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Body Rub Parlour Review Staff Report to Council

Report Number: 2021-36

Department(s): Legislative Services

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Meeting Date: May 3, 2021

Recommendations

1. That the report entitled Body Rub Parlour Review dated May 3, 2021 be received; and,
2. That Council direct Staff to present regulations based on Option #1 in this report; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Executive Summary (use if report is longer than 5 pages)

The Town's existing body rub parlour regulations are under review as part of the Regulatory Services Division project plan for 2021. An initial licensing framework was adopted by Council in 2002, however, the massage service industry has greatly evolved since implementation. This report presents Council with next steps in the ongoing review of body rub parlour regulations for the Town of Newmarket. After completing various methods of consultation from January – April 2021, Town staff is requesting Council's direction to proceed with Option #1, as outlined in this report, for the purpose of presenting a draft by-law and proposed regulations at the June 14, 2021 Committee of the Whole meeting.

Purpose

The purpose of this report is to present Council with next steps regarding a review of body rub parlour regulations and the potential licensing of massage service providers

throughout Town. Town staff is seeking Council's direction to move forward with Option #1 presented in this report as a framework and report back with a proposed By-law and regulations at the June 14, 2021 Committee of the Whole meeting.

Background

Legislative Authority

Under the Municipal Act, the Town may provide for a system of licences with respect to certain classifications of business by adopting a licensing by-law. As specified in the Municipal Act, a licensing by-law should relate to consumer protection, the economic and social well-being of the municipality, and the health, safety, and well-being of persons in the municipality. Conditions may be imposed on a licence to ensure a business is compliant with regulations established to reflect community objectives.

Historical Reference and Background of Review Process

In 2002, the Town's [Licensing By-law 2002-151](#) was adopted and a licensing framework was implemented for body rub parlours at that time.

On March 25, 2019, a Regulatory Review Workshop was conducted with Council, which identified a body rub parlour by-law review to be brought forward by Q4 2020.

On December 23, 2020, [Information Report 2020-39](#) was provided to Council to highlight the Regulatory Services Division project plan. Body rub parlours were identified by Council as a priority and a regulatory review was requested to be brought forward by Q2 2021. Following this direction, Town staff began drafting a consultation and implementation process.

In late January 2021, an online survey was posted to [HeyNewmarket](#) to engage the public as a first step in the consultation process. A total of 19 responses were received.

On February 16, 2021, a virtual [Public Information Centre \(PIC\)](#) was held to engage stakeholders and receive feedback on potential regulatory changes. This was an interactive presentation that allowed participants to answer polling questions throughout. Staff also included an open forum question and answer period at the end of the presentation in order to receive additional feedback.

On March 8, 2021, Town staff conducted a virtual [Council Workshop](#) to present feedback received to date by the community. This Workshop also highlighted four potential options that staff explored in relation to a licensing framework for massage service providers in Newmarket.

Following the Workshop presentation, Council provided comments to staff which included expanding consultation efforts for further engagement, reviewing the proposed options with relevant stakeholders, and providing Council with further information at a future Council meeting. Town staff proceeded to conduct a second round of public

consultation by releasing staff's proposed options as part of an online survey, in addition to holding one-on-one virtual meetings with interested stakeholders and community advocacy groups. The results from all rounds of consultation have been summarized within this report and a copy of the raw data has also been attached to this report for reference (**Attachment #1**).

Discussion

The Town's existing body rub parlour regulations are under review as part of the Regulatory Services Division project plan. A licensing framework was adopted by Council in 2002, however, the massage service industry has greatly evolved since implementation. New practices have emerged for providing alternative forms of massage services that do not include practitioners as Registered Massage Therapists (RMTs). Throughout the years, various reputable businesses have emerged in Newmarket which do not comply with the existing regulatory framework established. This has resulted in a gap in legislation to permit such businesses from lawfully operating within the Town. In addition to this, concerns have also been raised by the community in relation to unlawful massage service practices being provided which directly correlates to criminal and sexual activity.

