



**City of Kingston
Report to Council
Report Number 15-137**

To:	Mayor and Members of Council
From:	Lanie Hurdle, Commissioner, Community Services
Resource Staff:	Paige Agnew, Director, Planning, Building & Licensing Services
Date of Meeting:	February 17, 2015
Subject:	St. Lawrence College – Request for Noise Exemption

Executive Summary:

St. Lawrence College is considering the placement of lighting at its sports field located at the corner of King Street West and Portsmouth Avenue, attached as Exhibit A. The proposed lighting will allow St. Lawrence College to extend playing time on the field which will provide for additional field time to meet the needs of the community and St. Lawrence College sports teams and students.

St. Lawrence College has made an application for exemption to Noise Control By-Law 2004-52 Schedule A, Section 7 to permit noise from whistles at the sports field between the hours of 7:00 a.m. and 9:00 p.m., Monday to Saturday, and 9:00 a.m. to 9:00 p.m. on Sundays. The College is also requesting an exemption until 10:00 p.m. for a total of 25 occurrences in a calendar year. The current by-law prohibits the use of whistles at this location at all times.

The College has held community meetings to discuss the installation of the lights and the request for exemption to the noise by-law. There have been no concerns raised as a result of the community meetings.

Recommendation:

That St. Lawrence College be granted an exemption from Noise Control By-Law 2004-52 Schedule A, Section 7 to permit noise from whistles at their sports field located at the corner of King Street West and Portsmouth Avenue between the hours of 7:00 a.m. and 9:00 p.m., Monday to Saturday, and 9:00 a.m. to 9:00 p.m. on Sundays; and

That St. Lawrence College is also permitted an exemption until 10:00 p.m. for a total of 25 occurrences in a calendar year; and

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That the noise exemption shall not come into effect until such time that the approval for site plan control has been issued by the City for the Sports Field Lighting project, File D11-064-2014M; and

That amplified noise is prohibited on the field at all times; and

That St. Lawrence College will provide 48 hours' notice to the City of Kingston's Manager of Licensing and Enforcement when utilizing any of the single use occurrences.

Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Lanie Hurdle, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Cynthia Beach, Corporate & Strategic Initiatives	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

St. Lawrence College has applied for an exemption to Schedule A, Section 7 of the noise control by-law to permit the use of whistles on its natural turf soccer field located at the corner of King Street West and Portsmouth Avenue. St. Lawrence College is requesting that the exemption only apply to the use of whistles between the hours of 7:00 a.m. and 9:00 p.m., Monday to Saturday, and 9:00 a.m. to 9:00 p.m. on Sundays. In addition, St. Lawrence College is also requesting an exemption until 10:00 p.m. for a total of 25 occurrences in a calendar year. The College is not requesting an exemption for amplified sound and they have confirmed that amplification of sound would not be a requirement for the field use. The noise by-law currently permits noise from yelling, shouting, hooting, whistling, singing or the playing of musical instruments, including percussion instruments, in residential areas between the hours of 7:00 a.m. and 9:00 p.m. Monday to Saturday and 9:00 a.m. to 9:00 p.m. on Sundays and Statutory Holidays.

The field is mainly used between May and October each year. The College is proposing to install lighting on the field to allow for extended use beyond daylight hours. St. Lawrence College has indicated that there are currently 4 varsity field teams that are renting fields elsewhere and that there is a lack of recreational programming for students because of the lack of daylight hours in the fall. The College has also confirmed that they have received support from local clubs that would like more field time at that location and adding lights will give local children and adults the ability to use the field as well.

Staff is recommending that the noise exemption, if approved, should not come into force until such time that a site plan control agreement has been executed between the College and the City. St. Lawrence College has been working with the City of Kingston's Planning Division and they are prepared to enter into a site plan control agreement for the modifications to the existing field and the addition of lighting on the sports field. The site plan control agreement is complete, however, it has not yet been signed and the required site plan security deposit has not been received from St. Lawrence College. St. Lawrence College has advised the City that the installation of the lights on the field will be contingent on receiving approval of the noise exemption. The College will sign the site plan control agreement and provide the required on-site securities if their request for the noise exemption is approved.

