



**City of Kingston
Report to Council
Report Number 21-242**

To: Mayor and Members of Council
From: Paige Agnew, Commissioner, Community Services
Resource Staff: Lisa Capener-Hunt, Director, Building, & Enforcement
Date of Meeting: November 16, 2021
Subject: Request for Temporary Noise Exemption – Peter Candlish

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

Kingston resident Peter Candlish has applied for a temporary exemption to By-Law Number 2004-52, A By-Law to Regulate Noise, to allow for the use of amplified sound, percussion instruments and yelling/shouting as part of an outdoor wedding from 7:00 p.m. to 11:00 p.m. on June 4, 2022 at 1508 Hwy 2 East, Kingston. The playing of amplified sound in Residential Areas as defined by the Noise By-Law is prohibited at all times.

An advertisement for this exemption request was placed in the Kingston Whig-Standard on October 5, 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.

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Recommendation:

That Peter Candlish be granted an exemption from Schedule B Activity 2, 4 and 15 of By-Law Number 2004-52, "A By-Law to Regulate Noise" to permit the playing of amplified sound, yelling & shouting, and playing of percussion instruments for an outdoor wedding at 1508 Hwy 2 East, Kingston from 7:00 p.m. to 11:00 p.m. on June 4, 2022.

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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:

Craig Desjardins, Acting Commissioner, Corporate Services	Not required
Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Transportation & Public Works	Not required
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	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 (Exhibit A), which prohibits the amplification of sound in Residential Areas of the City at all times. The location of the proposed event, 1508 Hwy 2 East in Kingston, is located in a Residential Area as defined by Schedule D of the Noise By-Law.

The applicant is planning to host an outdoor wedding on June 4, 2022 with amplified sound between the hours of 7:00 p.m. to 11:00 p.m. The applicant has indicated that the event will comply with all public health regulations that may be in place at the time of the event. The granting of the noise exemption does not supersede any regulations that may be in place at the time with regards to social events/gatherings.

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 temporary noise exemption request as detailed above be granted. The outdoor wedding will be held on a 3-acre property in a location that is sufficient distance from other neighbouring residential properties.

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*.

Notice Provisions:

The *Municipal Act* no longer requires public notification of noise exemption requests, but notice is given in order to provide Council with some community feedback before deciding on these requests. An advertisement of this request for exemption was placed in The Kingston Whig-Standard on October 5, 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 October 18, 2021. A copy of the advertisement and public notice is attached to this report as Exhibit B.

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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 the public notice published in the Kingston Whig-Standard.

Contacts:

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

Dan Hazell, Supervisor, Licensing & Enforcement, 613-546-4291 extension 1318

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Schedule B of Noise By-Law Number 2004-52

Exhibit B Public Notification of Application for Noise Exemption

Schedule B
Noise Prohibitions By Time And Place

Activity	Prohibited Times Residential Areas	Prohibited Times Other Areas
1. Operation of construction equipment in connection with construction.	C and F	C and F
2. Playing of musical instruments, including percussion instruments	D	E
3. Erection, alteration, repair, dismantling, or any activity related to construction.	C and F	C and F
4. Operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound, except for the playing of the national anthem and for intermittent game related announcements during organized sporting activities at a sports field, on the condition that the volume does not exceed the minimum level required to be clearly audible to persons at a sports field.	A	E
5. Operation of a combustion engine that (i) is, or (ii) is used in, or (iii) is intended for use in a toy or a model or replica of a larger device, which is not a conveyance and which has no purpose other than amusement.	C	E
6. Venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.	E	E
7. Operation of a solid waste bulk lift or refuse compacting equipment, except within the geographical boundaries of the Downtown Kingston Business Improvement Area.	C	D

