



# Council Workshop

## Body-Rub Parlour By-law Review

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John Comeau

March 8<sup>th</sup>, 2021



# AGENDA

01

**Background**

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02

**Regulatory Framework & Community Challenges**

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03

**Public Consultation Results**

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04

**Proposed Options for Council**

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01

**Discussion/Conclusion**

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# Background: How did we get here?



2002

Licensing By-law  
2002-151  
Schedule 7



2019

Regulatory  
Review  
Workshop



2020

Information  
Report  
2020-39



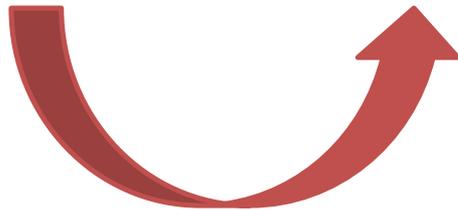
Feb 2021

Virtual  
Public  
Information  
Centre

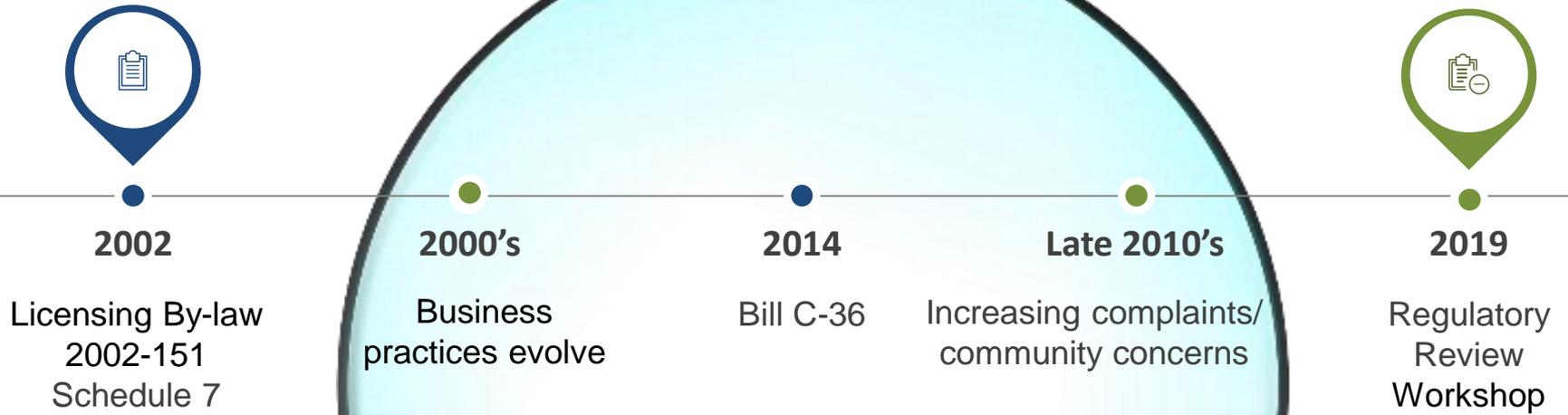


Mar 2021

Council  
Workshop



# Background: Changes over nearly two decades



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## Regulatory Framework: Definition of a body rub

“The kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person's body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered to do so under the laws of the Province of Ontario.”

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## Regulatory Framework: Definition of a body rub parlour

“Includes any premises or part thereof where a bodyrub is performed, offered or solicited in pursuance of a trade, calling, business, or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario”