Public Consultation Results

HeyNewmarket Survey #1: Posted Online from January 22 – February 22, 2021

As an initial form of engagement, Town staff circulated an online survey to request feedback from residents, local business owners, and relevant stakeholders such as community or advocacy groups. A total of 19 participants were engaged and a highlight of key questions asked is provided as follows:

- 47% of respondents have purchased a massage from someone who is not a Registered Massage Therapist (RMT);
- 58% of respondents were either not familiar or not satisfied with existing body rub parlour regulations for our community;
- 68% of respondents believe that existing zoning regulations for body rub parlours are not restrictive enough;
- 47% of respondents believe that the 2 business licence cap on body rub parlours is not restrictive enough; and
- 68% of respondents feel that the hours of operation (11:00am-11:59pm) is not restrictive enough.

In addition to the survey questions presented, Town staff received further feedback through the comments section of the survey. Common themes cited throughout this round of consultation has been summarized as follows:

- Respondents strongly support distinguishing between body rub parlours and alternative massage service providers with some form of qualifications and credentials to eliminate the stigma associated with the term ‘body rub parlour’;
- Some respondents would like to see stronger regulations imposed (or a flat-out ban) to help mitigate concerns of human trafficking, while others believe that stronger regulations will only push human trafficking underground and there is a need to stop stigmatizing sex work; and
- Most respondents support stronger enforcement efforts to address concerns relating to body rub parlours.

Virtual Public Information Centre: Held on February 16, 2021

Throughout the virtual Public Information Centre (PIC) held on February 16, 2021, staff polled the attendees by asking a series of questions embedded within the presentation. A total of 18 participants were engaged and a highlight of key questions asked is provided as follows:

- 94% of respondents support regulations to distinguish between massage services provided by an attendant with credentials versus no credentials;
- 66% of respondents were either not familiar or not satisfied with existing body rub parlour regulations for our community;
- 72% of respondents believe that massage service providers with no credentials should be prohibited from offering massage services in Newmarket;
- 71% of respondents support restrictive zoning to remain in effect if the Town continues to license massage service providers with no credentials or qualifications;
- 94% of respondents support easing zoning restrictions to allow massage service providers with some form of qualifications or credentials to operate in various zones throughout Town; and
- 77% of respondents support regulatory changes to require all massage service providers demonstrate some form of qualifications or credentials.

HeyNewmarket Survey #2: Posted Online from March 23 – April 12, 2021

Following the Council Workshop conducted on March 8, 2021, Town staff circulated a second online survey for the purpose of gathering additional feedback from the community. A total of 69 participants were engaged and a highlight of key questions asked is provided as follows:

- 85.5% of respondents do not support any business that offers massage services that may be sexual or erotic in nature;
- 84% of respondents believe that all massage service providers should have credentials or qualifications to perform such services;
- When asked about the four options presented during the Council Workshop on March 8, 2021:
 - 40% of respondents do not support any of the options presented;

- 24% of respondents support Option #1;
- 15% of respondents support Option #2;
- 12% of respondents support Option #3;
- 7.5% of respondents support Option #4; and
- 1.5% of respondents were undecided on any option presented.

In addition to the survey questions presented, Town staff received further feedback through the comments section of the survey. Common themes cited throughout this round of consultation is summarized as follows:

- Some respondents believe that any option which permits massage services to be performed by any person other than a RMT will likely lead to sexual services being provided and purchased;
- Some respondents believe that the options presented support criminal activity contrary to the Criminal Code of Canada;
- Respondents from advocacy community groups have recommended the formation of a task force committee to provide recommendations on a future licensing framework and prior to the adoption of any new regulations;
- Respondents that are local business owners strongly support creating two classifications of business to separate body rub parlours from alternative massage service providers who demonstrate some form of credentials but are not as qualified as RMTs;
- Some respondents believe that rebranding the term body rub parlours will not resolve concerns – citing Toronto’s challenges;
- Respondents that are local business owners commented that if only RMTs are permitted to offer massage services, their businesses will be negatively impacted or forced to shut down;
- Some respondents believe that there is a demand in the community for alternative massage service providers that are not as expensive as RMTs;
- Some respondents believe that a less stringent licensing framework will better support economic opportunities for migrant workers who may not have the means to pursue formal training as a RMT; and
- Some respondents believe that licensing regulations are not the solution to human trafficking, however, they can assist in disrupting the industry or increasing barriers to prevent human trafficking from occurring in Newmarket.

