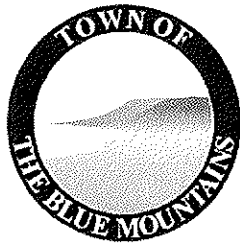


STAFF REPORT: PLANNING & BUILDING SERVICES DEPARTMENT



REPORT TO: Council
MEETING DATE: September 27, 2010
REPORT NO.: SRB.10.20
SUBJECT: "Blue Mountain Resorts Ltd.
Noise By-law Relief Request –
"Tennis Bubble"
PREPARED BY: Greg Miller, Manager, Building &
By-law/CBO

A. Recommendations

THAT COUNCIL receive Staff Report SRB.10.20 respecting "Blue Mountain Resorts Ltd. Tennis Bubble", – Noise By-law Relief Request and grant the request from 7:00 pm to 12:00 pm.

B. Background

The Town is in receipt of a request from Blue Mountain Resorts Ltd. for relief from the provisions of the Noise By-law Office Consolidation (Addendum "A") on October 1st, 2010 from 7:00 to 12:00 pm. A copy of the request from Blue Mountain Resorts Ltd. is attached together with a response from the Blue Mountain Village Association. (Addendum "B").

Section 3 g) THAT this By-law does not affect:

- g) Noises or sounds authorized by the Blue Mountain Village Association originating within the "Village at Blue Mountains" (Parts 1-40, 16R-7451) between the hours of 07:00 hours and 23:00 hours.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Budget Impact

N/A

E. Addendums

- A. Office Consolidation of the Noise By-law.
- B. Copy of request from Blue Mountain Resorts Ltd. & response from Blue Mountain Village Association.

Prepared by:

Respectfully submitted by:

Greg Miller
Manager, Building & By-law/CBO

David Finbow
Director, Planning & Building Services

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

B.

From: Lindsay Ayers (BMR) [mailto:layers@bluemountain.ca]
Sent: September 14, 2010 4:04 PM
To: Greg Miller
Cc: Jennifer Holland (BMR); Sharon Long
Subject: FW: Dome - Noise By-Law Extension

Greg,
Per my earlier email, please see below approval from the BMVA re: BMR's request for a noise by-law extension for Friday October 1, 2010.
Please let me know if you require anything further...
Thanks,
Lindsay

Lindsay Ayers | Planning & Environmental Specialist | Blue Mountain Resorts Limited
190 Mountain Drive, Blue Mountains, ON, L9Y 3Z2
(t) 705-445-0231 x.6611 | (f) 705-445-8437 | layers@bluemountain.ca

 Please consider the environment before printing this email.

From: Marg Fairley (BMT) [mailto:MFairley@intrawest.com]
Sent: Tuesday, September 14, 2010 3:08 PM
To: Jennifer Holland (BMR)
Subject: RE: Dome - Noise By-Law Extension

Hi Jen,
Thank you for requesting BMVA approval for this extension.

As you are aware, we are particularly careful regarding abuse of the existing time extension amendment of the Noise By-law granted to 11 PM which the Village currently has with the Town. However, if you have exhausted every effort for this event to reduce the noise level to an acceptable level according to the Noise By-law at that time and still feel a further extension to the time limit may be required, then you have the BMVA approval to request this further exemption from the Town of The Blue Mountains for this event. Please keep me informed of the schedule for this event.

Thanks,

Marg Fairley,
**Mgr, Administration &
Member Services
Blue Mountain Village Association
796455 Grey Rd 19, Unit 2
Blue Mountains, ON L9Y 0N8
Telephone 705-445-0231 x 7058
Fax 705-443-5547**

Email mfairley@inrawest.com
Website www.villageatblue.com

Confidentiality Warning: This message and any attachments are intended only for the use of the intended recipient(s), are confidential, and may be privileged. If you are not the intended recipient, you are hereby notified that any review, retransmission, conversion to hard copy, copying, circulation or other use of this message and any attachments is strictly prohibited. If you are not the intended recipient, please notify the sender immediately by return e-mail, and delete this message and any attachments from your system. Thank you.

Information confidentielle: Le présent message, ainsi que tout fichier qui y est joint, est envoyé à l'intention exclusive de son ou de ses destinataires; il est de nature confidentielle et peut constituer une information privilégiée. Nous avertissons toute personne autre que le destinataire prévu que tout examen, réacheminement, impression, copie, distribution ou autre utilisation de ce message et de tout fichier qui y est joint est strictement interdit. Si vous n'êtes pas le destinataire prévu, veuillez en aviser immédiatement l'expéditeur par retour de courriel et supprimer ce message et tout document joint de votre système. Merci.

From: Jennifer Holland (BMR) [<mailto:jholland@bluemountain.ca>]
Sent: Tuesday, September 14, 2010 11:38 AM
To: Marg Fairley (BMT)
Cc: Lindsay Ayers (BMR)
Subject: Dome - Noise By-Law Extension
Importance: High

Hi Marg,

How are you, haven't seen you in a bit. Need your help...

One of my clients (Borden Ladner Gervais LLP) has last minute request for an extension to the Dome Event they are hosting on Friday October 1st. I'm sorry for the short notice.

Details are as follows:

Dome

665 ppl

Dinner 7:00pm-9:30pm

Performance: Canadian Band (High Profile) 9:30pm-11:00pm - *I'm under contract to not release the name at this point*

What they are most concerned is with the band getting started later and their 90min set would run past 11pm. They also want to have a short mingling time with a DJ until 12:00am in which they will shut down (no exceptions).

Please let us know if the VA approves, as Lindsay requires your approval prior to submitting to the town.

Thank you Marg:)

Jennifer Holland | Conference Event Manager | Blue Mountain Resorts Ltd.
242 Jozo Weider Boulevard, R.R. # 3, Blue Mountains, Ontario, L9Y 3Z2
(t) 1-877-445-0231 Ext. 6483 | (f) 705-445-8647 | jholland@bluemountain.ca