

TO:	CHAIR AND MEMBERS PUBLIC SAFETY COMMITTEE MARCH 6, 2012
FROM:	G. KOTSIFAS, P. ENG. DIRECTOR OF BUILDING CONTROLS, CHIEF BUILDING OFFICIAL AND LICENSE MANAGER
SUBJECT:	LICENSING OF METHADONE PHARMACIES AND CLINICS PUBLIC MEETING

RECOMMENDATION

That on the recommendation of the Director of Building Controls, Chief Building Official and Licence Manager the proposed by-law attached hereto as Appendix A **BE INTRODUCED** at the Municipal Council Meeting on March 20, 2012 to provide for the licensing and regulation of methadone clinics and methadone pharmacies.

BACKGROUND

On October 31, 2011, the Director of Building Controls, Chief Building Official and Licence Manager presented a draft by-law to provide for the licensing and regulation of Outpatient Addiction Treatment Clinics and Outpatient Treatment Dispensaries in the City of London to BNEC. Also at this time, the Director of Land Use Planning and City Planner presented proposed Official Plan and Zoning By-law amendments related to methadone clinics and methadone pharmacies. BNEC received the amendments and directed staff to circulate the proposed amendments and associated documents and report back with proposed amendments for consideration by Municipal Council.

Municipal Law Enforcement Services staff have been working with Planning Division staff in an effort to draft by-law amendments for the purpose of protecting the health and safety of persons and to not negatively impact properties adjacent to methadone pharmacies and clinics. Since the October 31, 2011 BNEC meeting, Municipal Law Enforcement Services Staff have been involved in several consultations including: public information open house (November 10, 2011); local pharmacists that dispense methadone (November 10, 2011) and medical clinicians that prescribe methadone (November 16, 2011). Based on comments received at all the recent consultations, Administration have further amended the draft licensing by-law. The municipal purpose of the by-law has not changed; the municipal purpose continues to focus on the health, safety and well being of persons or clients of methadone clinics and pharmacies and the maintenance of quality of life of local neighbourhoods in which these facilities are located. The changes were made to respond to the identified needs and concerns of the community (clients, neighbours, owners/operators, agencies and other stakeholders), while building towards these goals.

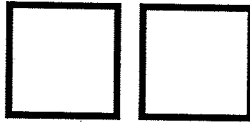
The following summarizes the key recommended changes to the draft licensing by-law:

1. Definition of Terms

In an effort to provide a consistent definition of terms contained in the zoning by-law amendments and licensing by-law the following definitions are recommended:

“Methadone Clinic” means a clinic or medical dental office that wholly, or in part, is used for the prescription of methadone as more than an ancillary activity and may include other support services such as, but not limited to, a methadone pharmacy, the provision of counselling services, and/or laboratories, but does not include a hospital. For the purposes of this definition, an ancillary activity shall mean prescribing methadone to a maximum of 30 clients per day.

“Methadone Pharmacy” means a pharmacy which wholly, or in part, is used for the dispensing of methadone as more than an ancillary activity, but does not include a hospital.



For the purposes of this definition, an ancillary activity shall mean dispensing methadone to a maximum of 30 clients per day.

These definitions provide clarity and by-law consistency for both methadone pharmacy and clinic definitions. The definitions take into consideration those facilities which currently provide ancillary clinic or dispensing services as a small percentage of their main or predominant use. A daily client base of 30 individuals is a reasonable measure to distinguish between ancillary dispensing or clinical services and predominant main uses. The client base maximum was devised taking into consideration time allotted to serve patients and prescribe methadone in a clinical setting and the time it takes to dispense methadone in a pharmacy. Based on this analysis, the 30 patient maximum was determined to be a reasonable cap on daily patients as an ancillary function of the main permitted use. This benchmark does not translate to a standard where impacts are automatically created. The benchmark sets a reasonable level where the use is large enough to be directed to areas zoned for this use and accordingly licensed.

2. Licensing Regulations

As presented to the BNEC on October 31, 2011, a number of licensing provisions were recommended including: interior space accommodations for clients; hours of operation; installation of security cameras; appointment only services and other security requirements. Based on the comments received since the October 31, 2011 BNEC meeting, several of the regulations were recommended to be deleted or revised.

The requirement for adequate waiting room space inside the premise has been deleted from the proposed licensing by-law as this provision is included in the recommended zoning by-law amendment. The requirements for appointment only services and hours of operation have been deleted in response to information provided at numerous public consultation sessions based on the needs and nature of the service and to maintain the goals of accessibility to the service. Many clients who require methadone treatments are employed full-time and attend pharmacies either before or after work to receive treatments. It would be unreasonable to regulate hours or appointment formats as a public policy. The requirements for security cameras and security guards were deleted for purposes of privacy and dignity of clients, in favour of a security plan.

