



Staff Report

Enforcement Services – By-law Division

Report To: Special Meeting of Council
Meeting Date: August 21, 2017
Report Number: FAF.17.105
Subject: Scott Hill/The Touch of Taryn - Noise By-law Relief Request
Prepared by: Emily Beauchamp, Administrative Assistant, By-law Services

A. Recommendations

THAT Council receive Staff Report FAF.17.105 “Scott Hill/The Touch of Taryn – 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 charity baseball tournament at Moreau Park, 76 Victoria Street, on August 26, 2017 from 8:00 a.m. to 10:30 p.m.

B. Overview

The Nonprofit Organization “The Touch of Taryn” plans to host a charity baseball tournament at the Thornbury baseball diamonds at Moreau Park on August 26, 2017.

C. Background

The Nonprofit Organization “The Touch of Taryn has requested relief from the Noise By-law (Attachment 1) for a charity baseball tournament they will be hosting at Moreau Park, 76 Victoria Street, on August 26, 2017 from 8:00 a.m. to 10:30 p.m. The event will raise money for single families in need of assistance to involve their children in extra-curricular activities.

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.

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 time sensitivity of this request notice was not circulated to the residents within 120 metres of the property.

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

Rob Collins, Director of Enforcement Services/Fire Chief.

I. Attached

1. Office Consolidation of the Noise By-law.
2. Copy of the application dated August 11, 2017

Prepared By,

Emily Beauchamp
Administrative Assistant, By-law Services

Submitted By,

Rob Collins
Director of Enforcement Services/Fire Chief

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

FAF.17.105
Attachment 1

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



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: PRNB2017-868	Exemption number (if different):
Date received: AUGUST 14, 2017	Roll number: 18-231-00

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

FAF.17.105

Attachment 2

A. Event Location (Location of the event relief is being requested)			
Building number, street name THORN BURY BALL PARK	Unit number	Lot/con.	
Postal code	Plan number/other description		
B. Applicant			
Applicant is: <input type="checkbox"/> Owner or <input type="checkbox"/> Authorized agent of owner			
Last name HILL	First name D. SCOTT	Corporation or partnership	
Street address	Unit number	Lot/con.	
Municipality	Province ONT		
Telephone number ()	Fax ()		
C. Owner (if different from applicant)			
Last name	First name	Corporation or partnership	
Street address	Unit number	Lot/con.	
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 checked="" type="checkbox"/> Charitable Event	<input type="checkbox"/> Wedding/ Family Gathering	<input type="checkbox"/> Construction Related	<input type="checkbox"/> Other
E. Event Details			
Event Name (if applicable): CHARITY BALL TOURNAMENT	Date of the Event: AUG 26/17	Time of the Event: 8am - 10:30 PM	
Does the Event promote charitable, educational or community objectives?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
Does the Event support the community provincially, nationally or internationally?	<input type="checkbox"/> Yes	<input checked="" 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:			
Proposed provisions to mitigate impact of noise to affected residential premises:			
Reasons the noise by-law exemption should be support (in the applicant's opinion)			
F. Declaration of Applicant (Note: if owner is not the applicant attach the "Authorization to Act as Agent" form)			
I, D. SCOTT HILL (print name) certify that:			
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.			
Aug 11/17 Date	[Signature] Signature of applicant		
Note:			
1. Every application for an exemption shall be submitted a minimum of four (4) weeks in advance of the proposed event.			
2. 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 <i>Provincial Offences Act</i> .			