EXECUTIVE SUMMARY:
Empire Life Insurance Co. has applied for an exemption to the Noise By-law to allow garage rehabilitation at 259 King Street East. The applicant had originally requested an exemption from 7:00 p.m. overnight until 6:00 a.m. Monday to Thursday but the exemption request has been modified to address a public concern.

RECOMMENDATION:
THAT Empire Life Insurance Co. be granted an exemption from the normal 7:00 pm to 7:00 am restriction under Schedule “B” of By-Law No. 2004-52 “A By-Law To Regulate Noise”, in order to allow for concrete restoration work between the hours of 6:00 a.m. and 7:00 a.m. and also between the hours of 7:00 p.m. and 11:00 p.m.;

THAT the exemption will be in effect from 6:00 a.m. on Mondays until 11:00PM on Thursdays running from February 3, 2010 until March 11, 2010;
AUTHORIZING SIGNATURES:

<table>
<thead>
<tr>
<th>ORIGINAL SIGNED BY COMMISSIONER</th>
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<tr>
<td>Lance Thurston, Commissioner of Community Development Services</td>
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<tr>
<th>ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER</th>
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<tr>
<td>Gerard Hunt, Chief Administrative Officer</td>
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CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

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<tr>
<th>Commissioner Beach, Sustainability &amp; Growth</th>
<th>N/R</th>
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<tr>
<td>Commissioner Leger, Corporate Services</td>
<td>N/R</td>
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<tr>
<td>Jim Keech, President, Utilities Kingston</td>
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(N/R indicates consultation not required)
OPTIONS/DISCUSSION:
Empire Life Insurance Co. initially made application for an exemption to Noise Control By-Law 2004-52 Schedule “B” to cover operations between the hours of 7:00 p.m. and 6:00 a.m. Monday to Thursday. Empire Life subsequently amended their application to cover operations between the hours of 6:00 a.m. and 7:00 a.m. and also between the hours of 7:00 p.m. and 11:00 p.m. to address concerns that were raised as a result of the advertisement for exemption.

The construction is required in order to perform concrete restoration work which is required to maintain the building’s structural integrity. The request is required because performing this work during regular hours would make it impossible for Empire Life to conduct regular business within the building due to vibration and noise. Suspension of operations is not an acceptable option because there is a nationwide call centre located within the building.

The work is proposed on the underground two-storey garage located at 259 King Street East which is completely enclosed and located beneath the 6-storey office building. The noise creating activities will consist of membrane and concrete removal by mechanical chippers and jack-hammering. Empire Life commits to keeping all doors sealed during construction. Ventilation shafts and ducts from the garage will also be closed during construction wherever possible.

The work will involve mechanical chippers, saw cutting and jack-hammers with electric compressors located within the garage. The use of electric compressors will substantially reduce the noise as they can be located in the garage and they do not have combustion engine.

Other than the demolition work within the garage, all other work can be conducted within the permitted regulations.

EXISTING POLICY/BY LAW:
Council has granted exemptions in the past to the Noise Control By-law in order to accommodate concrete finishing in high rise buildings as well as for similar work for open-air garages on Brock Street.

The authority to authorize such exemptions is specifically granted to Council under the Municipal Act. The Act was changed recently to allow Council to grant exemptions for extended durations, and it no longer limits Council to a maximum exemption period of six months.

NOTICE PROVISIONS:
An advertisement of this request for exemption was placed in the Kingston Whig Standard on December 22nd, 2009, a copy of which is attached hereto as Exhibit “A”. One objection to the application was received and is attached hereto as Exhibit “B”.

Council has granted exemptions to the Noise Control By-Law for this type of construction in the past, and the authority to do so is specifically granted to Council under Subsection 129 (3) of the Municipal Act which no longer requires public notification.

ACCESSIBILITY CONSIDERATIONS:
There are no accessibility considerations.

FINANCIAL CONSIDERATIONS:
A $91.00 fee was received as is now required to help cover the cost of processing noise exemption requests. There are no other financial considerations as advertisements were placed at the expense of Empire Life.
CONTACTS:
Kim Leonard, Manager, Licensing & Enforcement – 613-546-4291 ext. 3222
Greg McLean, Supervisor, Animal Control & By-Law Enforcement – 613-546-4291 ext. 1336

OTHER CITY OF KINGSTON STAFF CONSULTED:
Brian Fleming, Kingston City Police – 613-549-4990

EXHIBITS ATTACHED:
Exhibit “A” – Public Notification for Application for Noise Exemption
Exhibit “B” – Copy of objection from the public
Empire Life Insurance Co. has made application for an exemption to Noise Control By-Law 2004-52 Schedule “B” to permit garage rehabilitation at 259 King Street East. The applicant has requested that the exemption cover operations between the hours of 7:00 p.m. and 6:00 a.m. Monday to Thursday.

Construction is scheduled to commence on Wednesday, February 3, 2010 and continue Monday to Thursday until Friday, March 12, 2010.

The current by-law only permits this activity from Monday to Saturday between the hours of 7:00 a.m. and 7:00 p.m. and excludes Sundays and Statutory Holidays.

Anyone wishing to object to this exemption should deliver their concerns in writing or by e-mail before 4:00 p.m. on January 8, 2010 to:

City of Kingston  
Kim Leonard, Manager, Licensing & Enforcement  
216 Ontario Street  
Kingston, ON K7L 2Z3  
kleonard@cityofkingston.ca

Phone: 613-546-4291, ext. 3222  
Fax: 613-542-1332  
Email: kleonard@cityofkingston.ca

Located at 216 Ontario Street

This matter will be considered during the regular Council Meeting that commences at 7:30 p.m. on Tuesday, February 2, 2010.

NOTICE OF COLLECTION: Personal Information collected is pursuant to the Municipal Freedom of Information and Protection of Privacy Act (and all other applicable privacy provincial and federal legislation). Such legislation is reviewed and applied for the collection, use, disclosure and destruction of the information. The personal information collected as a result of this public notice will be used to assist in making a decision on this matter. All names, addresses, opinions and comments collected will be made available for public disclosure. Questions regarding this collection should be forwarded to Kim Leonard, Manager of Licensing and Enforcement, 216 Ontario Street, Kingston, Ontario, K7L 2Z3 or by e-mailing kleonard@cityofkingston.ca
EXHIBIT ‘B’

OBJECTION TO NOISE EXEMPTION REQUEST

-----Original Message-----
From:
Sent: Tuesday, December 22, 2009 8:19 PM
To: Leonard, Kim
Subject: Noise Exemption Request - Empire Life

Dear Kim Leonard,

I see from the City website that Empire Life is asking for a noise exemption between 7 pm and 6 am from Feb 3 until March 12 for renovations to their garage.

I'm a big fan of Empire Life and their commitment to the community, but my bedroom window is within earshot of both entrances to their garage. Overnight noise would definitely be a problem for me.

I wouldn't object to extra noise between 7 pm and 11 pm, though. Or after 6:00 a.m.

Thanks for giving me the chance to voice an opinion on this matter. I hope a solution can be reached that will work for everybody concerned.

Best wishes,