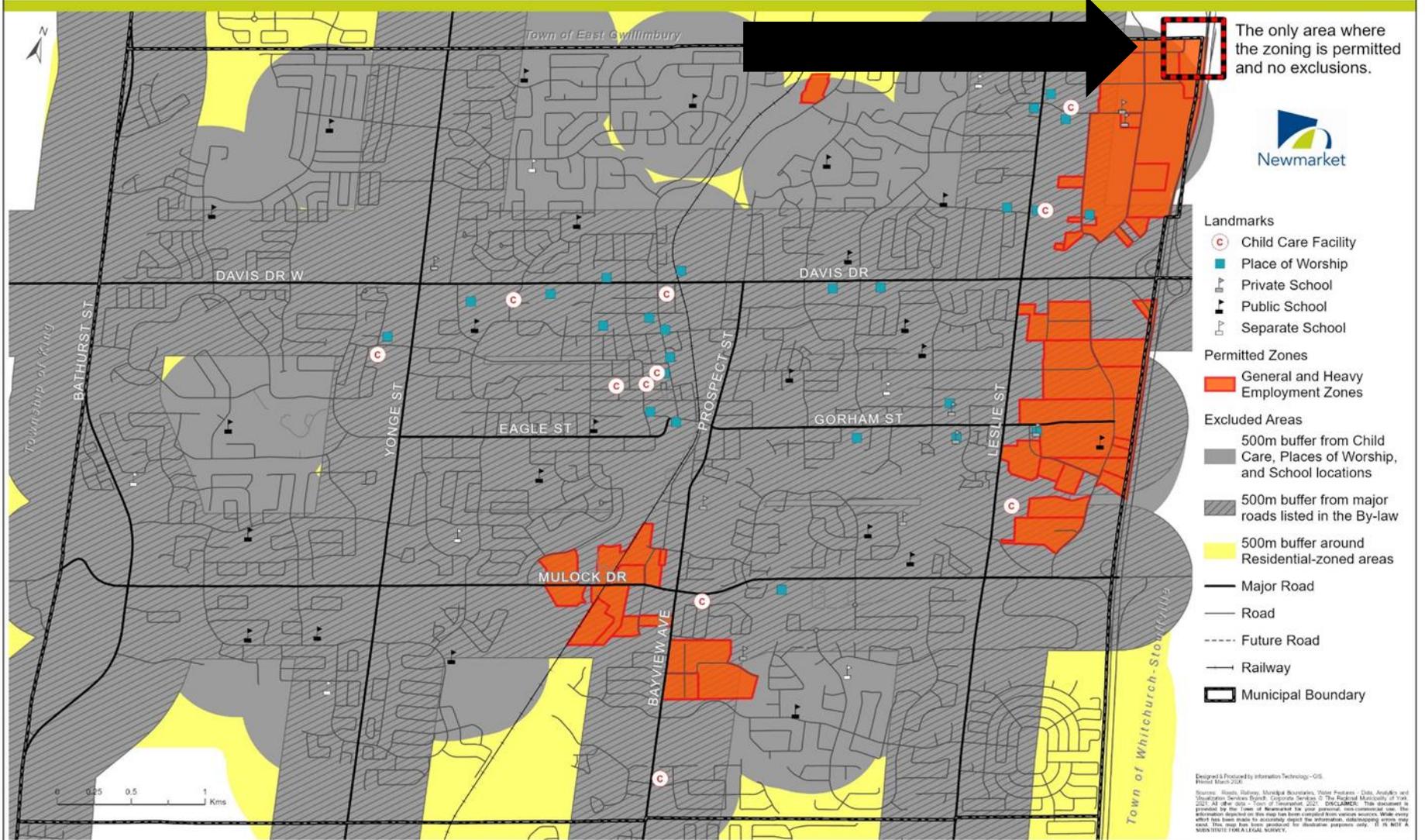
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## Regulatory Framework: What does the *Municipal Act* say?

The Municipal Act does not give a municipality the authority to outright ban any type of business

- ✘ 500m from residential zones
- ✘ 500m from main intersections
- ✘ 500m from schools
- ✘ 500m from churches
- ✘ 500m from daycares

# Town of Newmarket - Site Availability for Body Rub Parlors (By-law 2002-151)



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# Regulatory Framework:

## Current rules for body rub parlours

-  Section 7.4(a) No services that appeal to sexual appetites
-  Section 7.4(q) Customer's genitalia must be covered
-  Section 7.4(t) Signage to specify no sexual appeal
-  Section 7.11 Restrictions on layout of business
-  Section 7.4(e) Owner must be onsite at all times
-  Section 7.12 Hours of operation 11:00am – 11:59pm

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# Regulatory Framework: Challenges with existing regulations

~~“Includes any premises or part thereof where a bodyrub is performed, offered or solicited in pursuance of a trade, calling, business, or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario”~~

Definition is too broad and the times have changed!