The site plan control agreement provides for the following special conditions:

- Owners shall ensure that that the sports field lighting is positioned so as not to cause impairment of the use or enjoyment of neighbouring properties and is in compliance with the requirements of City of Kingston Property Standards By-Law 2005-100 Section 4.20.
- The Owners shall ensure that the use of the sports fields is in compliance with all restrictions set out in the City of Kingston Noise By-law No. 2004-52. Amplified sounds and the blowing of whistles are both prohibited at this location.
- The Owners shall not install or permit the installation of any electronic sound systems or speakers with the addition of the sports field lighting.

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Although not a requirement, advertisements of the request for noise exemption were placed on the City page in the Whig Standard and on the City's Website. One letter was received in support of the application for exemption and one email was received expressing a need to apply each year for the exemption, attached as Exhibit B.

An inquiry was received seeking clarification of the difference between St. Lawrence College and City operated fields. The City is exempt from the Noise Control By-Law since it does not regulate itself, and therefore City-operated facilities are not directly subject to the provisions of the City Noise Control By-Law. The use of City-owned outdoor sports fields are in fact governed by the City of Kingston Sports Field Allocation Policy and Guideline. Section 14.0 on Code of Conduct, subsection 14.1 h) of that policy document stipulates that all users of the City's fields must *"Obey every by-law of the City and every provincial or Federal Act and related regulations."* This provision does provide protection to neighbours of City sports fields from the types of noise trespass as defined within the Noise Control By-Law; however the administration of consequences is managed by staff in the City's Recreation & Leisure Services Department rather than By-Law Enforcement.

St. Lawrence College has confirmed that outside groups will be advised of the requirement to end all whistles in accordance with the exemption and all field rental agreements will also include the requirement for compliance with the exemption. St. Lawrence will also be exploring the use of an automatic timer for the lights. The Facility Management Services office will be the point of contact for any concerns resulting from the use of the field.

St. Lawrence College held a public meeting on December 8th, 2014 to which they invited neighbours to discuss any concerns they may have with the addition of lighting to the field and the request for the noise exemption. Invitations and flyers were sent out through email to the immediate community inviting them to attend the public session. The public meeting was not well attended and with the few people that did attend there were no questions asked regarding the request for the noise exemption. St. Lawrence also held a public information session at the College on May 28, 2014 and invited the community to learn about the field lighting project, to ask questions and to express concerns. Two members of the public attended and no concerns were received in response to the public meeting.

Existing Policy/By-Law:

By-Law 2004-52 "A By-Law to Regulate Noise" as authorized under the Municipal Act and which specifies that applications for exemptions from the by-law be made to Council.

City of Kingston Sports Field Allocation Policy and Guidelines for the Use of City Fields.

Notice Provisions:

An advertisement of this request for exemption was placed in the Kingston Whig Standard on December 23, 2014 and is attached as Exhibit C. Public notices are normally posted for 10 days to allow the public an opportunity to voice any concerns they may have with the approval of the request for exemption. The public was given an extra 6 days for a total of 16 days to submit

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concerns for the exemption request in order to accommodate those who may not have had an opportunity to respond during the holidays.

A concern was received that even with the additional time it was felt that the timelines were still not reasonable for people to respond to the application given the Holiday season, attached as Exhibit D. As a result, additional advertisements were placed in the Whig Standard and Kingston This Week noting further extensions in the time permitted to voice objections and also notifying of the Council meeting date on February 17, 2015, attached as Exhibits E and F. One letter was received in support of the application for exemption and one email was received expressing a need to apply each year for the exemption.

Council has granted exemptions to the Noise Control By-Law for this type of activity in the past, and the authority to do so is specifically granted to Council under Subsection 129 (3) of the Municipal Act.

Accessibility Considerations:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Kim Leonard, Manager, Licensing and Enforcement 613-546-4291 extension 3222

