



Staff Report

Enforcement Services – By-law Division

Report To: Committee of the Whole
Meeting Date: June 25, 2018
Report Number: FAF.18.113
Subject: Blue Mountain Resorts LP, 115 Swiss Meadows Blvd. –
Noise By-law Exemption Requests
Prepared by: Emily Beauchamp, By-law Services Administrative Assistant

A. Recommendations

THAT Council receive Staff Report FAF.18.113 “Blue Mountain Resorts LP, 115 Swiss Meadows Blvd. – Noise By-law Exemption Requests”; and

THAT Council provide direction to staff with respect to their request to permit noise as follows:

Franchise Owner’s Managers Retreat – Top of Hill Event

Date: Sunday July 15, 2018

Location: Top of Hill - 115 Swiss Meadows Boulevard

Function Time: 6:00 p.m. to 11:00 p.m.

Type of Event: Conference Group – Cocktail Reception, Dinner and Social Gathering

Source of Sound: Music/DJ (6:00 p.m. to 11:00 p.m.)

Metro Store Manager’s Conference – Top of Hill Event

Date: Sunday September 9, 2018

Location: Top of Hill - 115 Swiss Meadows Boulevard

Function Time: 9:00 p.m. to 10:30 p.m.

Type of Event: Conference Group – Dessert and Cocktail Reception

Source of Sound: Three-piece band (9:00 p.m. – 10:30 p.m.) and Fireworks (9:00 p.m. – 9:07 p.m.)

B. Overview

This report provides the details of a request for relief from the provisions of the Noise By-law for Council’s consideration.

C. Background

The Town is in receipt of a request from the Operator of the subject premises for relief from the provisions of the Noise By-law (Attachment 1) as follows:

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Blue Mountain Resorts advised the reason(s) the applicant feels the exemption should be granted:

- a. Both of these events are being held by reputable, well-established businesses. The July 15 event will host approximately 80 delegates from across the province, while the September 9 event will host approximately 450 delegates from across the country. BMR respectfully suggests that this event is 'expected to promote the community provincially, nationally, or internationally'. If Council concurs, it would meet the Town's Criteria for Noise By-law Relief consideration.
- b. BMR has hosted both of these conference groups before without incident.
- c. Both conference groups are aware of the Town's Noise By-law and are understanding that the level of noise will be monitored by BMR representatives onsite.

Blue Mountain Resorts advised of the following mitigating measures considered to reduce the impact of noise on potentially affected residential premise(s):

- a. BMR staff will monitor noise levels and mitigate as necessary;
- b. Music speakers will be directed inwards to the event site, away from neighbouring residential properties and BMR representatives will monitor the music volume at all times.

Blue Mountain Resorts have had a similar Noise By-law exemption requests in previous years and Council resolved to grant these requests.

By-law Enforcement did not receive any complaints in 2015, 2016, or 2017 and nothing so far in 2018.

Section 3 e) 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.

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.

The properties within 120 metres of 115 Swiss Meadows Boulevard are all vacant properties so the neighbours were not circulated with this request.

D. Analysis

N/A

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

Shawn Everitt, Interim Chief Administrative Officer.

I. Attached

1. Office Consolidation of the Noise By-law.
2. Copy of the application from Blue Mountain Resorts.

Prepared By,

Emily Beauchamp
By-law Services Administrative Assistant

Respectfully submitted,

Shawn Everitt
Interim Chief Administrative Officer

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

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

.....
Ross Arthur, Mayor

.....
Stephen Keast, Clerk

Good morning Emily,

Blue Mountain Resorts LP (BMR) has two upcoming conference groups that would like to host events at BMR's top of hill property, located at 115 Swiss Meadows Boulevard in the Town of the Blue Mountains. As the Town is aware, BMR has a history of hosting events at this property and is unaware of any noise by-law complaints related to any previously held events at this location.

I believe all of the details you require to move forward with processing these requests are provided below. If there is anything further you need – please do not hesitate to contact me. Given the first event is scheduled for July 15, it is our hope that you may be in a position to bring a Staff Report to the Committee of the Whole meeting scheduled for Monday June 25 and it can then go to the July 9 Council meeting for (hopefully) final approval. If you could confirm your anticipated timing on this, it would be greatly appreciated.

Thanks,
Lindsay

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Lindsay Ayers

Director, Planning & Environment

Blue Mountain Resorts LP

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