event location at 1521 Lower Water Street.

Under subsections 6(3) and (5) of the Noise By-Law, Council may consider any matters it deems appropriate at the hearing and either reject an application or approve it, with or without conditions.

**FINANCIAL IMPLICATIONS**

There are no financial implications.

**COMMUNITY ENGAGEMENT**

Staff consulted with Halifax Regional Police and they advised there are no concerns regarding the event.

**ENVIRONMENTAL IMPLICATIONS**

Event organizers have confirmed appropriate waste and recycling practices will be followed. Containers will be provided on site to facilitate proper sorting, recycling, composting and garbage collection.

**ALTERNATIVES**

1. Approve the application with conditions; or
2. Reject the application in its entirety.

**ATTACHMENTS**

Appendix A: May 20, 2014 Application for Exemption from By-Law N-200 Respecting Noise

Appendix B: Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Tanya Phillips, Manager, By-Law Standards, 490-4491

Report Approved by: Jim Donovan, Manager, Municipal Compliance, 490-6224

Report Approved by: Brad Anguish, Director of Community and Recreation Services, 490-4933

## APPENDIX A



JazzEast Rising  
Association

Incorporated 1987  
Registered Charity  
8888 19190 RR0001

1313 Hollis Street,  
2nd Floor  
Halifax, NS

902 492 2225

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Halifax, NS B3L 4T6

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Thomas Curran



May 20, 2014

Erin Dobson  
Regional Coordinator Support Services, By-Law Standards  
Municipal Compliance  
Community and Recreation Services  
P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5

Dear Ms. Dobson,

This letter is our request for Noise Exemption for the 2014 Halifax Jazz Festival in relation to our outdoor venue that occupies the Salter Block parking lot at 1521 Lower Water St. in Halifax. We were granted an exemption last year. Please refer to the attached site diagram that shows a substantially un-changed layout from last year. We will be continuing our northern orientation for the stage to minimize sound for the residents of Bishops Landing. Please note that the stage will be located approximately 60 feet from the edge of the parking lot which is approximately 30+ feet from the Bishop's Landing building.

We will request letters from the Waterfront Development Corporation and Bishops Landing management that they do not have objections to our proposed uses and schedule for the parking lot.

Our use of the parking lot begins with the Load-in of the outdoor venue commencing on Wednesday, July 2 at 7:00 am and concludes with the final Load-out of equipment during Tuesday, July 15. The following is the detailed schedule of activities by day with notes regarding the type of activity, timing, etc.

### Wednesday, July 2 – 7:00 am to 9:00 pm – Load-In

- Installation of perimeter fencing for site – potential for some hammering of pegs to secure fencing braces.
- Installation of tents as per attached site diagram. Installation of tent pegs involves the use of power hammer.
- Distribution of electrical power around the site. No significant noise.
- Assembly and installation of entrance structure. Use of power tools required.
- Delivery and installation of solid waste bins.

### Thursday, July 3 – 8:00 am – 9:00 pm – Load-In

- Delivery and installation of stage, lighting and audio equipment. Use of power tools required.
- Initial testing of sound system.
- Final fencing installation.
- Delivery and installation of portable toilets and waste-water handling equipment.
- Delivery and installation of event signage and pageantry. Use of power tools required.
- Delivery and installation of vendor equipment.



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#### Friday, July 4 – 8:00 am – midnight – Load-In and 1st Performance

- Delivery and installation of equipment for event operations.
- Completion of vendor and sponsor display & equipment installation
- Sound check for evening performance 5:30 – 7:00 pm
- Performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

#### Saturday, July 5 – 8:00 am – midnight

- Servicing of portable toilets before 10:00 am
- Potential solid waste tipping of garbage bins before 10:00 am.
- Site prep meetings for day's activities 9:30 am - 11:45 am
- Sound checks for afternoon performers 10:30 am – 11:45 am
- Site opens to public at 11:45 am
- Site closes to public 5:30 pm
- Servicing of portable toilets between 5:30 and 7:00 pm
- Sound check for evening performance 5:30 – 7:00 pm
- Performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

#### Sunday, July 6 – Saturday, July 12

- Repeat of Saturday schedule above, except start time could be 7 am for weekdays.
- Start time for Saturday, July 12 will be 8:00 am.

#### Sunday, July 13 – Midnight Saturday to 9:00 pm Sunday Load-Out

- Packing by volunteers and technical crew of equipment and other material for storage until about 1:30 am. Departure of several vehicles from site. No significant noise.

#### From 9:00 am Onwards

- Dismantle and remove stage, lighting & audio equipment. Some power tools required.
- Dismantle of power distribution system.
- Packing of operational gear for storage
- Packing and removal of vendor equipment from 9:00 am onwards

#### Monday, July 14 – 7:00 am – 6:00 pm

- Dismantle and removal of tents from 7:00 am onwards
- Dismantle and removal of fencing from 9:00 am onwards
- Removal of portable toilets.
- Removal of solid waste bins.
- Removal of operational gear to storage.

#### Tuesday, July 15 – 9:00 am – 6:00 pm

- Removal of final pieces of equipment – pop coolers, etc.

Waste disposal is coordinated with the Waterfront Development Corporation contractor. We have 4 stream at-source separation and separate on-site dumpsters for each stream that are tipped as required throughout and after the event. Gray water



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from the bar and food vendors is collected in an tank on-site and emptied periodically by the contractor servicing the portable toilets.