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## Regulatory Framework: Challenges with existing regulations



### **The spirit of the by-law is no longer clear**

Section 7.4(a) No services that appeal to sexual appetites

Section 7.4(q) Customer's genitalia must be covered

Section 7.4(t) Signage to specify no sexual appeal

Section 7.11 Restrictions on layout of business

Section 7.4(e) Owner must be onsite at all times

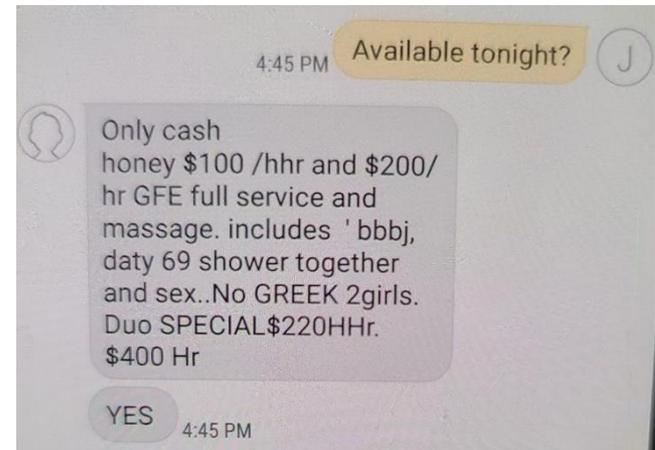
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# Regulatory Framework: Challenges with existing regulations



## Enforcement challenges

Extremely difficult to prove sexual acts are being committed in the absence of evidence...



Zoning restrictions are hurting reputable businesses



Lack of enforcement is directly correlated to a dated by-law

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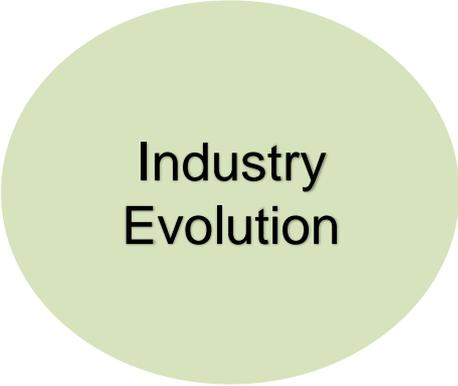
## Regulatory Framework: Concerns within our community



Criminal  
Activity



Public  
Safety



Industry  
Evolution

 Persons at-risk  
 Human trafficking

 Consumer protection  
 Community standards

 Times have changed!  
 Business evolved

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# Regulatory Framework:

## What is a personal wellness centre?



### Body Rub Parlour

Massage services from attendants with little to no qualifications



### Personal Wellness

Massage services from attendants with some qualifications



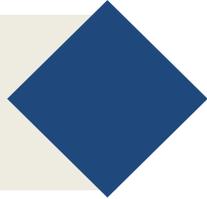
### RMT

Massage services from attendants with prov. recognized qualifications

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# Regulatory Framework: What is a personal wellness centre?

Includes massage services



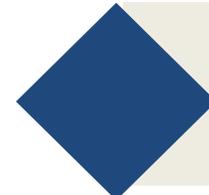
Does not include other  
personal services at this time



A classification for the “middle-  
tier” massage service providers



Zoning is less restrictive



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# Public Consultation Results: How have we engaged our community?



# Public Consultation Results: What type of response have we received?



◆ 19 respondents



◆ 18 respondents



- ◆ YRP
- ◆ CYFS
- ◆ By-laws
- ◆ 4 one-on-one meetings
- ◆ 2 community groups

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## Public Consultation Results:



