




P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 9.1**  
**Halifax Regional Council**  
**June 23, 2015**

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

Original signed by 

**SUBMITTED BY:**

\_\_\_\_\_  
Richard Butts, Chief Administrative Officer

Original Signed by 

\_\_\_\_\_  
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** May 27, 2015

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

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#### **ORIGIN**

On May 20, 2015, staff received an application for an exemption from By-Law N-200, Respecting Noise, by the JazzEast Rising Association (attached 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, Respecting Noise for the 2015 TD Halifax Jazz Festival which is being held at 1521 Lower Water Street. Sites being used are those used for past Halifax Jazz Festival events; exemptions have formerly been granted.

The organizing committee advises set-up for the event will take place from 7:00 a.m. to 9:00 p.m. on July 6, 7 and 8, 2015. Set-up will include installation of the perimeter fencing, stages, tents and electrical power around the site. There will also be delivery, installation and testing of audio and lighting equipment.

The performances will begin on July 8, 2015 and take place each night with the final performance taking place on Sunday, July 12, 2015. Performances are scheduled to begin at 8:00 p.m. and conclude by 11:30 p.m. with the site being closed to the public by midnight.

Site tear down is scheduled to begin on Monday, July 13, 2015 at midnight and will include packing up of equipment and other material for storage until 1:30 am on Monday, July 13, 2015.

The tear down and site clean-up will resume at 7:00 a.m. and conclude at 9:00 p.m. on Monday, July 13, 2015. Site clean-up will conclude on Tuesday, July 14, 2015 and take place from 9:00 a.m. to 6:00 p.m.

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

Monday, July 13, 2015 - 12:00 a.m. to 1:30 a.m.

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**

This is the 29<sup>th</sup> annual Halifax Jazz Festival. There are approximately 500 volunteers for the festival. The organization committee is expecting 6000 attendees each day.

Noise exemptions have been granted in previous years for the Halifax Jazz Festival.

There were no complaints received last year for this 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, 2015 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

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A copy of this report can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210 or Fax 902.490.4208.

Report Prepared by: Tanya Phillips, Manager, By-Law Standards, Planning and Development 902.490.4491

Report Approved by: Jim Donovan, Manager, Municipal Compliance, Planning and Development 902.490.6224

Report Approved by: Bob Bjerke, Chief Planner and Director, Planning and Development, 902.490.1627

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## APPENDIX A



JazzEast Rising Association

Incorporated 1987  
Registered Charity  
8888 19190 RR0001

2178 Gottingen Street  
Halifax, NS

902 492 2225

info@jazzeast.com  
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Mail to: Box 33043  
Halifax, NS B3L 4T6

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Catherine Stevens Doane  
Brian Aywad  
Leonard Preysa  
Paul Chui

Executive Director  
Heather Gibson

Artistic Director  
Laura (Lulu) Healy



May 20, 2015

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 2015 Halifax Jazz Festival in relation to our several outdoor venues.

Our primary outdoor venue 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 Bishop's Landing building.

We have requested 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 Monday, July 6 at 7:00 am and concludes with the final Load-out of equipment during Tuesday, July 14. The following is the detailed schedule of activities by day with notes regarding the type of activity, timing, etc.

### Monday, July 6 – 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 stage structure, no significant noise anticipated.
- 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 structures. Use of power tools required.
- Delivery and installation of solid waste bins.

### Tuesday, July 7 – 8:00 am to 9:00 pm – Load-In

- Delivery and installation of audio, 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.



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- Delivery and installation of event signage and pageantry. Use of power tools required.
- Delivery and installation of vendor equipment.
- Delivery of event operations equipment.

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

- Delivery and installation of equipment for event operations.
- Completion of vendor and sponsor display & equipment installation
- Sound checks for evening performances will be between 10:00 am and 1:00 pm
- Performances 3:00 pm – 6 pm and 8:00 pm - 11:30 pm
- Site closes to public on or before midnight.

#### Thursday, July 9 – 7:00 am to 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 noon – 1:00 pm
- Site opens to public at 2:45 pm
- Site closes to public 6:30 pm
- Servicing of portable toilets between 6:30 and 7:30 pm
- Sound check for evening performance 10:00 am and 1:00 pm
- Performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

#### Friday, July 10 - 7:00 am to midnight

- Repeat of Thursday schedule above.

#### Saturday, July 11 – 8:00 am to 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 11:00 am – noon
- Site opens to public at 12:45 pm
- Site closes to public 6:00 pm
- Servicing of portable toilets between 6:30 and 7:30 pm
- Sound check for evening performance will be between 10:00 am and 1:00 pm
- Performance begins 8:00 pm and ends on or before 11:30 pm
- Site closes to public on or before midnight.

#### Sunday, July 12 – 9:00 am to midnight

- Repeat of Saturday schedule
- Onsite packing of gear and departure of several vehicles. No significant noise.

