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STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: June 17, 2013
REPORT NO.: B.13.21
SUBJECT: The Blue Mountains – Noise By-law Relief Requests
PREPARED BY: Sharon Long, Administrative Assistant Planning & Building Services

A. Recommendations

THAT Council receive Staff Report B.13.21 “The Blue Mountains – Noise By-law Relief Requests” and provide direction with respect to the requests.

B. Background

The Town is in receipt of a request from the Director of Recreation for relief from the provisions of the Noise By-law (Attachment 1) on the following dates & times:

July 1st – Canada Day parade and Beaver Crawl – Bruce Street and Marsh Street from King Street to Clark Street from 8:00 a.m. to 3:00 p.m. – parade and festivities.

August 24th – BIA Country Hoe Down – Bruce Street from Highway 26 to Louisa Street from 5:00 p.m. until 11:00 p.m. – live music.

July 15th – September 15th – Thornbury Harbour Dredging – Saturdays 8:00 a.m. to 5:00 p.m. and Sundays 10:00 a.m. to 5:00 p.m. – Excavator & Dump Truck operations.

October 18th & 20th – Thornbury Harbour Haul Out – 7:00 a.m. to 8:00 p.m. – Crane Operations.

September 6th & 7th – Beaver Valley Fall Fair – Beaver Valley Community Centre & Moreau Park – September 6th – 3:00 p.m. to 10:00 p.m. and September 7th – 7:00 a.m. to 6:00 p.m. – General Music by DJ & PA Announcements.

October 20th – Rotary Blue Mountain Marathon – Beaver Valley Community Centre – 7:00 a.m. to 2:00 p.m. – PA Announcements

December 14th – BIA Olde Fashioned Christmas – Bruce Street from Highway 26 to Louisa Street – 1:00 p.m. until 10:00 p.m. – Disc Jockey.

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.

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

N/A

G. Attached

1. Copy of e-mail request from Shawn Everitt, Director of Recreation, The Blue Mountains.
2. Office Consolidation of the Noise By-law.
3. Council approved criteria re “Community Festival and Significant Event Designation”.

Prepared by:

Approved by:

Respectfully submitted by:

Sharon Long
Administrative Assistant,
Planning & Building Services CBO

Greg Miller
Manager, Building & By-law/

David Finbow
Director, Planning & Building
Services

Sharon Long

From: Shawn Everitt
Sent: May 10, 2013 8:54 AM
To: Sharon Long
Cc: Greg Miller
Subject: RE: Events and relief to Noise By Law

Just need to add one,

Beaver Valley Fall Fair – September 6, 3p.m. – 10p.m. September 7, 7a.m. – 6p.m.. General Music by DJ and PA Announcements

From: Shawn Everitt
Sent: May-09-13 2:48 PM
To: Sharon Long
Cc: Greg Miller
Subject: Events and relief to Noise By Law

July 1st Canada Day parade and Beaver Crawl – Bruce Street and Marsh street from King St to Clarks Street from 8a.m. until 3p.m. on July 1st, 2013 Parade Festivities

August 24 BIA Country HOE DOWN Bruce Street from Highway 26 to Lousia Street – 5p.m. until 11p.m. Live Music

Thornbury Harbour Dredging – Saturdays 8a.m. – 5p.m. and Sundays 10a.m. – 5p.m. from July 15th – September 15th, 2013 – Excavator and Dump Truck operations

Thornbury Harbour Haul out – October 18th & 20th, 2013 7a.m. – 8p.m. Crane operations

October 20, Rotary Blue Mountain Marathon – BVCC 7a.m. – 2p.m. PA Announcements

December 14th BIA Olde fashioned Christmas, Bruce Street from Highway 26 to Lousia Street – 1p.m. until 10p.m. Disc Jockey

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

Criteria for Community Festival and Significant Event Designation Town of The Blue Mountains

Community Festival Event

Qualifiers Promotes charitable objectives
 Promotes educational objectives
 Promotes community objectives

Significant Event

Qualifiers Expected to bring people to the area
 Expected to create employment (temporary or full time)
 Expected to promote the area provincially, nationally,
 or internationally

Cultural Event

Qualifiers Promotes the area's cultural heritage
 Promotes the area's natural heritage
 Promotes the area's artistic heritage

Town Supported

Qualifiers Financially supported by the Town

An event can then be:

A community festival event, a significant event, a cultural event, a Town supported community festival or significant event or cultural event or any combination thereof, depending on the criteria met.