

**STAFF REPORT: Planning & Building Services Department**



**REPORT TO: Council**  
**MEETING DATE: June 27, 2011**  
**REPORT NO.: B.11.26**  
**SUBJECT: "The Dam Pub", 53 Bruce Street South, Request for Relief – Noise By-law**  
**PREPARED BY: Greg Miller, Manager, Building & By-law/CBO**

#### **A. Recommendations**

**THAT COUNCIL** receive Staff Report SRB.11.26 and make a determination related to the requested relief from the Town's Noise By-law (made by Bill McKentrick) for "The Dam Pub", 53 Bruce Street South, with respect to the following dates and events:

1. **Saturday June 25, 2011:** to allow live music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
2. **Sunday June 26, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.)
3. **Friday July 1, 2011:** to allow live music on the patio from 015:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
4. **Saturday July 2, 2011:** to allow live acoustic music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
5. **Sunday July 3, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.)
6. **Friday July 8, 2011:** to allow live acoustic music on the patio from 19:00 to until 21:30 (7:00p.m. to 9:30p.m.);
7. **Saturday July 9, 2011:** to allow live acoustic music on the patio from 14:00 to until 18:00 (4:00p.m. to 6:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
8. **Sunday July 10, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.)
9. **Saturday July 23, 2011:** to allow live music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
10. **Sunday July 24, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.);

11. **Friday July 29, 2011:** to allow live acoustic music on the patio from 19:00 to until 21:30 (7:00p.m. to 9:30p.m.);
12. **Saturday July 30, 2011:** to allow live music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 22:00 (7:00p.m. to 10:00p.m.) inside;
13. **Sunday July 31, 2011:** to allow live music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
14. **Monday August 1, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.);
15. **Friday August 5, 2011:** to allow live acoustic music on the patio from 19:00 to until 21:30 (7:00p.m. to 9:30p.m.);
16. **Saturday August 6, 2011:** to allow live acoustic music on the patio from 14:00 to until 18:00 (4:00p.m. to 6:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
17. **Friday August 12, 2011:** to allow live acoustic music on the patio from 14:00 to until 18:00 (4:00p.m. to 6:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
18. **Saturday August 13, 2011:** to allow live music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
19. **Sunday August 14, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.);
20. **Friday August 19, 2011:** to allow live acoustic music on the patio from 19:00 to until 21:30 (7:00p.m. to 9:30p.m.);
21. **Saturday August 20, 2011:** to allow live acoustic music on the patio from 14:00 to until 18:00 (4:00p.m. to 6:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
22. **Sunday August 21, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.);
23. **Friday August 26, 2011:** to allow live acoustic music on the patio from 19:00 to until 21:30 (7:00p.m. to 9:30p.m.);
24. **Saturday August 27, 2011:** to allow live acoustic music on the patio from 14:00 to until 18:00 (4:00p.m. to 6:00p.m.) and from 19:00 until 21:00 (7:00p.m. to 9:00p.m.) inside;
25. **Sunday August 28, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.);
26. **Friday September 2, 2011:** to allow live acoustic music on the patio from 19:00 to until 21:30 (7:00p.m. to 9:30p.m.);
27. **Saturday September 3, 2011:** to allow live music on the patio from 15:00 to until 17:00 (3:00p.m. to 5:00p.m.) and from 19:00 until 22:00 (7:00p.m. to 10:00p.m.) inside;
28. **Sunday September 4, 2011:** to allow live acoustic music on the patio from 14:00 to until 18:00 (4:00p.m. to 6:00p.m.) and from 19:00 until 21:30 (7:00p.m. to 9:30p.m.) inside; and
29. **Monday September 5, 2011:** to allow live acoustic music on the patio from 14:00 to until 16:00 (2:00p.m. to 4:00p.m.).

## **B. Background**

1. 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 (Addendum "A").
2. Section 3 of the Noise By-law (Addendum "B") authorizes the making of noises or sounds authorized by the municipality.
3. Section 3 of the Noise By-law also 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.
4. Outdoor events in themselves outside of 07:00 to 19:00 are not prohibited. It becomes prohibited in the instance where such events disturb the peace, quiet, comfort or repose of any inhabitant.
5. *Building & By-law Services received no noise related complaints for this property in 2010.*

## **Summary**

1. The proponent is requesting relief from the Noise By-law for dates and events.
2. A copy of this Staff Report has been provided to the proponent.

## **C. The Blue Mountains' Strategic Plan**

*"Providing a strong, well managed municipal government."*

## **D. Financial Impact**

N/A

## **E. Addendums**

- A. Request from The Dam Pub (Received June 7, 2011)
- B. Noise By-law 2002-9

Prepared by:

Respectfully submitted by:

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Greg Miller, C.E.T.  
Manager, Building & By-law/CBO

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David Finbow  
Director, Planning & Building  
Services



A.

