A. Recommendations

THAT Council receive Staff Report FAF.19.204 “New Year’s Eve Party / Raise the Roof Fundraiser - Marsh Street Community Centre - Noise By-law Relief Request”; and

AND THAT Council grant relief from the provisions of the Noise By-law for a New Year’s Eve Party / Raise the Roof Fundraiser on December 31, 2019 from 6:00 p.m. to 1:00 a.m. with music from a live band.

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 Manager of the Marsh Street Centre for relief from the provisions of the Noise By-law (Attachment 1) for the “New Year’s Eve Party / Raise the Roof Fundraiser” event at the Marsh Street Centre on December 31, 2019 from 6:00 p.m. to 1:00 a.m. with music from a live band; this event will be taking place entirely indoors.

D. Analysis

Section 3e) 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 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.

In accordance with the procedures set out in our Policy & Procedures for Noise By-law Relief Requests, notice to the residents within 120 metres of the event location was circulated. Due to
the timing of the application, the deadline for residents to submit comments exceeds the date of submission for this report. As of the date of submission of this report no responses were received, however, any additional information will be provided by a representative of the Enforcement Services Department at the Committee of the Whole meeting on October 7, 2019.

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

Residents within 120 metres of property.
Shawn Everitt, CAO.

I. Attached

1. Office Consolidation of the Noise By-law.
2. Copy of the Application.
3. Map of event location and properties within 120 metres.

Prepared By,

__________________________________________
Emily Beauchamp
Administrative Assistant, By-law Services

Respectfully submitted,

__________________________________________
Shawn Everitt
CAO

For more information, please contact:
Emily Beauchamp
bylawinfo@thebluemountains.ca
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 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

For use by Principal Authority

Application number: PBJB22019-985
Exemption number (if different): 

Date received: SEPT. 18, 2019
Roll number: 12-116-00

Application submitted to:

TOWN OF THE BLUE MOUNTAINS
32 Mill Street, Box 310, Thornbury, ON
Tel: (519) 599-3131 Toll Free: 1-888-258-6897 ext. 249
bylawservices@thebluemountains.ca www.thebluemountains.ca

RECEIVED SEP 18 2019

A. Event Location (Location of the event relief is being requested)

Building number, street name: Marsh Street Centre 187 Marsh Street
Postal code: NOH 1J0

B. Applicant

Last name: Muschalla
First name: Kerrie
Street address: 187 Marsh Street
Municipality: Clarksburg
Postal code: NOH 1J0
Province: Ontario

C. Owner (if different from applicant)

Last name: 
First name: 
Street address: 
Municipality: 
Postal code: 
Province: 

D. Event Type (Other events may be considered at the sole discretion of Council)

✓ Charitable Event □ Wedding/ Family Gathering □ Construction Related □ Other

E. Event Details

Event Name (if applicable): New Years Eve Party, Raise the Roof Fundraiser
Date of the Event: Dec 31, 2019
Time of the Event: 6pm to 1am

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:
We plan to have a band playing live music.

Proposed provisions to mitigate impact of noise to affected residential premises:
Exterior doors to the building will be kept closed.

Reasons the noise by-law exemption should be support (in the applicant's opinion)
The Marsh Street Centre will be a wonderful venue for the public to attend a New Year's Eve Party. All of our live music events end promptly at 11pm. However, as this is a New Years Eve Party, we feel it is imperative that the event must go until after midnight. We are asking for an exemption to 1am. This event will be a fundraiser and will contribute to our Raise the Roof fundraising campaign.

F. Declaration of Applicant (Note: if owner is not the applicant attach the "Authorization to Act as Agent" form)

Kerrie Muschalla
(print name)

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.
Map of event location (solid) and properties within 120 metres that received notice of the Noise By-law relief request