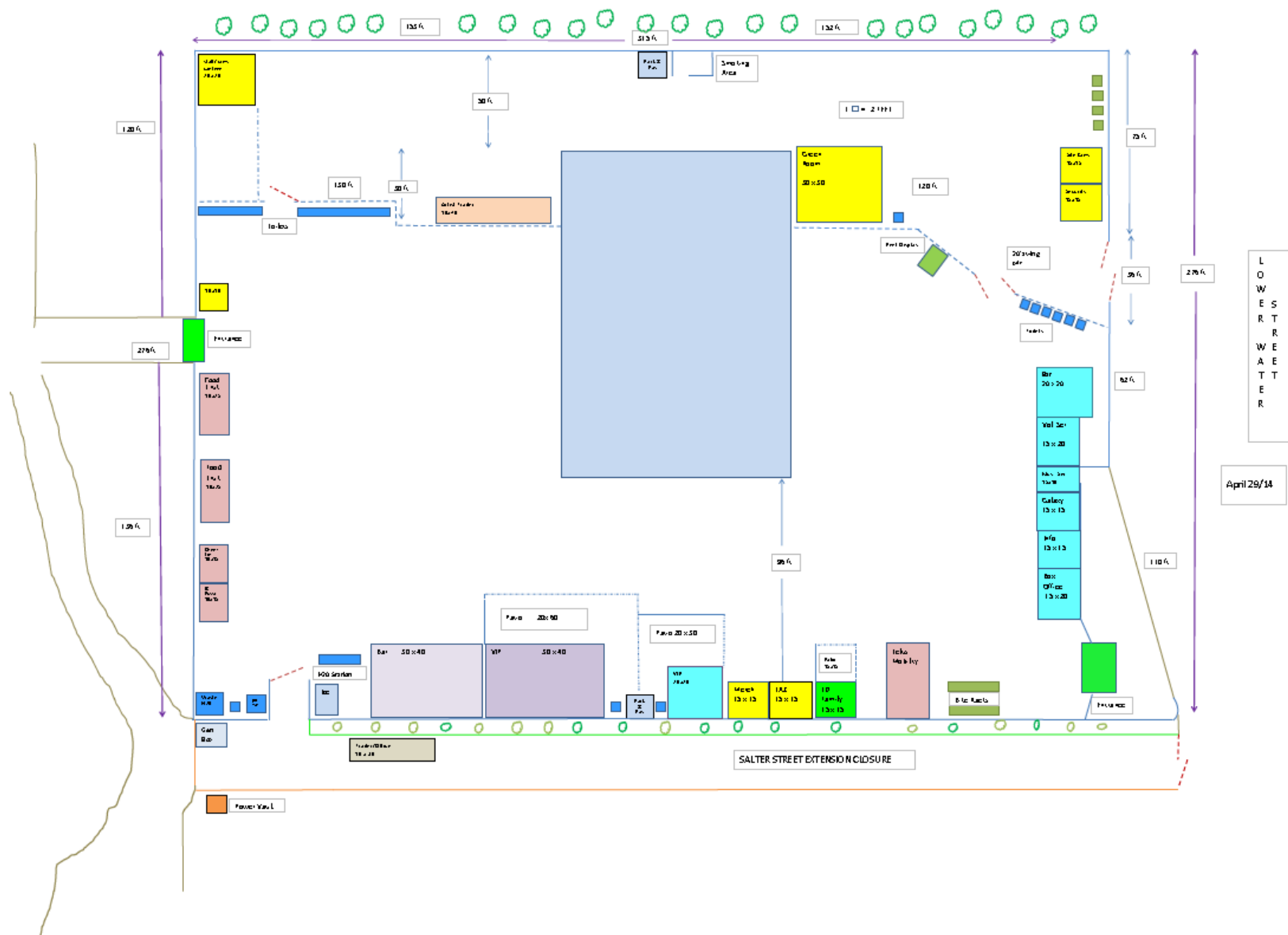
Please advise if you require any additional information regarding our application.

Regards,

David Jones  
Site and Logistics Manager  
902-483-8515

cc: Heather Gibson, JazzEast Rising  
Andrew Cox, HRM Civic Events  
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## APPENDIX B

### Excerpt from By-Law N-200 Respecting Noise re: Granting Exemptions by Council.

#### Grant Of Exemptions By Council

6. (1) Notwithstanding anything contained in this By-Law, any person may make application to Council to be granted an exemption from any of the provisions of this By-Law with respect to any emission of noise for which that person might be prosecuted; and Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect; and any exemption granted shall specify the time period, not in excess of six months, during which the exemption shall be effective and the exemption shall be in written form and shall include such terms and conditions as Council deems appropriate.
- (2) In deciding whether or not to grant an exemption, Council shall give consideration to the social or commercial benefit of the proposed activity to the municipality, the views of any residents of the municipality which may be expressed to Council, the proposed hours of operation of the proposed noise-emitting activity and the proposed duration of the subject activity.
- (3) In deciding whether or not to grant an exemption, Council shall give the applicant, and any person opposed to the application, an opportunity to be heard during a Council Session and may consider such other matters as it deems appropriate.
- (4) Notice of the time, date and purpose of the Council Session at which the hearing is proposed to take place shall be mailed to the assessed owner or owners as shown in the records of the Regional Assessment Office, of property located within 100 feet of the property which will be the subject of the hearing;
- (5) Any alleged breach by the applicant of any of the terms or conditions of any exemption granted by Council, shall be investigated by municipal staff, reported to Council in writing and Council shall determine whether or not a breach has taken place. If a breach has taken place, Council may pass a resolution revoking the exemption, without the necessity of giving notice of rescinding motion, and such exemption shall be null and void as of the passing of such resolution.