

THE CORPORATION OF HALDIMAND COUNTY

By-law No. 1361/13

Being a by-law to regulate and licence public entertainment events within the limits of the Corporation of Haldimand County and to repeal By-law 316-02

WHEREAS Section 151 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes a municipality to provide for a system of licences with respect to a business, which includes exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise;

AND WHEREAS the Corporation of Haldimand County deems it necessary, expedient and in the interest of public safety to regulate and to licence the holding or conducting of public entertainment and to provide for the prohibition of the carrying on or engaging of such activities without a licence;

NOW THEREFORE the Council of the Corporation of Haldimand County enacts as follows:

PART I – Definitions

1. In this by-law;

- (a) “*Applicant*” means a person seeking to obtain a Public Entertainment Event Licence pursuant to the provisions of this by-law;
- (b) “*Community Special Event*” means a public entertainment event conducted by a non-profit organization and authorized by Council in accordance with Council’s Special Events guidelines.
- (c) “*Council*” means the Council of the Corporation of Haldimand County;
- (d) “*Issuer*” means the Issuer of Licences appointed by Council;
- (e) “*Licencee*” means any person to whom a licence to hold or conduct a Public Entertainment event or Motor Vehicle Racing Event has been issued.
- (f) “*Manager of Building and By-law Enforcement*” means the Manager of Building and By-law Enforcement of the Corporation of Haldimand County or someone designated to act on his or her behalf;
- (g) “*Manager of Emergency Services*” means the Manager of Emergency Services for the Corporation of Haldimand County or someone designated to act on his or her behalf;
- (h) “*Manager, Roads Operations*” means the Manager, Roads Operations for the Corporation of Haldimand County or someone designated to act on his or her behalf;

By-law No. 1361/13**Page 2**

- (i) “*Motor Vehicle Racing Event*” means an event or series of events in a calendar year, other than regular weekly racing programs, held by a licensed Motor Vehicle Racing Business, and which are open to the public, advertised to the public, and admission may or may not be charged;
- (j) “*Municipal Law Enforcement Officer*” means a by-law enforcement officer appointed by Council.
- (k) “*Municipality*” means the Corporation of Haldimand County;
- (l) “*Person*” shall include an individual, association, firm, partnership, corporation or other entity;
- (m) “*Premises*” means the lands and premises upon which a Public Entertainment Event or Motor Vehicle Racing Event takes place, or is proposed to take place;
- (n) “*Public Entertainment Event*” means an exhibition, concert, festival or other organized public amusement held outdoors which features a performance or performances (vocal, instrumental, or any combination thereof, and includes the electronic reproduction of recorded music) by one or more persons, or one or more groups of persons, for the entertainment of persons who attend such an event;
- (o) “*Public Entertainment Event for a Charitable Purpose*” means a public entertainment event where its proceeds are used for any purpose beneficial to the community, providing such purpose is for public benefit, non-commercial in nature and not for the pecuniary advantage of any person.

PART II – Requirement for Licence

2. Every person seeking to hold or conduct a Public Entertainment Event or Motor Vehicle Racing Event within the limits of Haldimand County shall procure and maintain in good standing a licence authorizing him or her to do so.
3. No person shall hold or conduct a Public Entertainment Event or Motor Vehicle Racing Event within the limits of Haldimand County unless he or she has a valid and current licence permitting him to do so.
4. No Person shall advertise or cause to be advertised within the limits of Haldimand County a Public Entertainment Event prior to the issuance of a licence.
5. No licence shall be issued under this by-law if the holding or conduct of the proposed Public Entertainment Event or Motor Vehicle Racing Event will constitute a contravention of any by-law of the Haldimand County, including the Zoning By-law.

6. No Person shall permit any lands and premises owned or leased by him to be used for or in conjunction with any Public Entertainment Event or Motor Vehicle Racing Event unless the Person holding or conducting the entertainment has first obtained a licence hereunder for such entertainment.

PART III – Application for Public Entertainment Event Licence

7. Every Person seeking to obtain a licence to hold or conduct a Public Entertainment Event shall file with the Issuer, at least sixty (60) days in advance of the date of the proposed Public Entertainment Event, the following documents:
- (a) a completed application in the form provided by Haldimand County;
 - (b) the application fee as prescribed by the User Fees and Charges By-law;
 - (c) letters of approval for the proposed Public Entertainment Event from:
 - (i) the Haldimand County Emergency Services Division;
 - (ii) the Haldimand County Building and By-law Enforcement Division;
 - (iii) the Haldimand County Roads Division;
 - (iv) the Haldimand Norfolk Health Unit; and
 - (v) the Ontario Provincial Police (OPP).
 - (d) a written statement setting out the maximum number of persons that at any one time, the applicant will allow to attend the Public Entertainment Event;
 - (e) a written statement setting out the times during which the Public Entertainment will be performed and the times during which persons attending Public Entertainment Event will be allowed on the Premises;
 - (f) a security plan for the event, approved by the OPP;
 - (g) a plan of the Premises, acceptable to the Issuer, showing:
 - (i) the area of such lands to be used for the Public Entertainment;
 - (ii) the entry and exit points;
 - (iii) the parking and internal roadways;

