

This document can be made available in other accessible formats as soon as practicable and upon request

STAFF REPORT: Planning & Development Services – By-Law Division



REPORT TO: Committee of The Whole
MEETING DATE: April 25, 2016
REPORT NO.: PDS.16.41
SUBJECT: “The Dam Pub”, 53 Bruce Street South – Noise By-law Relief Request
PREPARED BY: Sharon Long, Administrative Assistant, Planning & Development Services

A. Recommendations

THAT Council receive Staff Report PDS.16.41 “The Dam Pub”, 53 Bruce Street South – Noise By-law Relief Request; and

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

- a) Every Thursday from May 12th thru October 6th – Acoustic Jam session 6:00 to 9:00 p.m.
- b) Every Friday & Saturday evening from May 13th thru October 16th until 11:00 p.m.
- c) Sunday of long weekends in May thru October until 11:00 p.m.

B. 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) on various dates and times similar to previous years. Their letter notes that they will have acoustic jam sessions every Thursday from May 12th thru to October 6th from 6:00 to 9:00 p.m., every Friday & Saturday evening from May 13th to October 16th until 11:00 p.m. and Sunday of long weekends in May through October until 11:00 p.m.

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

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.

In accordance with the procedures set out in our Policy & Procedures for Noise By-law Relief Requests, the residents within 60 metres were circulated. This is to confirm that an e-mail response and a letter was received which are attached.

C. The Blue Mountains’ Strategic Plan

“Providing a strong, well managed municipal government.”

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

Residents within 60 metres of property.

G. Attached

1. Copy of the letter from The Dam Pub dated March 24, 2016.
2. Office Consolidation of the Noise By-law.
3. Copy of e-mail from Anne Kennedy.
4. Copy of letter from Sally Kaye.

Prepared by:

Respectfully submitted,

Sharon Long
Administrative Assistant
Planning & Development
Services

Greg Miller
Manager, Building & By-law/
CBO

Michael Benner
Director, Planning &
Development Services

The
Dam Pub
GASTROPUB
THORNBURY • ONTARIO

Noise By-Law Relief Request

March 24, 2016

The Dam Pub – Summer 2016 Live Music
Location: The Dam Pub – Patio
53 Bruce Street South, Box 796, Thornbury ON N0H 2P0
519-599-2110

To: **Town of Blue Mountains Council**

With respect to The Town of Blue Mountains Noise By-Law, we are asking for a variance for live music for 2016.

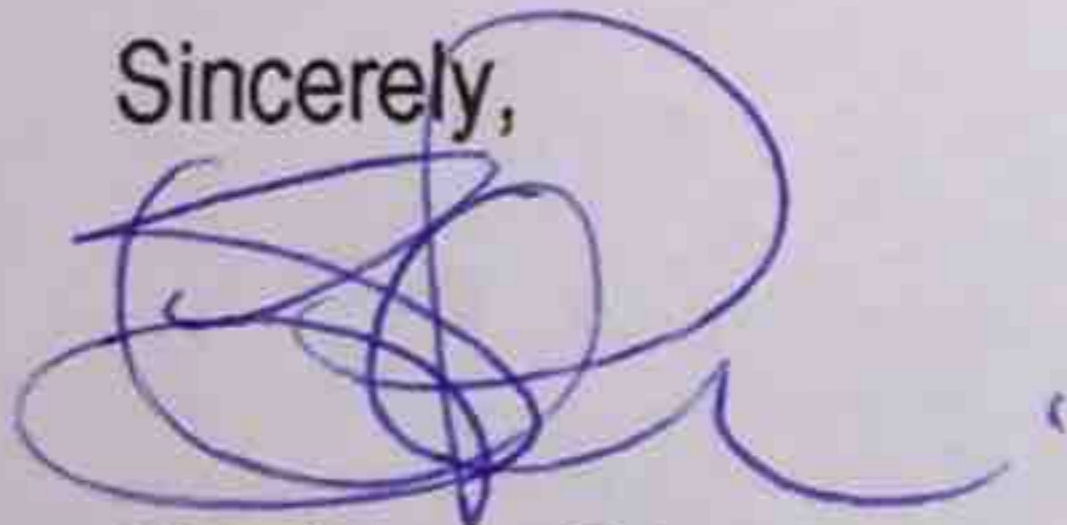
In keeping with prior years, The Dam Pub would like to apply for the following Noise By-Law Exemptions for the 2016 Summer/Fall patio season:

- Every Thursday from May 12th thru Oct 6th: Acoustic Jam session 6:00-9:00pm
- Every Friday & Saturday evening from May 13th thru Oct 16th until 11pm
- Sunday of long weekends in May through Oct until 11pm

This is the same time frame/format request as 2015, which was granted.

Thank you for your consideration. We look forward to a positive and supportive response from Council.

Sincerely,



Stephanie Price
Proprietor/Whisky Specialist
The Dam Pub
53 Bruce Street South
Thornbury, ON
N0H 2P0
stephanie@thedampub.ca
Pub: 519-599-2110
Cell: 519-477-9709

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

From: [Emily Beauchamp](#)
To: [Sharon Long](#)
Subject: FW: Noise By-law Exemption Request-Dam Pub
Date: April-07-16 10:30:20 AM

-----Original Message-----

From: Anne Kennedy [REDACTED]
Sent: April-05-16 11:58 AM
To: Bylaw Info
Subject: Noise By-law Exemption Request-Dam Pub

I have no problem with the Dam Pub's request for the playing of music from May to October until 11:00 p.m.
Yours sincerely,
Anne
Kennedy

Sent from my iPad

RECEIVED

APR 14 2016
April 14, 2016Town of the Blue Mountains
By-law Services DivisionTOWN OF THE BLUE MOUNTAINS
PLANNING & BUILDING SERVICES

PER
Thank you for mailing ~~me~~ the request for noise exemption by the Dam Pub. We are definitely against this proposal.

We do not want our neighbour, 50 meters away, to be allowed to have a party of 50 plus people EVERY Thursday and Friday and Saturday for 23 weeks consecutively. If permission is granted by council to recind the normal noise level for the Dam Pub what is in store for the neighbours. Parties and amplified music outside on the patio perhaps? It must be conceded that the noise from these events would be many decibels above what is acceptable, especially the acoustic music which would be very disruptive. Asking for an exemption to the present bylaw recognizes this fact.

We live here year-round and our calm everyday life would be affected. In the spring we are eager to get outside in the yard. We are gardeners and quite often can be found still working until late evening. It is during the requested exemption time that we enjoy swimming in the pool, family barbequing and entertaining friends. Noise carries far at night and our conversation would be in direct competition with the strident noise level created by the Dam Pub

Hilroy

RECEIVED

I would not like to be trapped in the house where the music is only slightly muted as windows are open for air, both ours and theirs.

The summer evenings are now serene and enjoyable with the neighbours being respectful of each other. I would not like this to change.

Yours truly,
Lally Daye