



Staff Report

By-law Enforcement

Report To: COW_Finance_Admin_Fire_Community_Services
Meeting Date: July 8, 2024
Report Number: CSOPS.24.054
Title: 171 Tyrolean Lane Noise By-law Relief Request
Prepared by: Debbie Young, Interim Manager of By-law & Licensing

A. Recommendations

THAT Council receive Staff Report CSOPS.24.054, entitled "171 Tyrolean Lane Noise By-law Relief Request";

AND THAT Council deny the request for relief from the provisions of the Noise By-law for a birthday party gathering of sixteen guests on Sunday, August 11, 2024 at 171 Tyrolean Lane from 12:00 p.m. to 10:00 p.m.

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 for relief from the provisions of the Noise By-law (Attachment 1) for a birthday party gathering of sixteen guests on Sunday, August 11, 2024, at 171 Tyrolean Lane from 12:00 p.m. to 10:00 p.m. This is a licenced short-term accommodation (STA) property and the applicant for the Noise By-law relief is renting the premises during this time period. Consent to this application was obtained from the property owner. While the applicant has noted that much of the event will take place indoors, there will be some afternoon music and games being played outside.

The applicant originally requested an exemption from 12:00 p.m. to 1:00 a.m., but at the time of submission revised the request to end at 11:59 p.m. This is the time frame that was stated on the Notice that was sent to the residents within 120 metres of the property. On June 12th, they further revised the requested end time to 10:00 p.m.

This request was initially to be decided upon by the Director of Community Services, but due to the comments received (Attachment 4), a decision by Council is required.

D. Analysis

Since June of 2022, there have been 8 noise-related By-law cases entered into CityView for this property, stemming from complaints received (please note that two are classified as unfounded).

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 of 171 Tyrolean Lane was circulated on May 10, 2024. We received comments from one neighbour; their email and letter are attached.

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

Debbie Young, Manager of By-law & Licensing
Residents within 120 metres of the event location

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 Emily Beauchamp, Administrative Assistant, By-law Services bylawadmin@thebluemountains.ca.

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 171 Tyrolean Lane was circulated on May 10, 2024. We received comments from one neighbour; their email and letter are attached.

J. Attached

1. Noise By-law 2002-9, Office Consolidation
2. Copy of the Application
3. Map showing the event location and properties within 120 metres
4. Email and Letter from resident.

Respectfully submitted,

Emily Beauchamp
Administrative Assistant, By-law Services

For more information, please contact:
Emily Beauchamp, Administrative Assistant, By-law Services
bylawadmin@thebluemountains.ca.
519-599-3131 extension 258

Report Approval Details

Document Title:	FAF.24.086 171 Tyrolean Lane Noise By-law Relief Request.docx
Attachments:	- Att. 1 2002-9-Noise-By-law-Office-Consolidation.pdf - Att. 2 Application.pdf - Att. 3 Map.pdf - Att. 4 Email and Letter from Resident.pdf
Final Approval Date:	Jun 27, 2024

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

Ryan Gibbons - Jun 27, 2024 - 3:53 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



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: PRNBR20240000262 Exemption Number: _____
Date Received: MAY 8, 2024 Roll Number: _____

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

Address: 171 TYROLEAN LANE

Applicant Information

Applicant is (check one): Owner _____ or, Authorized Agent of Owner
Name: ALPHONSE PERALTA
Address: _____
Telephone Number: _____ Fax: _____ Cell Number: _____

Owner Information (if different from Applicant)

Name: Hai Nguyen
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): _____
Date of Event: 08 / 11 / 2024
Time Range of Event: 12:00pm - 1:00am REVISED TO 11:59PM PER APPLICANT

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: Music in the afternoon, games ie Cornhole
toss, tug of war, in the back yard

Proposed Provisions to mitigate the impact of noise to affected residential premises: Most of
the event will be held in doors to mitigate noise.

Reasons the Noise By-law Exemption should be supported (in the applicant's opinion): _____

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

I Alphonse 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 of Applicant

05 / 02 / 2024
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.

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



From: [REDACTED]
To: [Bylaw Info](#)
Cc: [Shawn Everitt](#); [Ryan R. Gibbons](#); [REDACTED]
Subject: Noise By-law Exemption Request - 171 Tyrolean Lane
Date: Friday, May 31, 2024 8:29:16 AM
Attachments: [V0.1 Noise By-law Exemption Request - 171 Tyrolean Lane PRNBR20240000262_2024-08-11.docx](#)
[Notice of By-Law Relief Request.pdf](#)
Importance: High

Good morning.

Please find attached our comments regarding a noise by-law exemption request for 171 Tyrolean Lane, a known party-house that is in the Short Term Accommodation (STA) Exception Area. The request, which was sent to us by mail, is attached for reference.

We are **STONGLY OPPOSED** to this request and are **STUNNED** that the Town of the Blue Mountains is even entertaining this request. Indeed, STA By-laws were created by Council to protect neighbours from noise, drunken/stoned and unruly behaviour at STA Licenced properties. The Town should not be granting "Licences to Disturb" that will prevent neighbouring property owners' rights to quiet enjoyment of their properties.

I am copying Shawn Everitt, Chief Administrative Officer, Town of the Blue Mountains, who is given the authority under Section 11.1 of By-law 2021-71 to administer and establish any practices, policies, and procedures necessary to implement By-law 2021-71, which was created to establish a comprehensive system of administrative monetary penalties for the Town of the Blue Mountains. Indeed, we feel Town staff should be trained to ensure that requests of this type should not be accepted in the future given Council has already provided clear direction that excessive noise should not be tolerated at STA Licensed properties (i.e., when they created the STA By-laws).

