



Staff Report

Legal Services – By-law

Report To: Committee of the Whole
Meeting Date: August 9, 2022
Report Number: FAF.22.123
Title: Montana Calver – 19 Wellington Street S – Noise By-law Relief Request
Prepared by: Wayne DeWitt, Supervisor By-law Enforcement

A. Recommendations

THAT Council receive Staff Report FAF.22.123, entitled “Montana Calver – 19 Wellington Street S – Noise By-law Relief Request”;

AND THAT Council grant relief from the provisions of the Noise By-law for a wedding on Saturday October 1st, 2022 at 19 Wellington Street S with a reception and a DJ playing music from 4:00 p.m. to 1:00 a.m.

B. Overview

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

C. Background

The Town is in receipt of a request for relief from the provisions of the Noise By-law (Attachment 1) for a wedding on Saturday October 1st, 2022 at 19 Wellington Street S with a reception and a DJ playing music from 4:00 p.m. to 1:30 a.m.

Due to the requested end time of 1:30 a.m., this requires approval from Council.

D. Analysis

The applicant has noted that the wedding will take place in a field on a five-acre property which should mitigate the impact of the noise.

Because there are a number of residential properties within 120 metres of the event location, By-law staff are recommending that Noise By-law relief be granted to 1:00 a.m., not 1:30 a.m. as requested by the applicant.

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.

In accordance with the procedures set out in our Policy & Procedures for Noise By-law Relief Requests, notice to the residents within 120 metres 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 August 9, 2022.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

F. Environmental Impacts

N/A

G. Financial Impacts

N/A

H. In Consultation With

N/A

I. Public Engagement

The topic of this Staff Report has not been the subject of a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. However, any comments regarding this report should be submitted to Wayne DeWitt, Supervisor By-law Services bylawadmin@thebluemountains.ca.

J. Attached

1. Office Consolidation of Noise By-law 2002-9
2. Copy of the Application
3. Map of event location and properties within 120 metres

Respectfully submitted,

Wayne DeWitt
Supervisor By-law Enforcement

Will Thomson
Director Legal Services

For more information, please contact:
Wayne DeWitt, Supervisor By-law Enforcement
bylawadmin@thebluemountains.ca
519-599-3131 extension 243

Report Approval Details

Document Title:	FAF.22.123 Montana Calver – 19 Wellington Street S – Noise By-law Relief Request.docx
Attachments:	- Att.1 2002-9 Noise By-law Office Consolidation.pdf - Att.2 Application.pdf - Att.3 Map of Event Location.pdf
Final Approval Date:	Jul 19, 2022

This report and all of its attachments were approved and signed as outlined below:

Wayne DeWitt - Jul 19, 2022 - 2:31 PM

Will Thomson - Jul 19, 2022 - 3:02 PM

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

For use by Principal Authority

Application Number: PRNBR20220000628 Exemption Number: _____
Date Received: JULY 12, 2022 Roll Number: 16-012-00

Event Location (location of the event relief is being requested)

Address: 19 Wellington St. S, Thornbury ON N0H 2P0

Applicant Information

Applicant is (check one): Owner _____ or, Authorized Agent of Owner ☒

Name: MONTANA CALVER

Address: _____

Telephone Number: _____ Fax: _____ Cell Number: _____

Owner Information (if different from Applicant)

Name: CORY CALVER

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): CALVER / HOLT WEDDING

Date of Event: October 1, 2022

Time Range of Event: 4pm - 130 Am

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: DJ music

Proposed Provisions to mitigate the impact of noise to affected residential premises: We are on a 5 acre property in a field to mitigate the impact of noise.

Reasons the Noise By-law Exemption should be supported (in the applicant's opinion): We are getting married and are looking forward to celebrating with family!

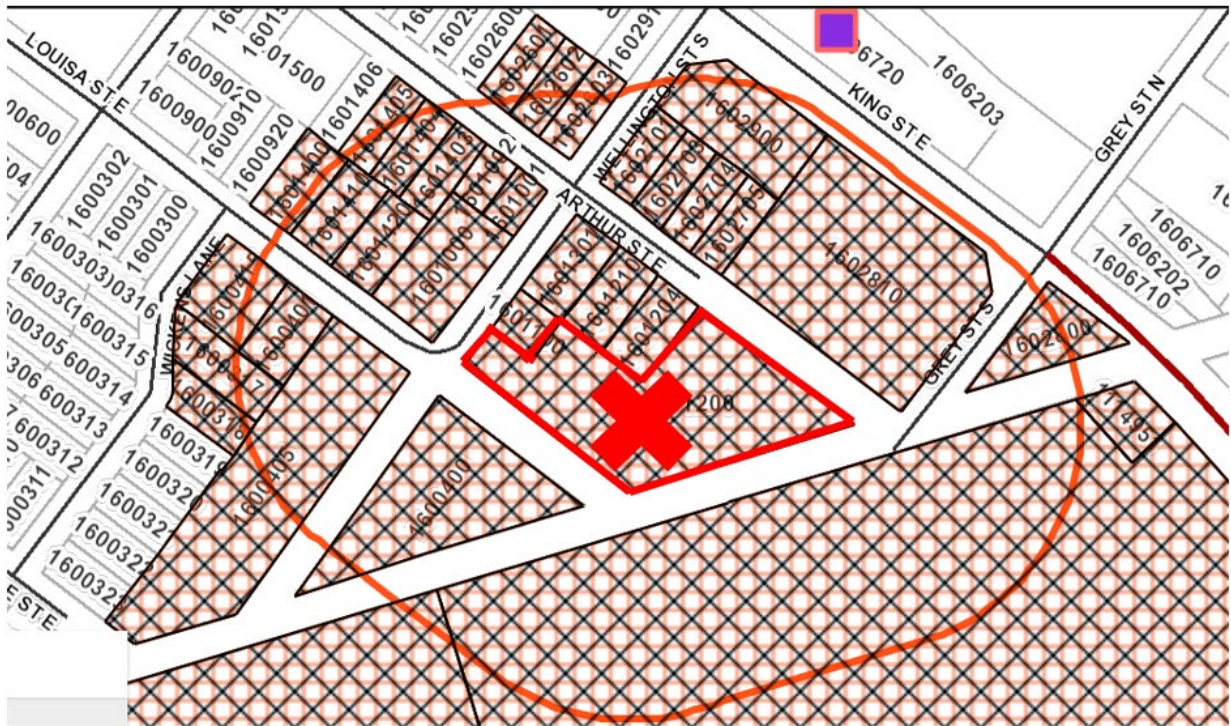
Declaration of Applicant (Note: if owner is not the applicant attach the "Authorization to Act as Agent" form)

I MONTANA CALVER 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

7/11/22
Date

Note:

1. Every application for an exemption shall be submitted a minimum of eight (8) 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.



Location of event. Properties marked with hatching were sent notice of the event and details on how to provide comments.