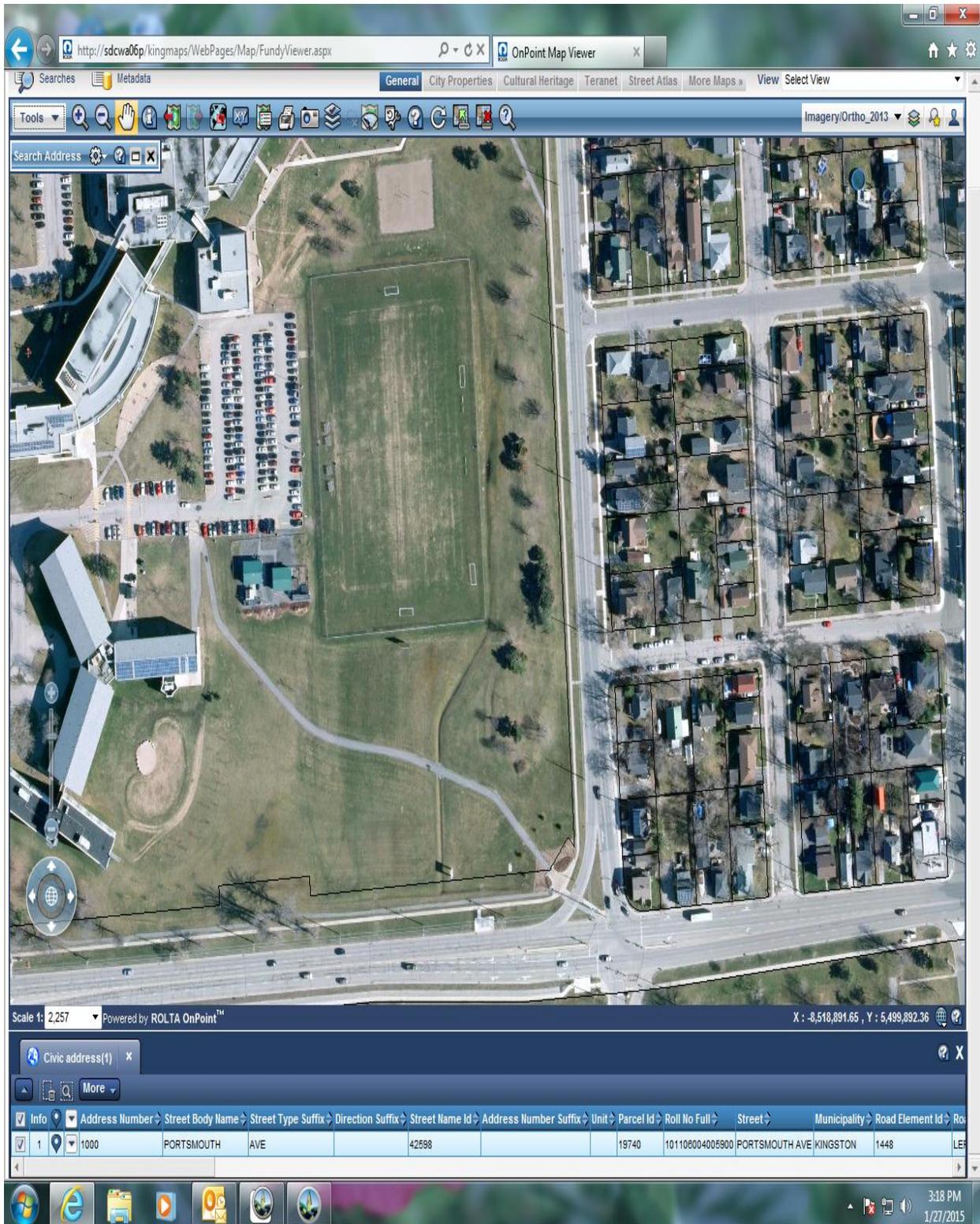
Other City of Kingston Staff Consulted:

Luke Follwell, Director, Recreation & Leisure Services Department

Trudy Gravel, Planner, Planning, Building & Licensing Services

Exhibits Attached:

- Exhibit A St. Lawrence Sports Field
- Exhibit B Correspondence Received as a Result of the Public Notice
- Exhibit C December 23, 2014, Advertisement for Noise Exemption
- Exhibit D Email Requesting Additional Time to Respond to Public Notice
- Exhibit E December 30, 2014, Advertisement for Noise Exemption
- Exhibit F January 8, 2015, Advertisement for Noise Exemption



KINGSTON WOMEN'S SOCCER CLUB



January 16, 2015

Thank you for extending this opportunity to weigh in on St. Lawrence College's application for exemption from the City's Noise Control Bylaw 2004-52, Schedule "A", Section 7.

The Kingston Women's Soccer Club has more than 700 members aged 16 to over 60 who register each year to play outdoor soccer. As the demand for adult women's soccer increases, so too does our need for playing fields. We currently make extensive use of fields belonging to the City of Kingston and Queen's University, as well as fields owned by St. Lawrence College, CFB Kingston, and the Town of Napanee. However in order to meet the growing demand for our sport, we will need additional access to fields.

