



**City of Kingston
Report to Council
Report Number 21-165**

To: Mayor and Members of Council
From: Paige Agnew, Commissioner, Community Services
Resource Staff: Lisa Capener-Hunt, Director, Building & Enforcement
Date of Meeting: June 22, 2021
Subject: Request for Temporary Noise Exemption – Leon’s Centre
Music Concert

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

ASM Global, the operator of the Leon’s Centre, has applied for a temporary exemption to the City of Kingston’s Noise By-Law to allow for a music concert until 12:30 a.m. on January 1, 2022, which is beyond the current permitted hours of 7 a.m. to 11 p.m. The concert is scheduled to start at 9:05 p.m. on December 31, 2021.

An advertisement for this exemption request was placed in the Kingston Whig-Standard on June 8, 2021 (Exhibit B) and on the City of Kingston website. The notices are published in order to give the public an opportunity to comment on the proposed request for exemption. No correspondence has been received as of the time of writing this report.

Recommendation:

That ASM Global be granted an exemption from Schedule B Activity 4 of By-Law Number 2004-52, “A By-Law to Regulate Noise”, to permit the playing of amplified sound for a music concert at the Leon’s Centre until 12:30 a.m. on January 1, 2022, which is beyond the current permitted hours of 7 a.m. to 11 p.m.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

**Paige Agnew, Commissioner,
Community Services**

ORIGINAL SIGNED BY CHIEF
ADMINISTRATIVE OFFICER

**Lanie Hurdle, Chief
Administrative Officer**

Consultation with the following Members of the Corporate Management Team:

Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Corporate Services	Not required
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required

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Options/Discussion:

Section 3.3 of By-Law Number 2004-52, A By-Law to Regulate Noise (the Noise By-Law) states that any person may apply to the Licensing & Enforcement Division requesting an exemption from the prohibitions in Schedules A and B of the by-law; Section 3.4 provides that Council may approve the exemption request and impose any conditions it deems appropriate.

An exemption is sought to Schedule B Activity 4 of the Noise By-Law, which prohibits the amplification of sound in Other Areas of the city between the hours of 11:00 p.m. on one day to 7:00 a.m. the following day. The Leon's Centre, located at 1 The Tragically Hip Way, is located in an Other Area as defined by Schedule D of the Noise By-Law.

The applicant is seeking the exemption for a music concert which is scheduled to be held on Friday, December 31, 2021, starting at 9:05 p.m. and continuing until 12:30 a.m. on Saturday January 1, 2022. A copy of the request is attached to the report as Exhibit A. An exemption is required for the playing of amplified sound from 11 p.m. onward as noise of this nature in Other Areas as defined by the Noise By-Law is permissible between 7 a.m. and 11 p.m. on the same day.

The applicant is submitting their request in anticipation that public health measures related to the COVID-19 pandemic will allow for gatherings such as indoor music concerts. The granting of the temporary noise exemption does not supersede any regulations that may be in place at the time with regards to indoor social events.

Members of the public were provided an opportunity to provide comment on the noise exemption request. Advertisements in the Kingston Whig-Standard (Exhibit B) and a public notice on the City's website informed the public of the request. At the time of writing this report no public comments were received. Any public comments received after the writing of this report have been distributed to Council through the Council agenda and/or addendum as Communications.

Staff are recommending that the exemption request as detailed in Exhibit A be granted. The concert will be held indoors in a large venue located in a non-residential area of the City, with limited potential for disturbance to the nearby residential properties on Place d'Armes. Additionally, the event is scheduled for New Year's Eve, a night when people are typically up later in the evening celebrating the holiday and with the following day, New Year's Day, being a Public Holiday.

Existing Policy/By-Law:

Council may grant exemptions to By-Law Number 2004-52 "A By-Law to Regulate Noise". The authority to approve noise exemptions is specifically granted to Council under Subsection 129 (b) of the *Municipal Act*.

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Notice Provisions:

The *Municipal Act* no longer requires public notification of noise exemption requests, but notice is given in order to provide Council with community feedback before deciding on these requests. An advertisement of this request for exemption was placed in the Kingston Whig-Standard on June 8, 2021 and was posted on the City's website. The advertisement stated that anyone wishing to object to the exemption should deliver their concerns in writing or by email to the Licensing & Enforcement Division by 4:30 p.m. on June 18, 2021. A copy of the advertisement is attached this report as Exhibit B.

Accessibility Considerations:

None

Financial Considerations:

The applicant for a noise exemption is required to pay a fee of \$318.25 to help cover the cost of processing the noise exemption request. The applicant is also required to pay the cost of public notice published in the Kingston Whig-Standard.

Contacts:

Kyle Compeau, Manager, Licensing & Enforcement 613-546-4291 extension 1343

Derek Ochej, Licensing & Enforcement Coordinator, 613-546-4291 extension 1385

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Correspondence from Applicant

Exhibit B Public Notification of Application for Noise Exemption



Lynn Carlotto
General Manager
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May 27, 2021

Licensing & Enforcement
City of Kingston
216 Ontario Street
Kingston, ON K7L 2Z3

To Whom It May Concern,

ASM Global wishes to present a music event on December 31, 2021. The event seeks to continue amplifying music past the regular curfew followed for all Leon's Centre events. Accordingly, the purpose of this letter is to request an exemption to the City of Kingston By-Law Number 2004-52, specifically Provision 4 of Schedule B, which does not permit the production, reproduction or amplification of voices or sound past 11 p.m.

The event schedule is as follows:

- 4:00 PM – Musician sound check
- 8:00 PM – Doors open to the public
- 9:05 PM – Musical performances begin
- 12:30 AM – Concert ends

Based on the upcoming calendar of City Council meetings, I am requesting this item of business be included on the June 22 meeting agenda.

If you require any further information, please let me know.

Thank you

Lynn Carlotto
General Manager



Request for Temporary Noise Exemption

– Leon’s Centre

Requested *Noise Bylaw* exemption would allow amplified music at Leon’s Centre (1 The Tragically Hip Way), during a concert to be held 9:00 p.m. on Friday, Dec. 31, 2021 to 12:30 a.m., on Saturday, Jan. 1, 2022. The exemption is sought for the hours of 11 p.m. to 12:30 a.m.

For details, go to CityofKingston.ca/News or call 613-546-4291 ext. 3177.

The deadline to submit comments for this exemption request is 4:30 p.m., June 18, 2021. Please direct all comments to Derek Ochej, Licensing & Enforcement Coordinator at dochej@cityofkingston.ca

This matter will be considered during the regular council meeting commencing at 7:00 p.m. on June 22, 2021.