



Staff Report

By-law Enforcement

Report To: Council Meeting
Meeting Date: July 15, 2024
Report Number: CSOPS.24.057
Title: Bayview Park Noise By-law Relief Request
Prepared by: Emily Beauchamp, Administrative Assistant, By-law Services

A. Recommendations

THAT Council receive Staff Report CSOPS.24.057, entitled “Bayview Park Noise By-law Relief Request”;

AND THAT Council authorize the request for relief from the provisions of the Noise By-law for “Music in the Park” on Sundays, from July 21st through August 18th, 2024 at Bayview Park (60 Bay Street E) from 4:00 p.m. to 8:00 p.m., with outdoor live music.

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 “Music in the Park” on Sundays, from July 21st through August 18th, 2024 at Bayview Park (60 Bay Street E) from 4:00 p.m. to 8:00 p.m., with outdoor live music.

This request was initially to be decided upon by the Director of Community Services, but due to comments received by an area resident, a decision by Council is required.

D. Analysis

The Town has received similar Noise By-law exemption requests for Bayview Park in previous years for either “Jazz by the Bay” or “Music in the Park” and Council resolved to grant these requests. By-law Enforcement has not received any complaints about these events in previous years.

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 bayview Park was circulated on June 19, 2024. The deadline for residents to submit comments was July 4, 2024. One letter was received from a local resident with comments on the request, the main points of which are below:

- Bordering residents have tolerated this event every Sunday in July and August from 6-8pm. Now requesting 4-8pm.
- This is preceding two years of construction that will begin next year, gives the impression the Town does not consider the taxpayers in this neighborhood.
- Creates a parking nightmare and By-law is seldom seen enforcing issues.
- While the Town may intend to provide entertainment, they have a responsibility to do so without inconveniencing area residents.
- The music at this event at times is terrible.
- Garbage bins downsized at the park
- Food trucks at event are noisy.
- Time extension of request is not supported during family time and dinner time.

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, Interim Manager of By-law & Licensing
Ryan Gibbons, Director of Community Services
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

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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

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:	CSOPS.24.057 Bayview Park 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
Final Approval Date:	Jul 11, 2024

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

Debbie Young - Jul 11, 2024 - 12:04 PM

Ryan Gibbons - Jul 11, 2024 - 3:09 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

This form is authorized under By-law 2002-09

Form BL574

For use by Principal Authority	
Application number:	Exemption number (if different):
Date received:	Roll number:

Application submitted to:

TOWN OF THE BLUE MOUNTAINS

32 Mill Street Box 310, Thornbury, ON

Tel: (519) 599-3131 Toll Free: 1-888-258-6867 ext. 249

bylawinfo@thebluemountains.ca

www.thebluemountains.ca

A. Event Location (Location of the event relief is being requested)			
Building number, street name Bayview Park		Unit number	Lot/con.
Postal code		Plan number/other description	
B. Applicant Applicant is: <input type="checkbox"/> Owner or <input type="checkbox"/> Authorized agent of owner			
Last name Wykes		First name Linda	
Street address		Corporation or partnership Blue Mountain Legacy Fund	
Municipality Thornbury		Postal code N0H 2P0	Province ON
Fax ()		Cell number ()	
C. Owner (if different from applicant)			
Last name		First name	
Street address		Corporation or partnership	
Municipality		Postal code	Province
Telephone number ()		E-Mail	
Cell number ()			
D. Event Type (Other events may be considered at the sole discretion of Council)			
<input checked="" type="checkbox"/> Charitable Event <input type="checkbox"/> Wedding/ Family Gathering <input type="checkbox"/> Construction Related <input type="checkbox"/> Other			
E. Event Details			
Event Name (if applicable): Music In the Park		Date of the Event: Sundays - July 7 - August 18	Time of the Event: 4pm - 8pm
Does the Event promote charitable, educational or community objectives?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the Event support the community provincially, nationally or internationally?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the Event financially supported by the Town?		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Have there been any prior noise by-law infractions associated with this event?		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Description of the source of sound: Live Music			
Proposed provisions to mitigate impact of noise to affected residential premises:			
Reasons the noise by-law exemption should be support (in the applicant's opinion) Annual Event for the community			
F. Declaration of Applicant (Note: if owner is not the applicant attach the "Authorization to Act as Agent" form)			
I Linda Wykes		certify that:	
(print name)			
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.			
Date		Signature of applicant	
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 N0. 2002-09, as amended is guilty of an offence and on conviction is liable to a penalty as provided in the <i>Provincial Offences Act</i> .			

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

