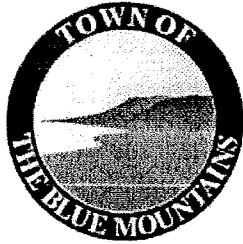


C.4

STAFF REPORT: BUILDING & BY-LAW DEPARTMENT



REPORT TO: Finance & Admin. Committee
MEETING DATE: May 20th, 2008
REPORT NO.: SRB.08.28
SUBJECT: Requests for Relief from the Noise By-law
PREPARED BY: Sharon Long, Admin. Assistant, Building & By-law

A. Recommendations

THAT COUNCIL receive Staff Report SRB.08.28 and direct Staff to develop an amendment to Noise By-law No. 2002-9, as amended, so as to require a fee in the amount of \$100.00 for the processing of a request for relief from the provisions of the Town's Noise By-law and to permit an exemption to that fee for Charitable Events or Town Supported Events.

B. Background

Town Council enacted the Noise By-law in 2002 to regulate and prohibit the making of noises likely to disturb and enacted specific amendments in 2002 and 2004 to permit certain noises to be made within the municipality.

In the past couple of years, a number of requests for relief from the Noise By-law have been processed involving considerable Staff and Council time and costs (specifically providing notice to area residents within 60 metres). The types of requests received for relief from the Noise By-law include, but are not limited to, wedding, special and family events.

The proposed amendment would require a fee in the amount of \$100.00 for the processing of the request and would exempt Charitable Events and Town Supported Events from that fee requirement (with definitions of a Charitable Event and Town Supported Event).

With respect to a New Noise By-law, Town Staff are continuing to pursue options as they relate to same.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Environmental Impacts

N/A

E. Budget Impact

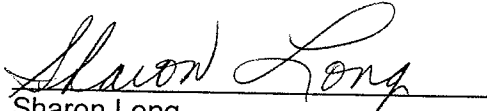
Nominal revenue (+/- \$400.00 - \$600.00 per year)

E. Attached

A. Noise By-law 2002-9 - Office Consolidation.

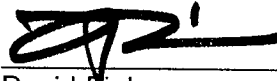
Prepared by:

Respectfully submitted by:



Sharon Long

Administrative Assistant, Building & By-law



David Pinbow

Director, Building & By-law/CBO

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