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Staff Report

Enforcement Services – By-law Division

Report To: Council
Meeting Date: May 29, 2017
Report Number: FAF.17.70
Subject: Blue Mountain Village Association Noise By-law Relief Request
Prepared by: Emily Beauchamp, By-law Services Assistant

A. Recommendations

THAT Council receive Staff Report FAF.17.70 “Blue Mountain Village Association Noise By-law Relief Request”; and

THAT Council provide direction to staff in response to a request for relief from the provisions of the Noise By-law for a live band to play on the village event plaza stage on June 12, 2017 from 6:00 p.m. to 12:00 a.m.

B. Overview

Blue Mountain Village Association plans to have a live band play on the village event plaza stage as entertainment during a corporate event on June 12, 2017.

C. Background

Blue Mountain Village Association have requested relief from the Noise By-law (Attachment 1) for a live band to play on the village event plaza stage on June 12, 2017 from 6:00 p.m. to 12:00 a.m. The Blue Mountain Village Association has submitted similar requests in previous years:

In 2015 relief from the Noise By-law was requested for their “Jazz on the Mountain” event for live jazz bands to play on the event plaza stage on July 3rd and 4th, 2015 from 10:00 p.m. to 12:00 a.m. Council resolved to grant the requested relief.

In 2016 relief from the Noise By-law was requested for the playing of The Tragically Hip concert on a large screen in the event plaza on August 20, 2016 from 8:30 p.m. to 12:30 a.m. Council resolved to grant the requested relief.

By-law Enforcement did not receive any complaints in 2015 or 2016.

Section 3e) of the Noise By-law permits the making of noises or sounds related to the non-residential use of land permitted by a by-law enacted by the municipality pursuant to the applicable Zoning By-law from 07:00 to 19:00.

Section 3g) of the Noise By-law permits noises or sounds authorized by the Blue Mountain Village Association originating within the “Village of Blue Mountain” (Parts 1-40, Plan 16R-7451 between the hours of 07:00 hours and 23:00 hours.

It is noted that outdoor events in themselves outside of 07:00 to 19:00 are not prohibited. The making of noise is prohibited in the instance where such events are likely to disturb the peace, quiet, comfort or repose of any inhabitant.

Given the location and size of this area we do not circulate the residents within 120 metres of the property.

D. Analysis

Blue Mountain Village Association has had Noise By-law Relief Requests in the past with no complaints being received from the neighbours.

E. The Blue Mountains Strategic Plan

“Engage our Community and Partners”

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

Luc Proulx, Municipal Licencing Officer.
Rob Collins, Director of Enforcement Services/Fire Chief.

I. Attached

1. Copy of the application from Blue Mountain Village Association dated May 11, 2017.
2. Office Consolidation of the Noise By-law.

Prepared By,

Emily Beauchamp
By-law Services Assistant

Luc Proulx
Municipal Licencing Officer

Submitted By,

Rob Collins
Director of Enforcement Services/Fire Chief



Application for a Noise By-law Exemption

This form is authorized under By-law 2002-09

Form BL574

For use by Principal Authority	
Application number:	Exemption number (if different):
Date received:	Roll number:

Application submitted to: **TOWN OF THE BLUE MOUNTAINS**
 32 Mill Street Box 310, Thornbury, ON
 Tel: (519) 599-3131 Toll Free: 1-888-258-6867 ext. 249
 Bylawservices@thebluemountains.ca www.thebluemountains.ca

A. Event Location (Location of the event relief is being requested)	
Building number, street name <i>Blue Mountain Village EVENT PLAZA</i>	Unit number Lot/con.
Postal code <i>L9Y 3Z2</i>	Plan number/other description

B. Applicant	
Applicant is: <input checked="" type="checkbox"/> Owner or <input type="checkbox"/> Authorized agent of owner	
Last name <i>Kendall</i>	First name <i>Patti</i>
Corporation or partnership <i>BMVA</i>	
Street address <i>796455 Grey Rd 19</i>	Unit number Lot/con. <i>2</i>
Municipality <i>The Blue Mountains</i>	Postal code Province <i>L9Y 0N8 ON</i>
Telephone number <i>(705) 444-7398 x 227</i>	Fax Cell number () ()

C. Owner (if different from applicant)	
Last name <i>JANE</i>	First name Corporation or partnership
Street address	
Municipality	Postal code Province
Telephone number ()	E-Mail Cell number () ()

D. Event Type (Other events may be considered at the sole discretion of Council)	
<input type="checkbox"/> Charitable Event	<input type="checkbox"/> Wedding/ Family Gathering
<input type="checkbox"/> Construction Related	<input checked="" type="checkbox"/> Other

E. Event Details	
Event Name (if applicable): <i>CORPORATE EVENT</i>	Date of the Event: Time of the Event: <i>June 12/17 6pm - 12am</i>
Does the Event promote charitable, educational or community objectives?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the Event support the community provincially, nationally or internationally?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the Event financially supported by the Town?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Have there been any prior noise by-law infractions associated with this event?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Description of the source of sound:
Band on the Village Stage

Proposed provisions to mitigate impact of noise to affected residential premises:
Maintain acceptable sound system levels

Reasons the noise by-law exemption should be support (in the applicant's opinion)
This event is a large economic driver for Town businesses

F. Declaration of Applicant (Note: if owner is not the applicant attach the "Authorization to Act as Agent" form)

I, *Patti Kendall* certify that:
 (print name)
 the information contained in this application; attached schedules, attached plans and specifications, and other attached documentation is true to the best of my knowledge. If the owner is a corporation or partnership, I have the authority to bind the corporation or partnership.