Feedback Received from York Regional Police

Both prior to and following the Council Workshop on March 8, 2021, Town staff engaged with York Regional Police (YRP) to receive their input. A YRP Detective was also a co-presenter at the February 16, 2021 PIC conducted by Town staff. When most recently asked for input pertaining to the four options presented at the Council Workshop, YRP representatives cited Options #2 or #3 as being favoured when circulated within the Drug and Human Trafficking Division. However, it is relevant to note that YRP representatives commented that no one option is recommended by York Regional

Police: all options appear to have pros and cons and any option selected will have enforcement capabilities to better support both by-law and police efforts, alike.

Additional Feedback Received

In addition to the above consultation methods, Town staff also engaged with six community advocacy groups and five local business owners to receive their feedback.

Options for Council's Consideration

In an effort to mitigate growing public concern and to enhance the overall licensing framework for our community, this report presents options for Council's consideration to modernize regulations pertaining to all massage service providers within the Town of Newmarket. However, it is relevant to note that during the Council Workshop held on March 8, 2021, four options were presented to Council as possible options to address community concern. After further consultation, Town staff has eliminated two of the four options initially presented, as all forms of consultation did not strongly support Option #3 or Option #4.

Current Licensing Framework for Body Rub Parlours and Registered Massage Therapists

Under the Town's current licensing framework for body rub parlours, persons with no qualifications are permitted to operate by obtaining a body rub parlour business licence. A capped total of two business licences can be issued by the Town. Any person who demonstrates some level of qualifications is permitted to apply for and obtain an exemption permit in order to operate within the permitted use zones (General Employment and Heavy Employment), with additional setback restrictions imposed.

Registered Massage Therapists (RMTs) are regulated by the province and are not classified as a 'body rub parlour', therefore not required to obtain a business licence in order to offer their services. As part of this regulatory review, Town staff are also proposing to exempt RMTs from a licensing framework at this time. However, they are still required to comply with applicable zoning regulations pursuant to the Town's Zoning By-law.

Option #1 (Recommended)

Repeal Body Rub Parlour classification and replace it with a new classification, which introduces standards of training qualifications for all massage service providers.

By selecting this option, the following regulations could be further explored as follows:

- Any business owner seeking to obtain a business licence would be required to submit proof of some form of qualifications for every attendant offering massage services;

- Standards for the type of training qualifications accepted would be further explored and considered through the proposed regulatory framework presented at a later date;
- Advertising requirements, including messaging, would be regulated;
- A strongly vetted application process, including pre-interview audits, would be conducted prior to the issuance of a business licence to ensure business practices align with this new classification;
- All businesses will be inspected prior to the issuance of a business licence to ensure all criterion has been met; and
- Specific regulations will be explored during the regulatory framework process to ensure that the health and safety of residents and workers, alike, is addressed.

Under this proposed option, there are also zoning implications which will require amendments to the Town's Zoning By-law 2010-40. The recommended amendments for this option would be as follows:

- Repeal the definition of "body rub parlour";
- Repeal body rub parlours as a permitted use under the General Employment (GE) and Heavy Employment (HE) zones; and
- Introduce a new term and classification for massage service providers and explore new permitted use zones as part of the regulatory framework process.

How does Option #1 align with the feedback received?