We would appreciate it if you could confirm receipt of this email as we would like to make sure our concerns are heard. Hopefully, we do not have to respond to blatant attempts by STA License holders to circumvent STA by-laws and the responsibilities that go with renting their properties in the future.

Sincerely,

[REDACTED]
[REDACTED]

**RE: Noise By-law Exemption Request PRNBR20240000262
Birthday Party Gathering
171 Tyrolean Lane**

Good afternoon,

We are writing in response to a request from the owner of 171 Tyrolean Lane for an exemption to the Town's Noise By-law on Sunday, August 11, 2024 for a birthday party, which the Town of the Blue Mountains advised us of via regular mail on May 10, 2024. We are residential property owners [REDACTED] and are speechless that the Town accepted this request.

We **STRONGLY OPPOSE** this request for the following reasons:

1. Inconsistent with previous Council Direction designed to control Short Term Accommodation (STA) Properties.

- The request comes from the owner of a licensed STA property (171 Tyrolean Lane).
- The Town of the Blue Mountains recognizes the negative impact STA properties can have on neighbouring properties and has passed By-laws to control them, including By-laws 2021-70 and 2020-71.
 - Schedule B of By-law 2021-70 specifies a Noise By-law (2002-9, as amended) conviction could be subject to five demerit points.
- Why would the Town even consider exempting an STA Licensed Property from By-laws/penalties designed to protect neighbouring properties from being able to enjoy their properties?
- My family does not want to hear loud music and hooting and hollering/swearing that goes hand in hand with competitive games like tug of war, which normally occurs in conjunction with the over-consumption of alcohol in the STA Exception Area.
- If the Town approves this Noise By-law exemption request, we will have no ability to complain about excessive noise on August 11th as By-law Enforcement Officers will cite the exemption if they are called to tend to the property.

2. Noise By-law exemptions should only be granted by the Town in limited/special circumstances.

- The event does not:
 - promote charitable, educational or community objectives;
 - support the community provincially, nationally, or internationally; and,
 - is not financially supported by the Town.
- Birthday celebrations, Bachelor/Bachelorette and other parties happen all the time in the STA Exception Area given the number of people the chalets can accommodate, and these large gatherings are known to create problems.
 - These celebrations are not "special" or worthy of Noise By-law exemptions.

3. **Sets a dangerous precedent for STA Licensed properties to seek Noise By-law exemptions ALL THE TIME.**

- The Noise By-law, and the potential to extend penalties to STA Licensed Owners under the STA By-laws are in place for a reason.
- Where does it end if the Town allows a Noise By-law exemption for an STA License property owner? If approved, will the Town be granting future Noise By-law exemptions for people celebrating long weekends?
- We feel the granting of a Noise By-law exemption in cases like this could undermine the entire STA Licensing Program.
- The STA Exemption Area is already known as “Party Town,” does the Town really want to reinforce the Wild-Wild-West party atmosphere in the area.

4.

- The owner of the STA licensed properties [REDACTED] has exposed our family to drunk/stoned and unruly behaviour ALL THE TIME.
- It is bad enough that we constantly endure these nuisances, but a Noise-By-law exemption on this date will make things even worse for my family.
- [REDACTED]
- The backyards at 171 and 173 Tyrolean Lane (the adjacent 20-person party house next to 171 Tyrolean Lane) are shared and used by guests of both properties (i.e., there is no fence between them). It would be impossible for By-law Enforcement to address infractions in the backyard or contain the party if it spills into the next yard.
- Given the lack of buffer, the Town should not only reject this specific request, they should reject ALL such Noise By-law exemption requests linked to these properties moving forward.



5. The exemption was requested by the STA License holder, NOT the renter.

- We see this as nothing more than an attempt by the owner of the STA Licensed property trying to dodge their responsibilities regarding having to control their renters, and the associated penalties with not doing so.
- Why is the Town even accepting a request from the person that is not holding the event themselves?

6. The request for 12 HOURS of noise relief is excessive.

- My family does not want to be disturbed by excessive noise created by renters for an extended period (which usually includes swearing, vulgar music being played, and hooting and hollering).
- By-law Enforcement will not be available past 11 pm to monitor the event and we do not want to put our faith in a Responsible Person (whose loyalty is to the STA License holder) to control an event late in the evening, especially after what could be a full day of drinking/partying by renters [REDACTED].
- The request to extend until 12 am may also encourage others, who are not staying overnight at the property, to continue to participate in the Birthday activities beyond 10 pm (which would be a violation of the STA By-laws).

7. History/Previous STA By-law Infractions at 171 Tyrolean Lane.

- We have witnessed By-law Enforcement Officers having to attend this property on multiple occasions over the years for assorted reasons, including for noise and other STA-related by-law infractions.
 - This suggests it is difficult to control nuisances at this property under normal circumstances. How much worse will things be if a Noise By-law exemption is granted for this property on August 11, 2024?

8. Impact on Neighbouring Properties.

- We note, the Town often overlooks the fact that the STA Exception Area also includes residential owners who have a right to the quiet enjoyment of their properties. Please do not forget this fact when reviewing this request.

We respectfully ask that you reject this request for a Noise By-law exemption, which would be in effect a licence to disturb our family. Further, we would hope that the Town's CAO and/or Town Council would provide clear direction that Town staff should not consider future Noise By-law exemption requests of this type. Indeed, it is a waste of Town resources/our time to have to respond to blatant attempts to circumvent the Town By-laws which are in place to protect the ability of residents to enjoy their properties.

Sincerely,

[REDACTED]