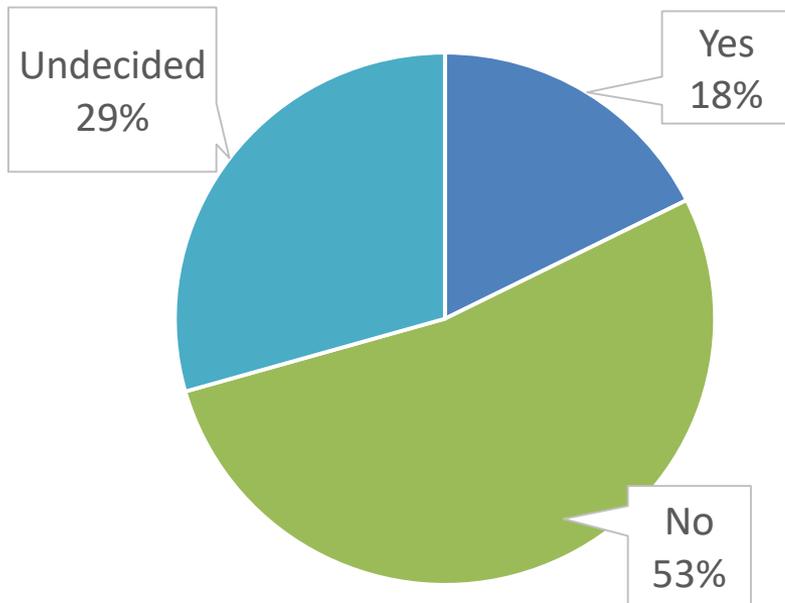
37 Participants



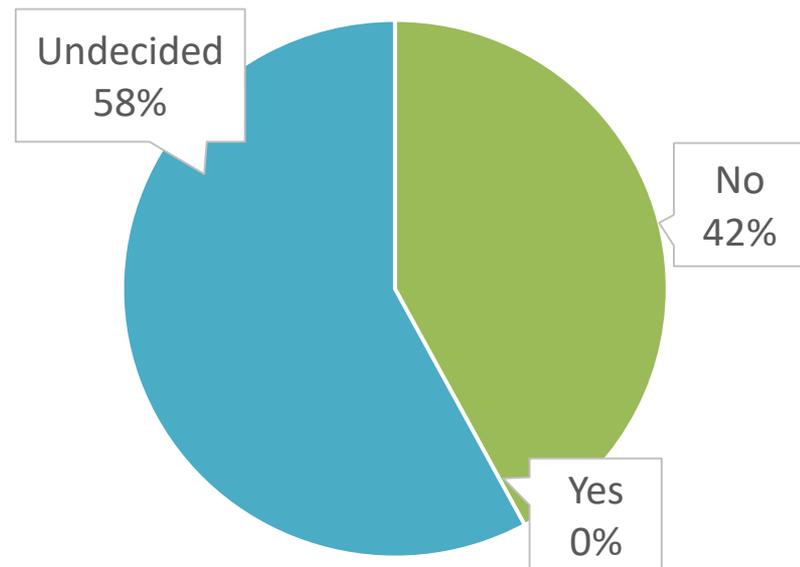
56% Newmarket Residents

## Public Consultation Results:

Are you satisfied with the Town's current regulations?



Virtual P.I.C.

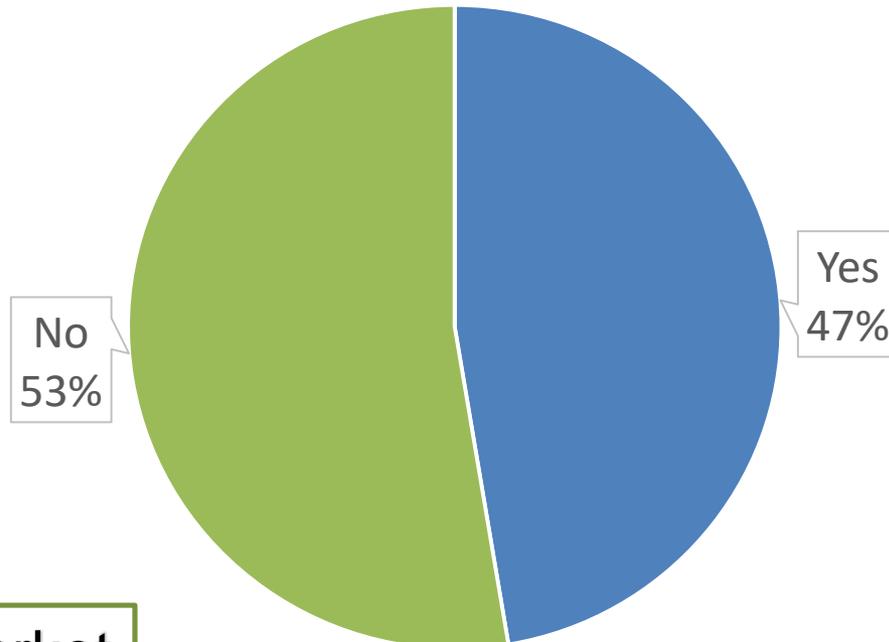


HeyNewmarket

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## Public Consultation Results:

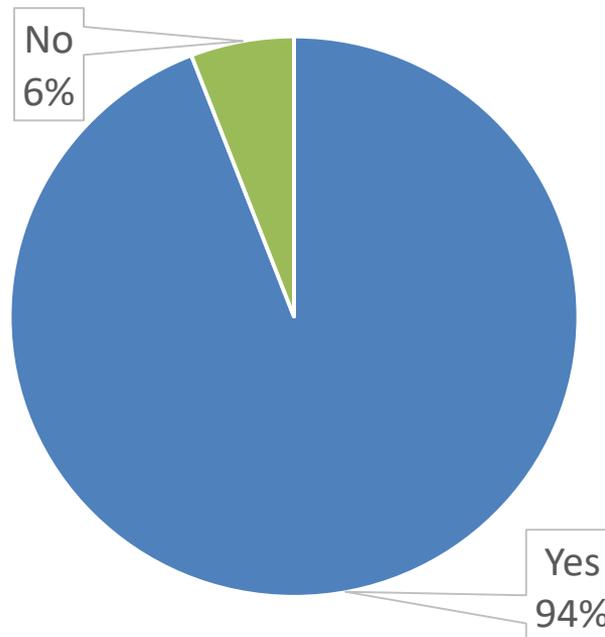
Have you ever paid for a massage by a person who is not a Registered Massage Therapist?