- (iv) the areas upon which any permanent or temporary structure is located or is to be located;
 - (v) the area where the sanitary facilities; garbage collection, storage and disposal facilities; and potable drinking water facilities are located or are to be located;
 - (vi) the area where the performance is to be staged;
 - (vii) the area where the audience will stand or sit;
 - (viii) the area where camping is to take place, if camping is to take place in conjunction with the Public Entertainment Event. Nothing herein shall be construed to permit camping upon the lands and premises upon which the Public Entertainment is to be performed, if camping is not permitted upon those lands by Haldimand County Zoning By-law.
 - (ix) a copy of the Building Permit issued by the Building Inspector for Haldimand County, for any tent or structure to be erected in conjunction with the said Public Entertainment Event, for which tent a Building Permit is required under the Building Code.
- (h) a Commercial General Liability Policy of insurance with an insurer licensed to do business in the Province of Ontario and acceptable to the Issuer. Such policy shall provide coverage for bodily injury and property damage in an amount not less than \$2,000,000.00 per occurrence or such greater amount as the Issuer may determine, and shall name Haldimand County as an additional insured. The coverage shall be written on an occurrence basis, contain a cross liability/severability of interest clause and shall provide for 30 days written notice of cancellation;
- (i) written proof that the Applicant has advised neighbours of the proposed event; and
- (j) such other information as the Issuer or Council may require.
8. Upon receipt of a complete application package for a proposed Public Entertainment Event, the Issuer shall determine through consultation with relevant staff:
- (a) the number of by-law enforcement officers required and the hours before, during and after the proposed Public Entertainment Event that such by-law enforcement officers are required to be present to enforce the by-laws of Haldimand County;
 - (b) the noise monitoring services required (if any), the personnel required to operate the services, and the times when the services shall be required; and
 - (c) the number of persons required before, during and after the proposed Public Entertainment Event to provide traffic control services.

9. The application, supporting documentation and results of the investigations referred to in paragraph 7 and 8 shall be presented to Council in accordance with Council procedure.
10. If the application, supporting documentation and investigations referred to in paragraph 7 and 8 do not, in the opinion of Council, disclose any reason to believe:
 - (a) that the holding of the Public Entertainment Event may result in any breach of the law, including any by-law of Haldimand County;
 - (b) that the holding of the Public Entertainment Event is in any way adverse to the public interest;
 - (c) that there are any fines owed to Haldimand County as a result of violations of this by-laws by the applicant; and
 - (d) that the applicant has failed to complete all forms and provided all information as required by section 7 and paid the applicable fee;

Council may instruct the Issuer to issue a licence to hold the Public Entertainment Event, subject to any terms and conditions considered by Council to be in the public interest, or to refuse to issue the licence.

11. After Council approval but prior to issuance of the licence, the Licencee shall pay, in addition to the application fee, a deposit in the form of a certified cheque, in an amount determined by the Issuer to cover the following costs:
 - (a) the cost of all additional by-law enforcement officers pursuant to section 8(a) of this by-law to be required;
 - (b) a damage deposit which shall be returned to the Licencee upon completion of the Public Entertainment Event, less any municipal costs for damages to municipal property or cleaning of municipal property.
12. Prior to issuance of the Licence, the Licencee shall provide written confirmation of the procurement, at the Licencee's cost, of the following:
 - (a) noise monitoring services pursuant to section 8(b) of this by-law;
 - (b) traffic control services pursuant to section 8 (c) of this by-law; and
 - (c) the contracting of additional ambulance services with Haldimand County Emergency Services Division, or any other approved ambulance service provider.

PART IV – Application for Motor Vehicle Racing Event Licence

13. Every Person seeking to obtain a licence to hold or conduct a Motor Vehicle Racing Event(s) shall file with the Issuer, at least thirty (30) days in advance of the date of the first proposed Motor Vehicle Racing Event in a calendar year, the following documents:
- (a) a completed application in the form provided by Haldimand County;
 - (b) the application fee as prescribed by the User Fees and Charges By-law with such fee covering all Motor Vehicle Racing events listed in the application;
 - (c) letters of approval for the proposed Motor Vehicle Racing Event(s) from:
 - (i) the Haldimand County Emergency Services Division;
 - (ii) the Haldimand County Building and By-law Enforcement Division;
 - (iii) the Haldimand County Roads Division;
 - (iv) the Haldimand Norfolk Health Unit; and
 - (v) the OPP.
 - (d) a schedule of Motor Vehicle Racing Events planned for the calendar year;
 - (e) a written statement setting out the maximum number of persons that, at any one time, the applicant will allow to attend each Motor Vehicle Racing Event;
 - (f) a written statement setting out the times during which each Motor Vehicle Racing Event will be performed and the times during which persons attending each Motor Vehicle Racing Event will be allowed on the Premises;
 - (g) a security plan for each Motor Vehicle Racing Event, approved by the OPP;
 - (h) a traffic control plan for each Motor Vehicle Racing Event;
 - (i) a plan of the Premises, acceptable to the Issuer, showing for each Motor Vehicle Racing Event:
 - (i) the area of such lands to be used;
 - (ii) the entry and exit points;
 - (iii) the parking and internal roadways;
 - (iv) the areas upon which any permanent or temporary structure is located or is to be located;
 - (v) the area where the sanitary facilities, garbage collection facilities and storage and disposal facilities and potable drinking water facilities are located or are to be located;