	Activity	Prohibited Times Residential Areas	Prohibited Times Other Areas
8.	Operation of commercial car wash equipment.	E	E
9.	Operation of any powered rail car including but not limited to locomotives and refrigeration cars while stationary on property not owned or controlled by a railway company governed by the Railway Safety Act (Canada).	C	D
10.	Operation of any motorized conveyance other than on a highway or other place intended for its operation.	C	D
11.	Outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal.	D	E
12.	Loading, unloading, delivering, packing, unpacking or otherwise handling any containers, products, other materials or refuse, unless necessary for the maintenance of essential services or the moving of private household effects.	C and F	F
13.	Operation of a pit or quarry.	C and F	C and F
14.	Take-off or landing of a power-assisted hang glider, parafoil, or aircraft of any type.	A	C
15.	Yelling, shouting, hooting, whistling or singing, except during organized sporting activities at a sports field.	D	E
16.	Yelling, shouting, hooting, whistling or singing during organized sporting activities at a sports field.	H	I
17.	Amplification of voices or sound for the playing of the national anthem and for intermittent game related announcements during organized sporting activities at a sports field.	G	I

	Activity	Prohibited Times Residential Areas	Prohibited Times Other Areas
18.	Whistles when used to control organized sporting activities at a sports field.	G	G
19.	Collecting waste and refuse, including operation of a solid waste bulk lift or refuse compacting equipment within the geographical boundaries of the Downtown Kingston Business Improvement Area.	N/A	J
1.	Setting off of fireworks.	K	K

(By-law Number 2004-52; 2017-68; 2017-69)

Prohibited Times

- A. At any time
- B. 1700 hours (5:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- C. 1900 hours (7:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- D. 2100 hours (9:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- E. 2300 hours (11:00pm) of one day to 0700 hours of the next day (0900 Sundays)
- F. All day Sundays and Statutory Holidays
- G. 2230 hours (10:30 pm) of one day to 0800 hours of the next day
- H. 2230 hours (10:30 pm) of one day to 0700 hours of the next day (0800 Sundays)
- I. 2300 hours (11:00 pm) of one day to 0700 hours of the next day (0800 Sundays)
- J. 2100 hours (9:00pm) of one day to 0600 hours of the next day
- K. At any time except:
 - a) between dusk and 2300 hours (11:00 pm) on Victoria Day;
 - b) between dusk and 2300 hours (11:00 pm) on the day immediately preceding Victoria Day;
 - c) between dusk and 2300 hours (11:00 pm) on Canada Day;
 - d) between dusk and 2300 hours (11:00 pm) on the day immediately preceding Canada Day;
 - e) between dusk on New Year's Eve and 0030 hours (12:30 am) on New Year's Day; or,
 - f) when authorized by the Chief Fire Official.

(By-law Number 2004-52; 2017-68)

Noise Exemption Request:

Tuesday, October 5th, 2021

An application has been made by Peter Candlish for a temporary exemption to Noise Control By-law 2004-52 Schedule "B" Activities 2,4, and 15 to permit the following:

1. Playing of musical instruments, including percussion instruments in a residential area from 9:00pm to 11:00pm on June 4, 2022 at 1508 Hwy 2 East, Kingston, ON for a wedding ceremony.
2. Playing of amplified sound in a residential area between the hours of 7:00pm to 11:00pm on June 4, 2022 for a live band performance to be held on the property of 1508 Hwy 2 East, Kingston, ON for a wedding ceremony.
3. Yelling, shouting, hooting, whistling or singing, except during organized sporting activities at a sports field from 9:00pm until 11:00pm on June 4, 2022 at 1508 Hwy 2 East, Kingston, ON for a wedding ceremony.

Anyone wishing to comment regarding this application for a temporary noise exemption should deliver their concerns in writing or by email before 4:30 p.m. on October 19th, 2021 to:

City of Kingston
Dan Hazell, Licensing & Enforcement
1211 John Counter Blvd.
Kingston, ON K7K 6C7

Phone: 613-546-4291 ext. 1318
Email: dhazell@cityofkingston.ca

This matter will be considered during the regular Council meeting that commences at 7:00 p.m. on November 16, 2021.