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## **Zoning By-law Amendment – Personal Wellness Establishments Staff Report to Council**

Report Number: 2021-72

Department(s): Planning and Building Services

Author(s): Phoebe Chow, Senior Planner - Policy

Meeting Date: October 25, 2021

### **Recommendations**

1. That the report entitled Zoning By-law Amendment – Personal Wellness Establishments dated October 25, 2021 be received; and,
2. That Council approve the zoning by-law amendment to permit personal wellness establishments as described in this report and in Attachment 1; and,
3. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Purpose**

The purpose of this report is to recommend amendments to Zoning By-law 2010-40, as amended, and Zoning By-law 2019-06, as amended, to permit personal wellness establishments in the Town of Newmarket.

### **Background**

Council, at its [June 21, 2021](#) meeting, repealed body rub parlours from Schedule 7 of the Town's Licensing By-law 2002-151 and amended the Business License By-law 2020-31 by including a set of regulations for personal wellness establishments. At the same meeting, Council directed Planning staff to proceed to a statutory public meeting and consult on the proposed zoning by-law amendment to permit personal wellness establishments in the Town of Newmarket. Subsequently, a statutory public meeting was held on August 30, 2021.

While the licensing regime under the *Municipal Act* provides municipalities the ability to license certain classifications of business, the use of land is governed by the *Planning Act* through official plans and zoning by-laws. As such, the approval of the proposed zoning by-law amendment is required to permit “personal wellness establishments” as a permitted use in the Town prior to the implementation of the licensing framework that was adopted by Council on June 21, 2021. The amended Business License By-law will not take effect until the proposed zoning by-law amendment has taken effect.

## **Discussion**

### **Proposed Zoning By-law Amendment Conforms with the Town’s Official Plan and Urban Centres Secondary Plan**

The areas recommended to permit personal wellness establishments are designated Historic Downtown Centre, Commercial and Mixed Employment in the Town’s Official Plan (2006) and designated Mixed Use and Major Institutional in the Urban Centres Secondary Plan (Attachment 1). All of the above noted designations provide for a wide range of commercial uses. The proposed “personal wellness establishment” use is considered to be a commercial use permitted by the Official Plan and Secondary Plan.

### **Summary of the Proposed Zoning By-law Amendment**

Attachment 1 to this report is the proposed zoning by-law that outlines all proposed changes to Zoning By-law 2010-40, as amended and Urban Centres Zoning By-law 2019-06, as amended. In summary, the proposed amendments include:

- Repealing the definition and all references to “Body Rub Parlour” in both by-laws;
- Defining the terms “Personal Wellness Establishment” and “Alternative Massage” in both by-laws;
- Permitting “Personal Wellness Establishments” in the following zones:
  - Convenience Commercial (CC) Zone
  - Service Commercial (CS) Zone
  - Retail Commercial 1 and 2 (CR-1) (CR-2) Zones, in properties that are not designated General Employment in the Town’s Official Plan
  - Mixed Employment (EM) Zone, in properties that are not designated General Employment in the Town’s Official Plan
  - Historic Downtown (UC-D1) Zone
  - Downtown (UC-D2) Zone
  - Provincial Urban Centre (UC-P) Zone
  - Regional Urban Centre (UC-R) Zone
  - Mixed Use 1 to 3 (MU 1-3) Zones;
- Clarifying that “personal wellness establishments” are not permitted as home occupation in both by-laws, and
- Utilizing the existing “personal service shops” parking standard for personal wellness establishments in the Urban Centres Zoning By-law 2019-06, as amended.

It should be noted that while the proposed zoning by-amendment, if approved, would permit personal wellness establishments in certain areas in Newmarket from a land use perspective, the operation of personal wellness establishment will require a license from the Town, which will be regulated under the licensing framework presented to Council in June 2021 when it comes into effect.

## **Proposed New Definitions are Consistent with the Definitions in the Licensing Framework**

For the purpose of consistency from implementation and enforcement perspectives, Planning staff recommend the same definitions that were adopted by Council in the Business Licensing By-law 2020-31, as amended, to be used in the zoning by-laws:

**Alternative Massage** means any massage that is not provided by persons licensed, or registered as a regulated health professional under the laws of the Province of Ontario by the College of Massage Therapists as registered massage therapists or massage therapists to provide medical or therapeutic in nature, nor is it designed to appeal to erotic appetites or inclinations.

**Personal Wellness Establishment** means any premises or part thereof where an **alternative massage** is performed, offered or solicited in exchange for payment.

For clarity, professionally trained massage providers are registered through the College of Massage Therapists. Registered massage therapists are permitted in zones where medical offices are permitted according to the Town's zoning by-laws. Alternative massage is massage performed by persons who are not registered massage therapists. The term "licensed" is included in the definition of alternative massage to provide flexibility in the event that the Province chooses to licence rather than register massage therapists in the future.

## **Recommended Permitted Areas/Zones are Appropriate for Personal Wellness Establishment**

When determining where to allow personal wellness establishments, Planning staff took into consideration Official Plan policies, the nature of proposed use and potential impact(s) it may have from a land use perspective. All of the recommended permitted zones currently allow commercial uses that are similar in nature as personal wellness establishments (i.e. "Personal Service Shops"); therefore, Planning staff find it appropriate to add "Personal Wellness Establishments" as a permitted use in those zones previously listed, subject to the underlying Official Plan designations.

## **Conclusion**

The approval of the proposed zoning by-law amendment is required prior to the implementation of the licensing framework for personal wellness establishments adopted by Council in June 2021.

The proposed zoning by-law amendment conforms with the Town's Official Plan and Urban Centres Secondary Plan.

## **Business Plan and Strategic Plan Linkages**

- Economic Leadership and Job Creation
- Vibrancy on Yonge, Davis, and Mulock

## **Consultation**

Council held a virtual statutory public meeting on August 30, 2021 for the proposed zoning by-law amendment. No members of the public addressed this matter before Council at the meeting.

Planning staff received three email correspondences from members of the public after the public meeting commenting on the proposed zoning by-law amendment. Two of the comment emails indicated opposition to allowing personal wellness establishments in Newmarket and one expressed the importance of certification/professional training to help ensure public safety. Staff have considered the comments received and would like to reiterate that zoning permission is one of the first requirements to allow personal wellness establishment in Newmarket; the business owner must also obtain a business license from the Town to operate a personal wellness establishment. As part of the business license application, the business owner is required to provide proof of training for all personal wellness establishment employees.

## **Human Resource Considerations**

None

## **Budget Impact**

None

## **Attachments**

Attachment 1 – Zoning By-law

## **Submitted by**

Phoebe Chow, Senior Planner – Policy

## **Approved for Submission**

Adrian Cammaert, Manager, Planning Services

Jason Unger, Director, Planning and Building Services

Peter Noehammer, Commissioner, Development & Infrastructure Services

## **Contact**

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