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## Public Consultation Results:

Should the Town distinguish between massage services by an attendant with no credentials versus an attendant with some form of credentials?

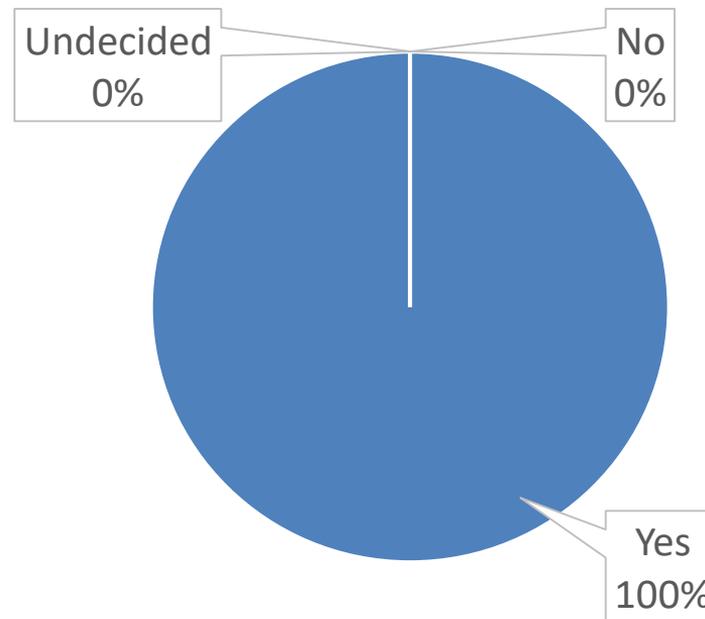


Virtual P.I.C.

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## Public Consultation Results:

Do you support regulatory changes to differentiate between body rub parlours, alternative massage practitioners (i.e. Osteopathy, Shiatsu, Reiki, etc.), and regulated healthcare professionals?

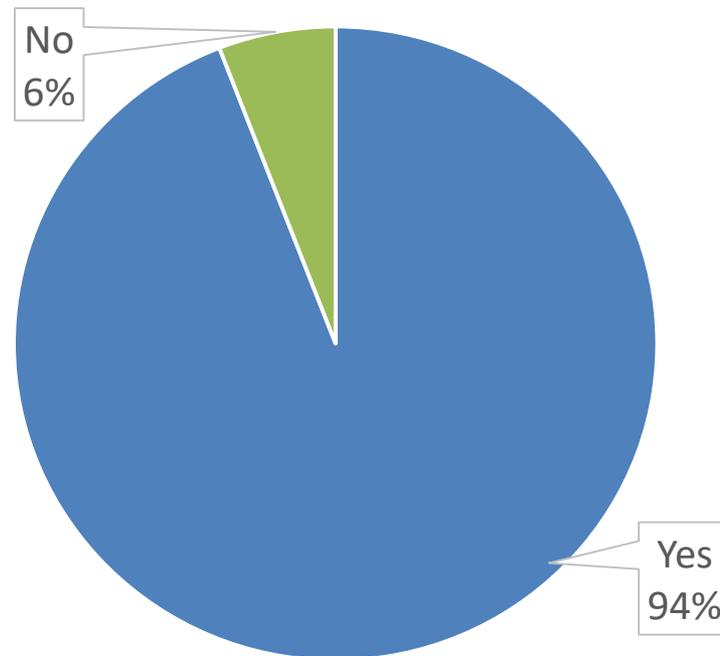


HeyNewmarket

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## Public Consultation Results:

Should the Town ease zoning restrictions to allow personal wellness services to operate in various commercially zoned locations throughout NM?