#### Monday, July 13 – Midnight Sunday to 9:00 pm Monday – 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 7:00 am to 9:00 pm:
  - Dismantle and remove stage, lighting & audio equipment. Some power tools required.



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- o Dismantle of power distribution system.
- o Packing of operational gear for storage
- o Packing and removal of vendor equipment from 9:00 am onwards

Tuesday, July 14 – 9:00 am to 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.

Additional outdoor venues:

Halifax Public Gardens – Bandstand

July 11 & 12

- Big band performances on bandstand from noon – 4:00 pm
- No significant sound amplification

Hydrostone Park – In front of Hydrostone Market

July 11 & 12

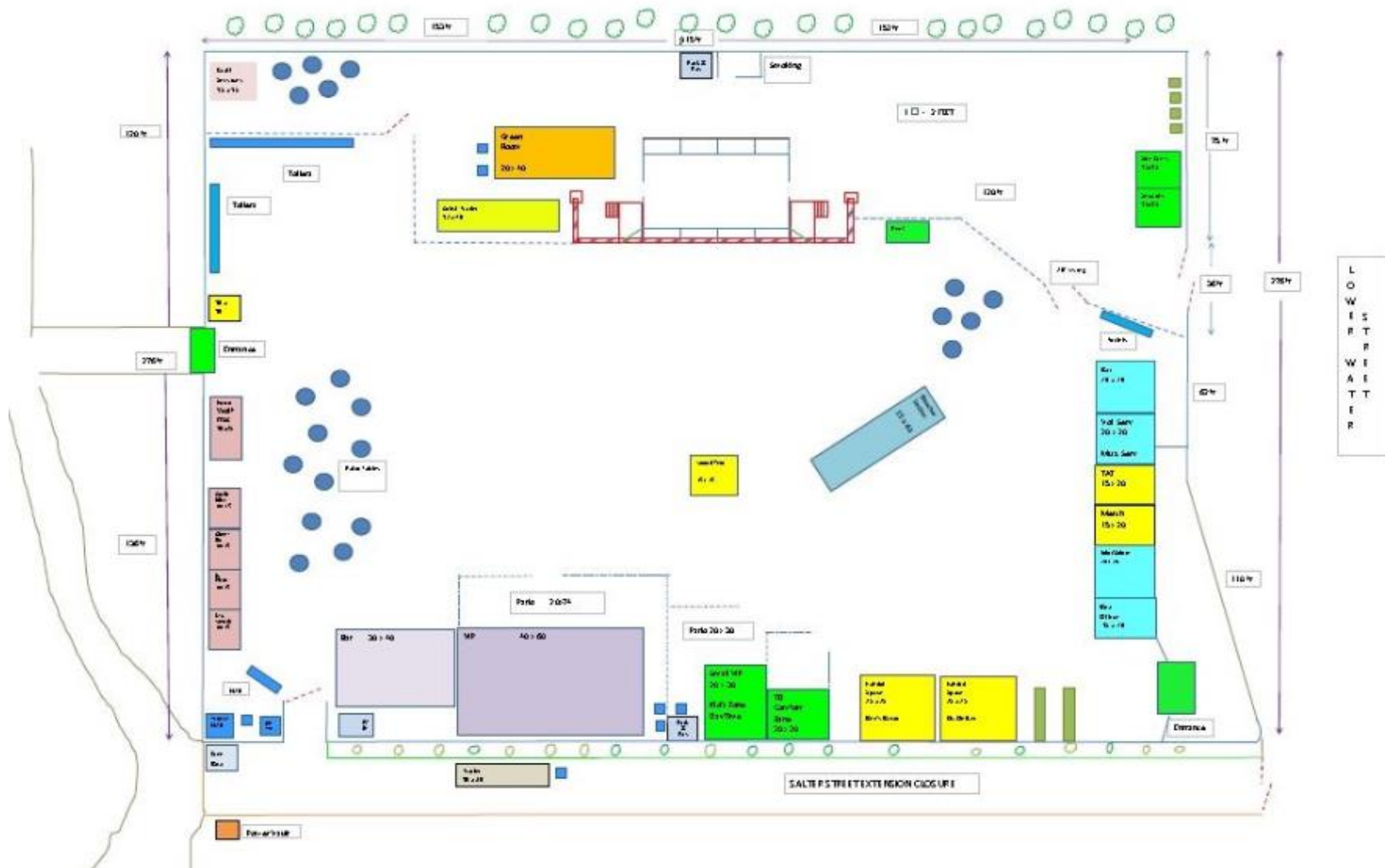
- Performances by individuals and small groups 1:00 – 6:00 pm
- Small PA system, some sound amplification.

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

Regards,

David Jones  
Site and Logistics Manager

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



## 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.