A. Recommendations

THAT Council receive Staff Report FAF.19.188 “Blue Mountain Resorts, 115 Swiss Meadows Blvd. – Noise By-law Exemption Request”; and

THAT Council grant relief from the provisions of the Noise By-law for Abbott Diabetes National Training Conference on Tuesday, September 24th, 2019 at 115 Swiss Meadows Blvd. from 5:00 p.m. to 11:00 p.m., with noise from an acoustic duo or a DJ.

B. Overview

This report provides the details of a request for relief from the provisions of the Noise By-law for Council’s consideration.

C. Background

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 (Attachment 1) for Abbott Diabetes National Training Conference on Tuesday, September 24th, 2019 at 115 Swiss Meadows Blvd. from 5:00 p.m. to 11:00 p.m., with noise from an acoustic duo or a DJ.

D. Analysis

Blue Mountain Resorts has noted the following points in their application:

- The nearest homes are greater than 600 metres away in all directions, with tree cover and earthen berms between event location and nearest homes
- This event is for a repeat corporate customer in a location where no noise concerns have been previously raised

Blue Mountain Resorts (BMR) has had a similar Noise By-law exemption requests in previous years and Council resolved to grant these requests.
By-law Enforcement did not receive any complaints about BMR events at the top of the hill in 2015 through 2018, and nothing so far in 2019.

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.

The properties within 120 metres of 115 Swiss Meadows Boulevard are all vacant properties so the neighbours were not circulated with this request.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners

F. Environmental Impacts

N/A

G. Financial Impact

N/A

H. In consultation with

Shawn Everitt, CAO

I. Attached

1. Office Consolidation of the Noise By-law.
2. Copy of the application from Blue Mountain Resorts.

Prepared By,

Emily Beauchamp
By-law Services Administrative Assistant
Respectfully submitted,

Shawn Everitt  
CAO

For more information, please contact:  
Emily Beauchamp  
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519-599-3131 extension 249
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 it 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

Town of The Blue Mountains
Enforcement Services Department
32 Mill Street, Box 310, Thornbury, ON N0H 2P0
519-599-3131 ext. 249

For use by Principal Authority
Application Number: PRNBR20190000889 Exemption Number: Roll Number: 05-024-10
Date Received: AUGUST 22, 2019

Event Location (location of the event relief is being requested)
Address: 15 Swiss meadows Road, Town of Blue Mountains, ON.

Applicant Information
Applicant is (check one): Owner or, Authorized Agent of Owner
Name: James Henry, Vice President, Hospitality, Blue Mountain Resort LP.
Address: 
Telephone Number: Fax: Cell Number:

Owner Information (if different from Applicant)
Name: 
Address: 
Telephone Number: Fax: Cell Number:

Event Type (other events may be considered at the sole discretion of Council)
(check one): Charitable Event Wedding/Family Gathering Construction Related Other

Event Details
Event Name (if applicable): Abbott Diabetes National Training Conference
Date of Event: September 24, 2019
Time Range of Event: 5pm - 11pm

Check Yes or No to the Following:
Does the Event promote charitable, educational or community objectives?: Yes No
Does the Event support the community provincially, nationally or internationally?: Yes No
Is the Event financially supported by the Town?: Yes No
Have there been any prior Noise By-law infractions associated with this Event?: Yes No

Description of the source of sound: 2 piece acoustic musician duo in a tented structure with speakers facing east over the escarpment

Proposed Provisions to mitigate the impact of noise to affected residential premises:
The nearest homes to the location are greater than 100m in all directions
with no trees or other barriers between location and residential homes.
Reasons the Noise By-law Exemption should be supported (In the applicant’s opinion):
Event hosted by Blue Mountain on behalf of repeat corporate customer in a location where no noise concerns have been raised previously.
Declaration of Applicant (Note: if owner is not the applicant attach the “Authorization to Act as Agent” form)

I, [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.

[Signature]

Date: 08/22/2019

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 Provincial Offences Act.