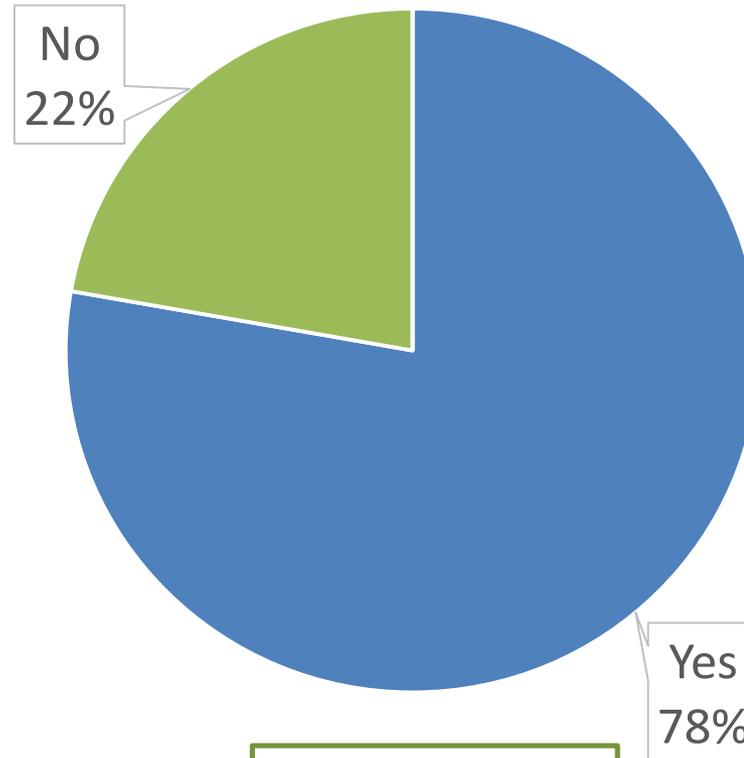


Virtual P.I.C.

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## Public Consultation Results:

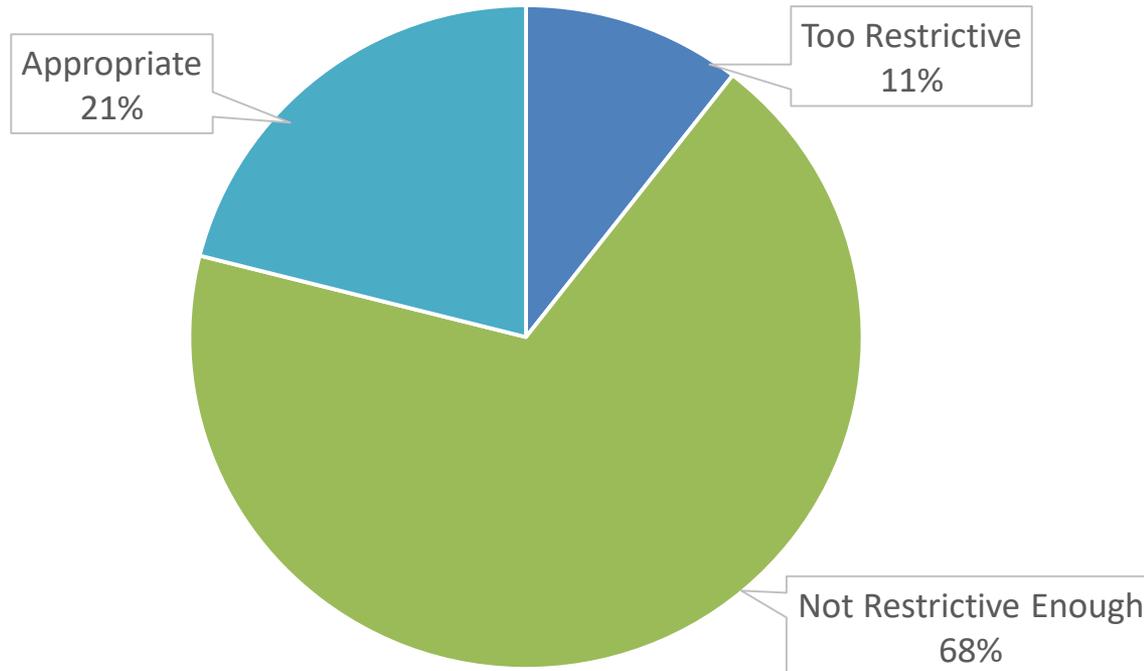
Are you in support of regulatory changes to require persons offering massage services in Newmarket to have some level of training?



Virtual P.I.C.