May 11/17 Date *Patti Kendall* Signature of applicant

- Note:**
- Every application for an exemption shall be submitted a **minimum of four (4) weeks** in advance of the proposed event.
 - Every person who contravenes any provision of the Noise By-law NO. 2002-09, as amended is guilty of an offence and on conviction is liable to a penalty as provided in the *Provincial Offences Act*.

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

FAF.17.70
Attachment 2

BY-LAW 2002 – 9

Office Consolidation
(By-laws 2002-60 & 2004-16)

Being a By-law to prohibit or regulate noises within the municipality likely to disturb.

WHEREAS Section 210 (138) of the *Municipal Act*, chap. M.45, R.S.O. 1990 and amendments thereto enables the councils of local municipalities to pass by-laws for prohibition or regulation within the municipality of noises likely to disturb the inhabitants;

AND WHEREAS section 61 of the *Provincial Offences Act*, chap. P.33, R.S.O. 1990 and amendments thereto provides for a general maximum penalty upon conviction not to exceed \$5,000.00;

AND WHEREAS it is deemed expedient to pass a by-law for the prohibition or regulation of noise within the municipality in a format that would allow enforcement by both a Municipal Law Enforcement Officer and the Ontario Provincial Police;

NOW THEREFORE the Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT no person shall make noise or cause noise to be made or permit noise to be made that would be likely to disturb the inhabitants of the municipality.
2. THAT for the purposes of Section 1, the following noises or sounds, among others, shall be deemed likely to disturb the inhabitants of the municipality:
 - (a) The sound or noise from, or created by, any radio, television, phonograph, or any other electronic device, or any musical or sound producing instrument of whatsoever kind when such radio, television, phonograph, device or instrument is played or operated in such a manner or with such volume likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel, or any other type of residence.
 - (b) The yelling, shouting, hooting, whistling, singing, or any other sound made by an individual in such a manner which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence.
 - (c) The operation of construction vehicles or the act of construction between the hours of 19:00 hours of any weekday to 07:00 hours of the next weekday save and except Saturday from 08:00 hours to 13:00 hours which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, unless written permission to specifically extend or alter the hereinbefore mentioned time periods has been given in writing by Council.

- (d) The sound from the operation of any powered or non-powered tool, for domestic purposes (other than snow removal) which is operated in such a manner likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, between the hours of 23:00 hours of one day to 07:00 hours of the next day (09:00 hours on Sundays).
- (e) The persistent noise made by any domestic pet, or any animals kept for commercial purposes, likely to disturb the peace, quiet, comfort, or repose of any inhabitant in the same building or in the neighbourhood, at any time.
- (f) The grating, grinding, rattling noise or any other noise caused by a condition of disrepair or maladjustment of any motor vehicle or other vehicle whatsoever or part or accessory thereof likely to disturb the peace, quiet, comfort or repose of any other inhabitant within the municipality.

3. THAT this By-law does not affect:

- a) Any bona fide agricultural use or practice engaged in by a bona fide farmer or employee thereof.
- b) The operation of snow-making machinery or snow-grooming vehicles.
- c) The operation of snow-removal equipment.
- d) Noises or sounds authorized by the municipality. (By-law No. 2002-60)
- e) Noises or sounds related to the non-residential use of land that is permitted by a by-law enacted by the municipality pursuant to Section 34 of the *Planning Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- f) Noises or sounds related to the non-residential use of land that is permitted pursuant to the regulations made under the *Niagara Escarpment Planning And Development Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- g) Noises or sounds authorized by the Blue Mountain Village Association originating within the "Village at Blue Mountain" (Parts 1-40, 16R-7451) between the hours of 07:00 hours and 23:00 hours. (By-law No. 2002-60)
- h)** Noises or sounds related to the use of lands known as Part of Lot 5 and Part of Lot 6, Concession 8, Roll No.: 7-046-02, by the Blue Ridge Sportsmen's Club Inc. between the hours of 08:00 and 21:00 on any day, subject to any Provincial or Federal Statute or Regulation with regard to the discharge of firearms and/or weapons. (By-law 2004-16)

4. THAT every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a penalty as provided in the *Provincial Offences Act*.

5. THAT should any section, clause or provision of this By-law be declared by a court of a competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or in part hereof, other than the part which was declared to be invalid.

6. THAT Township of Collingwood By-laws No. 92-28, 95-37 and 96-9, Town of Thornbury By-law No. 20A-1983 and Town of The Blue Mountain By-law No. 2000-44 are hereby rescinded and repealed.

Read a first and second time this 28 day of January, 2002.

Read a third time and passed this 28 day of January, 2002

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Ross Arthur, Mayor

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Stephen Keast, Clerk