

Item No. 9.1
Halifax Regional Council
June 25, 2013

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 
Richard Butts, Chief Administrative Officer

Original Signed by 
Mike Labrecque, Deputy Chief Administrative Officer

DATE: May 27, 2013

SUBJECT: Noise By-Law Exemption - Halifax Pride

ORIGIN

May 1, 2013 – Staff received an application for an exemption from By-Law N-200, Respecting Noise, by Halifax Pride, 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 Halifax Pride 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

Halifax Pride is hosting an event on the Garrison Grounds by Citadel Hill from Friday, July 27, 2013 to Saturday, July 28, 2013. Set up for the event will be during the day and includes the main stage, community booths, tents and sound checks. The fundraising dances will include use of a sound system and DJ’s. The portions of the event for which an exemption is requested from By-Law N-200 Respecting Noise are:

Saturday, July 27, 2013: 1:00 a.m. – 2:00 a.m. (fundraising dance)

Sunday, July 28, 2013: 1:00 a.m. – 2:00 a.m. (fundraising dance)

Noises in relation to the performances prior to 1:00 a.m. 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.

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 Garrison Grounds.

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 event took place last year and was approved for a noise exemption until 1:30 a.m. There was a concern raised with post event activities taking place until 3 a.m. The organizing committee has been made aware of these concerns and requested an exemption until 2 a.m. to address the matter.

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

There are a number of alternatives available to Council in considering this application:

1. Approve the application without conditions;
2. Approve the application with conditions; or
3. Reject the application in its entirety.

ATTACHMENTS

- Appendix A: May 1, 2013 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, Community and Recreation Services, 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



Dear HRM Staff and Halifax Regional Council,

Please accept this letter as Halifax Pride's request for a noise by-law exemption for the following dates, times and location:

Friday July 26, 2013 from 9am to 5pm for set up of stage and tenting

Friday July 26, 2013 from 9pm to 2:00am (Saturday July 27) for a fundraising dance with DJ and Sound System

Saturday July 27, 2013 from 8am to 11am for set up of community fair booths

Saturday July 27, 2013 from 9am to 1pm for sound checks on the main stage

Saturday July 27, 2013 from 2pm to 7pm for our festival main stage event, including live bands, a zumba instructor and a drag queen performance.

Saturday July 27, 2013 from 9pm to 2:00am (Sunday July 28) for a fundraising dance, which would include a DJ and Sound System

Sunday July 28, 2013 from 9am until 1pm for site clean up, our Main Stage removal as well as tenting removal. All activities will be held on the Garrison Grounds at the foot of Citadel Hill.

Halifax Pride is committed to working with HRM and our fellow residents, we will be sending out community notices to the residents around Citadel Hill and along the Parade route advising them of the festival operations ie: Parade road closures, and noise until the requested 2am extension. Halifax Pride will also work with TourTech to aim the sound into Citadel Hill to dissipate the noise pollution into residential areas.

I hope this information is adequate for the presentation to council. If you would like additional information please do not hesitate to contact me [REDACTED] Cell) or [REDACTED] Home) or via email chris@halifaxpride.com

Thank you for your consideration in this matter.

Sincerely,

[REDACTED]
Christopher Scullino
Vice Chair, Halifax Pride

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.