## Public Consultation Results:

The Town's current Body Rub Parlour By-law permits hours of operation to be 11:00am until 11:59pm. Do you feel these hours are:



HeyNewmarket

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## Public Consultation Results:

### Open Ended Responses from HeyNewmarket Survey:

*“Let people do what they want as long as no one is being hurt.  
Stop stigmatizing sex work.”*

*“These are not the type of businesses that we want in the Town.”*

*“We fully support creating a distinction between body rub parlors and businesses that have regulated, certified practitioners that receive accreditation from a school or program specifically training how to perform proper massage. We feel this distinction would help the public distinguish between body rub parlors and establishments such as day spas.”*

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## Public Consultation Results: Business owner feedback



Support regulatory changes to distinguish personal wellness providers from BRP operators



Concerns for additional red tape



Licence fees should be waived during pandemic



Concerns for Home Occupations

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## Public Consultation Results: Other feedback received



Supports regulations that align with intent of Bill C-36



Supports victim-services approach



Staff should be trained to spot signs of exploitation



The Town should deter storefront sexual services



Sex workers should be protected and not push services 'underground'

## Public Consultation Results: What are other municipalities doing?

| MUNICIPALITY    | BRP | PERSONAL WELLNESS |
|-----------------|-----|-------------------|
| Aurora          | ✓   |                   |
| Richmond Hill   | ✓   |                   |
| Markham         | ✓   |                   |
| Vaughan         | ✓   |                   |
| <b>Toronto</b>  | ✓   | ✓                 |
| Brampton        | ✓   |                   |
| <b>Hamilton</b> | ✓   | ✓                 |
| London          | ✓   |                   |
| Oakville        | ✓   |                   |
| <b>Windsor</b>  | ✓   | ✓                 |
| <b>Guelph</b>   |     | ✓                 |

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## Public Consultation Results: Lessons learned from other municipalities



No perfect solution / “one-size-fits-all” model



New and innovative approach is required



Rigorous application process is needed to pre-screen businesses and verify qualifications



Continuous monitoring/enforcement is necessary

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## Options for Council: Different models to explore

01

Repeal BRP classification and replace it with new classification: Personal Wellness Centres

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02

Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on training qualifications

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03

Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on erotic vs non-erotic services

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04

Do not introduce a new classification and revamp existing BRP regulations

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## Options for Council: **Feedback for Option #1**

**01**

### ***Repeal BRP classification and replace it with new classification: Personal Wellness Centres***

- 94% of PIC Poll respondents were in favour of requiring some level of training for any person who performs massage services
- Local business owners support a new classification to eliminate stigmas associated with the term BRP
- Local business owners support increased regulations to enhance safety
- Support to deter sexual services from being purchased in our community

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## Options for Council:

### What potential regulations could look like...

**01**

***Repeal BRP classification and replace it with new classification: Personal Wellness Centres***

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Requires any person offering a massage in Newmarket to have some form of training



Massage services that have any form of erotic appeal or appetite are prohibited



This option is best reflects Guelph's licensing model

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# Options for Council:

## What potential regulations could look like...

**01**

### ***Repeal BRP classification and replace it with new classification: Personal Wellness Centres***

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More stringent application process

- Interviews, pre-audits, onsite inspections



Set standards for acceptable training requirements



Review 'design space' requirements

- Remove regulations designed to target adult entertainment services

# Options for Council: Impacts for Option #1

01



Raises community standards

Eliminates the stigma associated with the term BRP

Assists with eliminating storefronts for adult services

Allows reputable businesses to comply with by-law



May contribute to underground adult sex services

Prohibits any person with no training from offering massage services

Reputable businesses will undergo a more stringent application process



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## Options for Council: **Feedback for Option #2**

**02**

### ***Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on training qualifications***

- 100% of survey respondents would like to see separate classifications
- 94% of PIC Poll respondents were in favour of requiring some level of training for any person who performs massage services
- Business owners remain weary as to whether or not their employees would meet our standards for qualifications/training requirements
- Overall public support to create a new personal wellness classification, but also hesitancy to allow massage services to be performed by persons with little to no qualifications

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## Options for Council:

### What potential regulations could look like...

**02**

***Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on training qualifications***



Allows massage services to be provided where there is little to no training qualifications required (BRP), in addition to services where qualification standards have been demonstrated (PWC)



Prohibits sexual or erotic services



Several municipalities have both classifications but not all are separated solely by training/qualification requirements

