



**Subject: Noise Variance Request 250 Pleasant Beach Rd, Capri Restaurant**

**To: Council**

**From: Community Safety & Enforcement Department**

Report Number: 2025-135

Meeting Date: June 24, 2025

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### **Recommendation:**

That Community Safety & Enforcement Department Report 2025-135 be received; and

That Council approve a permit to exempt 250 Pleasant Beach Road, Capri Restaurant from Section 4(3) of By-law 4588/119/04 with the following terms and conditions:

- That a noise variance with modifications be approved for the period starting from May 1, 2025, to October 31, 2025 from noon to 10:00 p.m. Sunday through Thursday and ending at 11:00 p.m. on Fridays and Saturdays for a variety of amplified noise, including Karaoke and live bands being able to amplify music.
  - The permit is applicable only to the production, reproduction, and amplification of sound in connection with events at this property with the modifications by the City of Port Colborne.
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### **Purpose:**

The purpose of this report is to allow the applicant to send their Noise Variance request to Council. The applicant, 250 Pleasant Beach Rd Capri Restaurant, is requesting numerous variances from the Noise By-law to allow for a variety of activities with amplification of noise including music at their facility.

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### **Background:**

The City of Port Colborne's (the City) Noise By-law 4588/119/04 Section 4(3) Schedule 2 (2) states:

“No person shall emit or cause to permit the emission of sound resulting: From any act listed in Schedule 2 – Prohibitions Time and Place if clearly audible at a point of reception; the operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound in a residential area at any time.”

#### Section 8.

“(1) The Clerk may, upon written application by any person, issue a “permit” of a temporary nature to exempt the applicant from any such provisions and requirements of this by-law as the Clerk deems appropriate.”

“(2) The Council may, upon written application by any person, issue a “permit” of a permanent nature to exempt the applicant from any such provisions and requirements of this by-law, as the Council deems appropriate.”

“(3) Any “permit” issued in accordance with the provisions of Section 8. (1) or Section 8. (2) of this by-law, by the Clerk or Council, shall specify the terms and conditions under which the permit is issued.

Staff are aware that some residents who are near the restaurant have brought noise complaints forward to individual Councillors in the past, therefore By-law Services staff are providing this report for Council’s consideration. Of the two types of variances permitted under the by-law – temporary and permanent – staff consider this request to be of a permanent nature, therefore Council consideration is required.

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### **Discussion:**

Staff submitted Report 2025-121 to council on May 27, 2025. That Report was deferred back to staff, and to have the applicant provide additional information including.

- 1) A new letter to neighbouring property owners with correct times for the commencement and cessation of all music produced through loudspeakers.
- 2) A comprehensive list of all dates and times that events would be taking place at the establishment.

A copy of the original Report 2025-121 has been attached for council to review.

An email was received from the applicant of 250 Pleasant Beach Rd., Capri Restaurant providing a new letter to neighbouring properties that on Sunday through Thursday music would commence at 1pm and cease at 10pm and on Friday and Saturday commence at 1pm and cease at 11pm. The applicant also provided a calendar with all dates and times of events along with a legend providing what type of noise they are looking to be exempt from.

Staff are suggesting the following two options for Council's consideration:

**Option One**

Council grant approval of the noise variance for 2025 with the newly obtained information as requested by 250 Pleasant Beach Rd., Capri Restaurant.

**Option two**

Council grant approval of the noise variance for 2025, with modifications to the received application:

1. Limit the noise to 11:00 p.m. or earlier
2. Establish times, dates and restrictions that events can occur.

Staff are recommending Option Two, which is outlined in the recommendation of this report. This would allow the City of Port Colborne to enforce the variance through penalty notices or rescind the noise variance should adjustments not be complied with to the satisfaction of the City.

Council may choose to implement any or all the options below to control the noise at the applicant's property of 250 Pleasant Beach Rd, Port Colborne ON:

1. Noise within buildings with doors remaining closed throughout the duration of the music may occur until 11:59 p.m.
2. Noise created in the open air must conclude by 10:00 p.m.
3. Outdoor open-air noise may only occur three of the four weekends per month.
4. Outdoor open-air noise may only occur four of the seven days of the week.

Staff's recommendations are included in the recommendation to this report.

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**Internal Consultations:**

No internal consultation was obtained.

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**Financial Implications:**

There are no financial implications for the municipality or the public, as By-law Services uses a user fee system.

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**Public Engagement:**

Staff placed the variance application on the City's website for comments prior to the original Report 2025-121 on May 27, 2025. The comments from the original application are supplied in Appendix C; there have been no further comments from residents in the area since the new letter from the applicant was distributed.

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**Strategic Plan Alignment:**

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
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**Conclusion:**

Staff have minor objections to the proposed noise variance and recommend revoking the variance permit, should Capri Restaurant fail to mitigate any noise that has disturbed the neighbouring area and/or vary from the dates and times approved by Council.

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**Appendices:**

- a. Noise Variance Application – 250 Pleasant Beach Rd
- b. Event Calendar, and letter to neighbouring properties
- c. Report 2025-121

Respectfully submitted,

Travis Morden  
Senior Municipal Law Enforcement Officer  
905-228-8076  
Travis.Morden@portcolborne.ca

**Report Approval:**

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.