Over the last two years, we have been in discussions with the College regarding an arrangement that would allow us preferred use of their outdoor grass field on Tuesday and Thursday evenings and possibly Sunday evenings. We hope to use the field until 10:00 p.m., which would be in contravention of the bylaw.

Enforcement of the current bylaw would result in the loss of 4- 6 games per week for a period of 16 to 20 weeks -- between 64 and 120 games each season. Our club is already feeling the effects of the new time restrictions at the Queen's West Campus. Further restrictions to field use would hinder our ability to provide playing time for our members at a time when leading an active, healthy lifestyle should be promoted and celebrated instead of discouraged.

The City has acknowledged the need to improve the condition of its fields and construct new ones to accommodate the requirements of our very vibrant soccer community. Granting St. Lawrence College this bylaw exemption is an important and cost-effective step toward fulfilling this need.

Because youth leagues and clubs have priority access to fields during the early evening hours, often the only options available to adult clubs such as ours are the later evening hours. In the event that the noise bylaw exemption is not granted, adult clubs and their members will be adversely impacted. However if Council were to approve St. Lawrence College's exemption request, it would be an endorsement of the importance of organized adult recreational sport in our community and an investment in its growth.

On behalf of the KWSC membership, the KWSC Board of Directors is pleased to support St. Lawrence College's application for a permanent exemption from Noise Control By-Law 2004-52.

Sincerely,

Rachel Brace, President
Kingston Women's Soccer Club

Subject: Noise Bylaw Exemption Application-SLC

From: Don B Rogers [<mailto:donrogers@primus.ca>]
Sent: Wednesday, January 14, 2015 10:18 AM
To: Leonard, Kim
Subject: Noise Bylaw Exemption Application-SLC

14 Jan 2015

Hello Ms. Leonard

RE: Noise Bylaw exemption application - St. Lawrence College

I do not object the current application to permit whistles from the St. Lawrence College sports field in this instance, ON CONDITION THAT SUCH A BLANKET EXEMPTION IS GRANTED FOR NO MORE THAT ONE YEAR AT A TIME, AND MUST BE RENEWED BY THE APPLICANT ANNUALLY. This is a reasonable compromise between requiring a separate application for each and every game played, and a indefinite exemption which could only be ended by a city council-initiated vote.

The initiative for renewal must come from the applicant. An applicant who knows that he/she must re-apply each year is much more motivated to ensure that the noise bylaw exemption is exercised in a responsible manner with sensitivity to the surrounding neighbourhood

It is also understood that the applicant is not permitted to have amplified noise, either music or announcements. This exemption is only for whistles. Whistles are brief, only a second or two in duration, and sporadic; whereas amplified announcements and music are of much longer duration. Additionally, in my experience, amplified noise travels much farther from its source than does whistle noise.

Although I do not live near St. Lawrence College, I consider myself a stakeholder to this application, as exemptions granted to one applicant may possibly be used as precedents for noise bylaw exemption applications which do affect my property.

Thank you and best regards,

Don B. Rogers92 Bagot St.



This email has been checked for viruses by Avast antivirus software.

www.avast.com

Public Notice Section
Request for Noise Exemption

St. Lawrence College has made application to Noise Control By-Law 2004-52 Schedule "A" Section 7 to permit noise from whistles at their sports fields located at the corner of King Street West and Portsmouth Avenue between the hours of 7:00 a.m. and 9:00 p.m., Monday to Saturday, and 9:00 a.m. to 9:00 p.m. on Sundays. In addition, St. Lawrence College is requesting the exemption until 10:00 p.m. for a total of 25 occurrences in a calendar year.

The current by-law prohibits the use of whistles at this location at all times.

Anyone wishing to object or to comment regarding this exemption should deliver their concerns in writing or by e-mail before 4:00 p.m. on Thursday, January 8, 2015 to:

City of Kingston	Phone: 613-546-4291 ext 3222
Kim Leonard, Manager, Licensing & Enforcement	Fax: 613-542-1332
216 Ontario Street	Email: kleonard@cityofkingston.ca
Kingston, ON K7L 2Z3	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 3, 2015.

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.

