


Item No. 9.1
Halifax Regional Council
September 10, 2013

TO: Mayor Savage and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY: _____
Richard Butts, Chief Administrative Officer

Original Signed

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: August 16, 2013

SUBJECT: Noise Exemption Request – Dalhousie University DALfest

ORIGIN

August 1, 2013 – Staff received an application from the Dalhousie Student Union for an exemption from By-Law N-200, Respecting Noise, 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 Dalhousie Student Union'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

The Dalhousie Student Union is planning two outdoor concerts as part of DALfest; a two day festival of events for new and returning students to Dalhousie University. The concerts are scheduled for Friday, September 13, 2013 and Saturday, September 14, 2013. These concerts will be held outdoors on the University Avenue portion of the Dalhousie campus which is bounded by the Killam Library and the Studley Gym. Both concerts will take place from 6:00 p.m. - 10:15 p.m.

There will be a licensed beer tent adjacent to the concert area. The Dalhousie Student Union confirmed they have a license from Nova Scotia Alcohol and Gaming for the facility, and security for the events will be provided by Dalhousie University Security Services and Halifax Regional Police. Halifax Regional Police advise that a number of Officers will be assigned to the Dalhousie area to address any issues both during and post concert.

The set up for the stage, concert site, and beer tent are identified in the Quad Security Fencing plan (attached as Appendix C). Tear down of the site will be done during daytime hours.

An exemption from By-Law N-200, Respecting Noise, is being requested for the following times:

Friday, September 13, 2013: 9:30 p.m. – 10:30 p.m.
Saturday, September 14, 2013: 7:00 p.m. – 10:30 p.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 University Avenue portion of the Dalhousie campus.

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

DALfest is an annual event. Organizers will be contacting neighboring residents to advise them of the concert in compliance with the by-law provisions.

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: August 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
- Appendix C: Quad Security Fencing Plan

APPENDIX A



Dear: Ms. Dobson,

Every year as part of our welcoming for new students, as well as returning, the Dalhousie Student Union holds an event called, DALfest. DALfest is a well-established and very well run event which has been part of our programming for over 15 years. The event has evolved to become a two day festival of events and activities, culminating in a concert on the evenings of Friday September 13, 2013 and Saturday September 14, 2013.

DALfest operates under the knowledge and full support of: Dalhousie Student Union, Dalhousie University (Including VP Student Services, Security Services, Facilities Management, and Dalhousie University Community Committee).

As in the past we have and will make every effort to welcome the Dalhousie University and surrounding community, and be respectful of their time by not having an event which proceeds late into the evening. A Community Notice will be provided, as is each year. Prepared by Dalhousie University Community Relations and distributed by DSU and Student Services campaign.

Details of the event are as follows:

Date: September 13-14, 2013

Time: 3pm – 10:30pm

Location: Dalhousie University Quad

** Production schedules available upon request

Noise Level: Not exceeding 110 Db

Site Management: DSU and Dalhousie University Facilities Management (Waste management, portable toilets, perimeter security)

Security: Dalhousie University Security Services and Halifax Police Department

We very much appreciate your consideration for a noise exemption for the dates of September 13-14, 2013.

Regards,

Original signed

John Daniel Shanahan
VP Student Life
Dalhousie Student Union

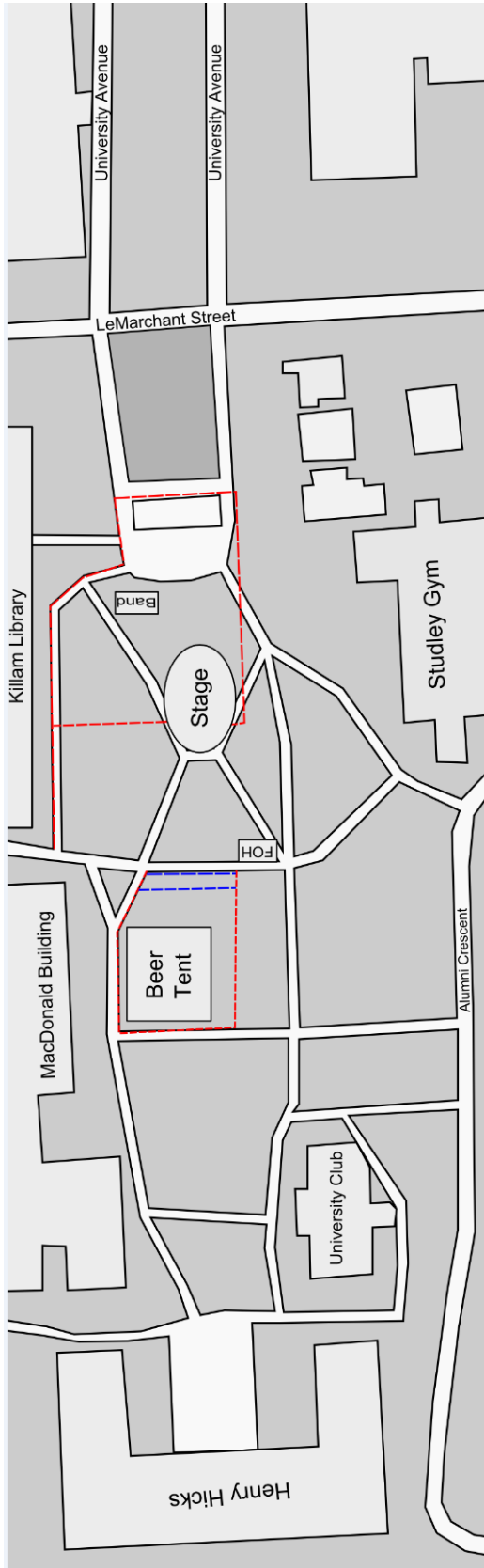
APPENDIX B

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.

APPENDIX C – QUAD SECURITY FENCING PLAN



LEGEND

 6 foot fencing

 double 4 foot fencing

FOH – Front of House