- (vi) area where the performance is to be staged;
 - (vii) area where the audience will stand or sit;
 - (viii) area where camping is to take place, if camping is to take place in conjunction with a Motor Vehicle Racing Event. Nothing herein shall be construed to permit camping upon the lands and premises upon which the Motor Vehicle Racing Event is to be held, if camping is not permitted upon those lands in the places indicated thereon in the said lay-out plan by the applicable Haldimand County Zoning By-law.
 - (ix) a copy of the Building Permit issued by the Building Inspector for Haldimand County, for any tent or structure to be erected in conjunction with the said Motor Vehicle Racing Event, for which tent a Building Permit is required under the Building Code.
 - (j) a Commercial General Liability Policy of insurance with an insurer licensed to do business in the Province of Ontario and acceptable to the Issuer. Such policy shall provide coverage for bodily injury and property damage in an amount not less than \$2,000,000.00 per occurrence or such greater amount as the Issuer may determine, and shall name Haldimand County as an additional insured. The coverage shall be written on an occurrence basis, contain a cross liability/severability of interest clause and shall provide for 30 days written notice of cancellation;
 - (k) written proof that the Applicant has posted the proposed event schedule to the website of the business.
14. The Licencee shall provide written confirmation of the procurement, at the Licencee's cost, of the following:
- (a) security and traffic control plans pursuant to sections 13 (g) and (h) of this by-law; and
 - (b) the cost for contracting additional ambulance services with Haldimand County Emergency Services Division, or any other approved ambulance service provider.
15. Where all provisions of Sections 13 and 14 are complied with to the satisfaction of the Issuer, a Licence will be issued.

PART V – General Requirements of Licencees

16. Every Licencee shall post the licence in some conspicuous place at the premises to which it applies.

17. Every Licencee shall produce said licence to the Municipal Law Enforcement Officer or any person authorized or required by Council, or any member of the Ontario Provincial Police, for inspection upon request.
18. No Licencee shall promote or hold or conduct the Public Entertainment Event under any name or style other than the name or style endorsed upon the licence.
19. Every Licencee, in addition to any other requirement in this by-law or any other municipal by-law or any term or condition identified in the licence to hold or conduct a Public Entertainment Event or Motor Vehicle Racing Event, shall:
 - (a) maintain and keep clean, safe and in good condition, and promptly repair the Premises to which the licence relates, including any facilities thereof during the term of the licence;
 - (b) not cause or permit any nuisance to arise in, or in connection with, the Premises to which the licence relates;
 - (c) not cause or permit any obstruction on any highway, lane or public place in front of or adjoining the Premises for which the licence was issued;
 - (d) not cause, or permit to be caused, any breach of any Haldimand County by-law, provincial or federal law, in connection with any activity occurring at the Premises to which the licence relates;
20. Notwithstanding any provision of the Noise By-law, no Licencee shall permit or cause amplified music to be emitted prior to 9:00 a.m. or after midnight and the maximum allowable sound level for music played shall not exceed 85 dBA at 30 m distance from the sound stage.
21. Where a Person licensed under this by-law changes their address or business address, or where the officers, directors, shareholders or partners of the Person licensed change their personal address, they shall notify the Issuer, in writing, of the change within seven (7) days.
22. Any Municipal Law Enforcement Officer, any police officer or any person authorized or required by Council may, during the normal hours of operation of the Place of Amusement or at any other reasonable time, inspect such Place of Amusement for purpose of ensuring compliance with the relevant provisions of this by-law.

PART VI – Suspension of Licence

23. Council may revoke or suspend any licence issued pursuant to this by-law as a result of the failure to comply with any term or provision in this by-law.

PART VII – Exemptions

24. (a) Public Entertainment Events for a Charitable Purpose are exempt from this by-law; and
- (b) Community Special Events are exempt from this by-law.

PART VIII – Severability

25. If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law will be considered to be severed from the balance of the by-law, which will continue to operate in full force.

PART IX – Penalty

26. a) Every person who contravenes any of the provisions of this by-law, and if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,
- (i) On a first conviction to a fine of not more than \$25,000; and
- (ii) On a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.
- b) If the person referenced in subsection 25 a) is a corporation, the maximum penalty that may be imposed is,
- (i) On a first conviction a fine of not more than \$50,000; and
- (ii) On a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted, and not as provided in subsection 25 a).

PART X – Enactment

27. By-law 316/02 any other by-law or provision of any other Haldimand County by-law inconsistent with this by-law is hereby repealed.

28. This by-law shall take effect and come into force on the date of passage.

READ a first and second time this 29th day of April, 2013.

READ a third time and finally passed this 29th day of April, 2013.

MAYOR

CLERK