1. Local business owners, community advocacy groups, and the general public all provided input that there is a stigma associated with the term 'body rub parlour' and strong support exists to break such stigmas associated with the terminology.
 2. Support for increasing our community's standards by requiring some form of training qualifications be provided in order to offer massage services.
 3. Concerns were raised regarding the ability for Town staff to ensure businesses do not obtain a business licence under false pretenses.
 - A stringent application process, including a pre-interview audit and inspection proposes to address this.
 - A new regulatory framework, utilizing the Administrative Monetary Penalty System, would more strongly support staff's enforcement initiatives to ensure all businesses comply with the regulations imposed.
1. Considerations in relation to Option #1 and the feedback received Concerns exist for the level of training standards to be imposed.
 - Feedback was received that many workers in the massage service industry are migrant workers and their ability to obtain proper training is limited and would therefore restrict them from being able to operate.

2. Concerns that stronger enforcement efforts or over-policing can lead to other systemic issues that can be discriminatory in nature.
 - Recommendations were received to be less restrictive and to not be punitive with enforcement efforts.

Option #2: Adopt two classifications for massage service providers: maintain the body rub parlour classification for persons with no training qualifications, while introducing a new classification for persons with some form of training qualifications.

By selecting this option, the following regulations could be further explored as follows:

- A new classification of massage service providers would be introduced and would mirror the proposed regulatory framework provided under Option #1 above;
- The body rub parlour classification would be revamped and the following regulatory framework would be further explored:
 - Requiring no training qualifications for any attendants performing services;
 - A less stringent application process would be proposed;
 - Current zoning restrictions would be reviewed to determine if amendments are required or recommended; and
- Specific regulations will be explored during the regulatory framework process to ensure that the health and safety of residents and workers, alike, is addressed.

How does Option #2 align with the feedback received?

1. Addresses the comments regarding migrant workers potentially not having any training qualifications to operate their business.
2. Establishes a less stringent application and enforcement process for the body rub parlour classification while simultaneously increasing standards for other alternative massage service providers.

Considerations in relation to Option #2 and the feedback received

1. Does not eliminate the stigma associated with the term 'body rub parlour'.
2. A less restrictive or vetted application and enforcement process may lead to locations offering sexual services, services that are erotic in nature, or potentially remain a front for criminal activity.
3. Enforcement challenges may arise for ensuring businesses are not obtaining a business licence under false pretenses.

Conclusion

After completing a rigorous public consultation process, Town staff has recognized that no 'one-size fits all' model can be applied to a regulatory framework for massage service providers within the Town of Newmarket. Varying models exist across different municipalities to reflect that particular community's specific needs or expectations. Town staff has also recognized that, within Newmarket, there are a wide range of recommendations being proposed with conflicting views on how best to approach this matter.

Town staff believes that Option #1 most closely reflects the feedback received during public and stakeholder engagement, in addition to the feedback received from other municipalities on the enforceability of the framework. Similarly, Option #2 mirrors the rationale referenced above regarding Option #1, but also proposes to allow massage service providers who are unable to obtain the proper training qualifications to operate a business in Town. However, Option #2 does not address feedback received surrounding increasing community standards or removing the stigma associated with the term and practices of a 'body rub parlour', and for this reason it is not recommended by Town staff.

Next Steps

After receiving direction from Council, Town staff will present a draft by-law with proposed regulations at the June 14, 2021 Committee of the Whole meeting.

Business Plan and Strategic Plan Linkages

This report aligns with the Town's mission to make Newmarket *Well Beyond the Ordinary* through continuous improvements and review of the regulatory and licensing frameworks.

Consultation

Consultation has been completed through research or direct correspondence with all York Region municipalities, Brampton, Guelph, Hamilton, London, Oakville, Toronto, and Windsor.

Public and stakeholder engagement has been completed as follows:

- two surveys circulated online via HeyNewmarket from January 22 – April 12, 2021;
- a Public Information Centre held on February 16, 2021; and
- direct consultation with five local business owners and six community advocacy groups.

Further consultation has also been completed with York Regional Police and Central York Fire Services to incorporate their feedback and recommendations into the proposed options presented in this report.

The Town's Planning and Legal departments have also been consulted, in addition to an external legal opinion being provided to verify the options presented in this report.

Human Resource Considerations

None.

Budget Impact

None.

Attachments

Attachment #1 – Raw Data Survey Results

Approval

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Esther Armchuk, Commissioner, Corporate Services

Contact

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