53 Bruce St. South – Thornbury, ON – N0H 2P0 – 519.599.2110

**Building & By-Law Department  
Town of the Blue Mountains  
Thornbury, ON, N0H 2P0**

**Attn: David Finbow**

**Date: June 7, 2011**

Dear David:

The Dam Pub is currently organizing its summer events calendar, and would like to apply for an exemption from the noise by-law for the following events:

- Saturday June 11<sup>th</sup> - Bobby Dean Blackburn (live music on the patio 3-5pm, inside 7-9pm)
- Saturday June 18<sup>th</sup> - live acoustic music on the patio – 4-6pm inside, 7-9pm
- Saturday June 25<sup>th</sup> - Bobby Dean Blackburn (live music on the patio 3-5pm, inside 7-9pm)
- Sunday June 26<sup>th</sup> - live acoustic music on the patio – 2-4pm
- Friday July 1<sup>st</sup> - Canada Day - James Clark Jones (live music on the patio – 3-5pm, inside 7-9pm)
- Saturday July 2<sup>nd</sup> - Allister Bradley (live acoustic music on the patio - 3-5pm, inside 7-9pm)
- Sunday July 3<sup>rd</sup> - live acoustic music on the patio – 2-4pm
- Friday July 8<sup>th</sup> - live acoustic music on the patio – 7-9:30pm
- Saturday July 9<sup>th</sup> - live acoustic music on the patio – 4-6pm, inside 7-9pm
- Sunday July 10<sup>th</sup> - live acoustic music on the patio – 2-4pm
- Saturday July 23<sup>rd</sup> - Alex Hynes (live music on the patio 3-5pm, inside 7-9pm)
- Sunday July 24<sup>th</sup> - live acoustic music on the patio – 2-4pm
- Friday July 29<sup>th</sup> - live acoustic music on the patio – 7-9:30pm
- Saturday July 30<sup>th</sup> - Greg Wyard (live music on the patio 3-5pm, inside 7-10pm)
- Sunday July 31<sup>st</sup> - Greg Wyard (live music on the patio 3-5pm, inside 7-9pm)
- Monday August 1<sup>st</sup> - live acoustic music on the patio – 2-4pm
- Friday August 5<sup>th</sup> - live acoustic music on the patio – 7-9:30pm
- Saturday August 6<sup>th</sup> - live acoustic music on the patio – 4-6pm, inside 7-9pm
- Friday August 12<sup>th</sup> - Peak-To-Shore – Wendell Ferguson (live acoustic music on the patio – 4-6pm, inside 7-9pm)
- Saturday August 13<sup>th</sup> - Peak-To-Shore – Fergus Hambleton (live music on the patio 3-5pm, inside 7-9pm)
- Sunday August 14<sup>th</sup> - live acoustic music on the patio – 2-4pm
- Friday August 19<sup>th</sup> - live acoustic music on the patio – 7-9:30pm
- Saturday August 20<sup>th</sup> - live acoustic music on the patio – 4-6pm, inside 7-9pm
- Sunday August 21<sup>st</sup> - live acoustic music on the patio – 2-4pm
- Friday August 26<sup>th</sup> - live acoustic music on the patio – 7-9:30pm
- Saturday August 27<sup>th</sup> - live acoustic music on the patio – 4-6pm, inside 7-9pm
- Sunday August 28<sup>th</sup> - live acoustic music on the patio – 2-4pm
- Friday September 2<sup>nd</sup> - live acoustic music on the patio – 7-9:30pm
- Saturday September 3<sup>rd</sup> - Greg Wyard (live music on the patio 3-5pm, inside 7-10pm)
- Sunday September 4<sup>th</sup> - Greg Wyard - live acoustic music on the patio – 4-6pm, inside 7-9:30pm
- Monday September 5<sup>th</sup> - live acoustic music on the patio – 2-4pm

**RECEIVED**  
 JUN 07 2011  
 TOWN OF THE BLUE MOUNTAINS  
 PLANNING & BUILDING SERVICES  
 PER \_\_\_\_\_

As you are well aware, the Dam Pub is not a late night establishment, with the majority of its business being taking place during the late afternoon/early evening dinner hours. Most evenings, the entire operation is closed by 11:00pm. All the live music being offered is of an acoustic variety, featuring mostly solo performers on acoustic guitar or electric piano, plus vocals. On days of inclement weather, any music scheduled for the patio will automatically move indoors.

As usual, local residents in the area will be given full consideration regarding the sound volume resultant from these musical offerings, with Pub staff monitoring the level at all times through the afternoon and evening.

Sincerely,

**Bill McKetrick**  
General Manager  
The Dam Pub

# 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

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Ross Arthur, Mayor

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Stephen Keast, Clerk