Subject: Noise Control Bylaw variance re St. Lawrence College

-----Original Message-----

From: Barbara L Schlafer [<mailto:schlafeb@queensu.ca>]

Sent: Tuesday, December 23, 2014 11:44 PM

To: Neill,Jim; Candon,Adam; Stroud,Peter; Schell,Liz; Boehme, Ryan N.; McLaren,Jeff; George,Kevin; Turner,Lacricia; Holland,Mary Rita; Hutchison,Rob; Allen,Richard; Paterson,Bryan; Osanic,Lisa; Leonard,Kim

Subject: Noise Control Bylaw variance re St. Lawrence College

Dear Ms. Leonard, Mayor Paterson, and Members of Council,

I am concerned about the timing of the notice in the December 23rd issue of the Kingston Whig Standard, City Notices section, that St. Lawrence College is requesting a noise by-law exemption for its sports fields. Talk about an UN -level playing field. Both the pre-Christmas time of the notice and the requirement that those who object must reply in writing by January 8th guarantee that some who might have objections will not respond.

This is an especially busy time of year. Many have already travelled to family or have house guests. Many will be away for the better part of that time. The possibility that the notice will be missed is great as papers lie unread in favour of ads, shopping, and socializing, in addition to work.

There also is what might be called thoughtlessness or lack of consideration in dropping this problem on a neighbourhood just at the moment that the residents are anticipating a holiday absent of work woes, a time of celebration and family and neighbourhood gatherings for fun....NOT the prospect of figuring out how most effectively to stop the stillness of a Sunday summer's eve being rent by the shrill screech of repeated whistles.

I think that this notice should be withdrawn and reposted in January when life for folks has returned to normal routines.

I also suggest that the practice of such postings requiring time sensitive responses not be permitted before major holidays such as Christmas and others.

This is not the first. As I recall, the casino debate produced another instance of decidedly inconvenient timing.

One might be tempted to think that such timing as this has as its purpose the limiting of objection. It is difficult to think what the rush is with field sports so many months off.

The timing of this notice and the limited time to respond falling over a major holiday is just not acceptable.

Barb Schlafer
461 Bagot St.

Ps

I've not been out that way in a while but are there not apartment buildings planned for land adjacent to the College? How would the whistles effect those people not there yet? How will such structures affect sound quality and reverberation?

Public Notice Section
Request for Noise Exemption

St. Lawrence College Sports Fields

St. Lawrence College has made application to Noise Control By-Law 2004-52 Schedule "A" Section 7 to permit noise from whistles at their sports fields located at the corner of King Street West and Portsmouth Avenue between the hours of 7:00 a.m. and 9:00 p.m., Monday to Saturday, and 9:00 a.m. to 9:00 p.m. on Sundays. In addition, St. Lawrence College is requesting the exemption until 10:00 p.m. for a total of 25 occurrences in a calendar year.

The current by-law prohibits the use of whistles at this location at all times.

Anyone wishing to object or to comment regarding this exemption should deliver their concerns in writing or by e-mail before 4:00 p.m. on Monday, January 19, 2015 to:

City of Kingston	Phone: 613-546-4291 ext 3222
Kim Leonard, Manager, Licensing & Enforcement	Fax: 613-542-1332
216 Ontario Street	Email: kleonard@cityofkingston.ca
Kingston, ON K7L 2Z3	Located at: 216 Ontario Street

This matter will be considered during the regular Council meeting at 7:30 p.m. on Tuesday, February 17, 2015.

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Public Notice Section

Noise Exemption Request: St. Lawrence College Sports Fields

New deadline for comments:

Monday, Jan. 19

New date for consideration:

Tuesday, Feb. 17

St. Lawrence College has applied for an exemption to Noise Control By-Law 2004-52 Schedule "A" Section 7 to permit noise from whistles at their sports fields at the corner of King Street West and Portsmouth Avenue from 7:00 a.m. to 9:00 p.m., Monday to Saturday, and 9:00 a.m. to 9:00 p.m. on Sundays. St. Lawrence College is also requesting the exemption until 10:00 p.m. for 25 occurrences in a calendar year.

The current by-law prohibits the use of whistles at this location at all times.

This matter will be considered during the regular council meeting at 7:30 p.m. on Tuesday, Feb. 17.

Submit comments in writing by mail, email or fax before 4:00 p.m. on Monday, Jan. 19 to:

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

Phone: 613-546-4291 ext 3222
Fax: 613-542-1332
Email: kleonard@cityofkingston.ca
Located at: 216 Ontario Street

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