# Options for Council:

## What potential regulations could look like...

02

### Body Rub Parlours

-  Application process to include:
  - *criminal record check*
  - *description of services*
-  Sexual services are **prohibited**
  - *clear/concise by-law regs*
  - *remove regs designed to target adult services*
-  Existing Zoning restrictions
  - *review setback restrictions*

### Personal Wellness Centres

-  Application process to include:
  - *criminal record check*
  - *interviews, pre-audits, onsite inspections*
  - *submission of qualifications*
-  Sexual services are **prohibited**
-  Remove regs designed to target adult services
-  Existing Zoning exists to allow PWC in areas where Personal Service Shops are permitted

# Options for Council:

## Impacts for Option #2

02



Raises community standards

Eliminates the stigma associated with the term BRP

Permits business operators with no credentials

Allows reputable businesses to comply with by-law



Enforcement challenges to ensure legitimate business practices

Limitations to denying BLs to businesses that may operate and provide sexual services

Public safety concerns and lower community standards to allow untrained attendants to perform massage services



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## Options for Council: **Feedback for Option #3**

**03**

***Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on erotic vs non-erotic services***

- There is support for licensing erotic/adult services out of fear that being too restrictive will potentially push vulnerable persons 'underground'
- Demand exists for some form of adult entertainment services. Proper regulations will increase safety for consumers and workers, alike.

*“Let people do whatever they want as long as no one is being hurt.  
Stop stigmatizing sex work!”*

- Support a victim-services approach

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## Options for Council:

### What potential regulations could look like...

**03**

***Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on erotic vs non-erotic services***

- ⊗ Permit massages that appeal to sexual appetites (BRP)
  - Re-classified as a form of 'adult entertainment'
  - Still prohibits purchasing of sex/sexual acts as unlawful
- ⊗ Definition of BRP expressly permits massages that appeal to sexual appetites
- ⊗ Consideration to ease some setback restrictions to create a 'safe space' for these types of businesses to operate
- ⊗ Similar to Hamilton's model

# Options for Council:

03

## What potential regulations could look like...

### Body Rub Parlours

-  Application process to include:
  - criminal record check
  - licence businesses & not attendants  
*(victim services approach)*
  - require medical test  
*(public safety)*
-  Sexual acts are **prohibited**
  - allows for other sexual appeal
-  Existing Zoning restrictions
  - review setback restrictions

### Personal Wellness Centres

-  Application process to include:
  - criminal record check
  - interviews, pre-audits, onsite inspections
  - submission of qualifications
-  Sexual services are **prohibited**
-  Remove regs designed to target adult services
-  Existing Zoning exists to allow PWC in areas where Personal Service Shops are permitted

## Options for Council: Impacts for Option #3



Holds business owners accountable for their practices (victim services approach)

Provides 'safe space' to operate openly

More clear, concise regulations

Properly separates classifications

Significant enforcement challenges to ensure legitimate business practices

Reactive approach to enforcement if sexual acts are being performed

Conflicting community standards and expectations for adult entertainment services



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## Options for Council: **Feedback for Option #4**

**04**

***Do not introduce a new classification and ‘revamp’ existing BRP regulations***

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- 100% of survey respondents would like to see separate classifications
- 94% of PIC Poll respondents were in favour of requiring some level of training for any person who performs massage services
- Some business owners do not want ‘red tape’ for being legitimate, including an exemption process
- Concerns that existing enforcement challenges will prevail

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## Options for Council:

### What potential regulations could look like...

04

*Do not introduce a new classification and ‘revamp’ existing BRP regulations*

- ⊗ Change the definition of ‘body rub’ to exempt services provided by trained professionals
- ⊗ Services that appeal to sexual appetites would be **prohibited**
- ⊗ Formalize existing practices for enhanced enforcement
- ⊗ Consideration to ease some setback restrictions

# Options for Council:

## Impacts for Option #4



Reduces regulatory burden  
on local businesses

Permits business operators  
with no credentials

Modernizes existing  
regulations



Enforcement challenges to  
ensure legitimate practices

Does not address community  
'stigma' of BRPs

Consultation strongly supports  
separate classifications



## Options for Council: Different models to explore

01

Repeal BRP classification and replace it with new classification: Personal Wellness Centres

02

Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on training qualifications

03

Adopt two classifications: BRP and Personal Wellness Centres, with emphasis on erotic vs non-erotic services

04

Do not introduce a new classification and revamp existing BRP regulations

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## Options for Council: Discussion and Questions

Which option(s) should be explored further?

Are there any options worth eliminating at this time?

Should staff consider other options?

Questions, comments, feedback?