The following regulations are recommended to replace the previous draft regulations: a submission of a security plan based on the volume of clients and in conformity to accepted Crime Prevention Through Environmental Design (CPTED) best practices approved by the Licence Manager; the licensee maintain a patient log providing a daily summary of the number of patients for which methadone was prescribed or dispensed; and that the Methadone Clinic and Methadone Pharmacy licensee attend a meeting held at least annually and scheduled by the Licence Manager with representation from the neighbouring community to discuss issues of common concern.


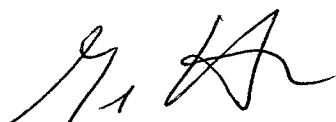
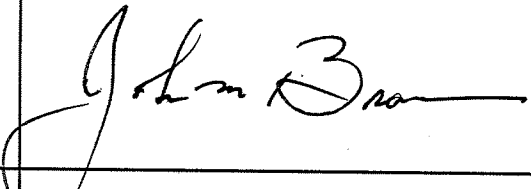
CPTED is a set of design principles used to discourage crime. The concept focuses on designing buildings as a crime prevention initiative. CPTED principles are based on anticipating the thought processes of a potential offender, and creating an environment that discourages follow-through. When CPTED is put into practice, the resulting environment - including the building and its surroundings - will discourage or impede criminal behaviour. The four key principles of CPTED are: natural surveillance, natural access control, territorial reinforcement and property maintenance. Although these principles were developed for the design and construction of new buildings, the concepts can be applied to existing developed properties as well. The Licence Manager will review the security plan in consultation with London Police and recommend that appropriate CPTED concepts be implemented. The zoning by-law will require that all proposals for new and expanded methadone clinics and methadone pharmacies be subject to a public site plan process. The integration of CPTED principles will be considered in balance with other relevant site plan considerations through the site plan process.

The proposed licensing by-law contains a regulation requiring the licensee to maintain a log providing a daily summary of the number of patients for which methadone was prescribed or dispensed. No names will be required to be listed; for privacy purposes the purpose of the log will be to gauge the volume of patients attending the methadone clinic or pharmacy on a daily basis in order to evaluate any adverse impacts the volume of patients may be having on the surrounding neighbourhood.

--	--

The final key regulation is that the Methadone Clinic and Methadone Pharmacy licensee attend a meeting held at least annually and scheduled by the Licence Manager with representation from the neighbouring community to discuss issues of common concern which may result in amendments to the security plan as approved by the Licence Manager. The Licence Manager will hold this meeting at least on an annual basis to determine if the purpose of the Licensing By-law is being upheld. It is important to maintain an open dialogue with licensees and the neighbouring community to resolve any issues and recommend solutions where patient care may be negatively impacted and where the quality of life in the neighbourhood needs attention.

The licence fee of \$700 represents licence administration, inspection services and random inspections.

PREPARED BY:	
	
O. KATOLYK, MLEO (C) MANAGER, LICENSING AND MUNICIPAL LAW ENFORCEMENT SERVICES	
PREPARED AND RECOMMENDED BY:	REVIEWED & CONCURRED BY:
	
G. KOTSIFAS, P.ENG. DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL	JOHN BRAAM, P.ENG. ACTING EXECUTIVE DIRECTOR – PLANNING, ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER

Y:\Shared\building\Rep&Recs\2012\IPSC - Mar 6 2012 - meth licensing.docx

Cc: City Solicitors Office



Appendix A

Bill No.
2012

By-law No.

A By-law to provide for the licensing and regulation of Methadone Clinics and Methadone Pharmacies in the City of London.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, (the *Municipal Act, 2001*), provides that a municipal power shall be exercised by by-law:

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public including business licensing, the health, safety and well-being of persons in the municipality and the protection of persons and property;

AND WHEREAS subsection 151 of the *Municipal Act, 2001* provides that, without limiting sections 9 and 10 of the Act, a municipality may provide for a system of licences with respect to a business;

AND WHEREAS the Council for the City of London considers it necessary and desirable for the public to regulate the Methadone Clinics and Methadone Pharmacies for the purpose of protecting the health, safety and well being of persons and to not negatively impact surrounding properties;

AND WHEREAS section 23.2 of the *Municipal Act, 2001* permits a municipality to delegate certain legislative and quasi-judicial powers;

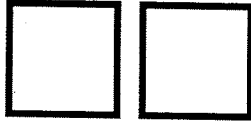
AND WHEREAS Council for the City of London is of the opinion that the delegation of legislative powers under this by-law to the Licence Manager and the Hearings Officer including without limitation to the power to issue and impose conditions on a licence are powers of a minor nature having regard to the number of people, the size of geographic area and the time period affected by the exercise of the power in accordance with subsection 23.2(4) of the *Municipal Act, 2001*;

AND WHEREAS subsection 391(1) of the *Municipal Act, 2001* provides that a municipality may impose fees and charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and,
- (c) for the use of its property including property under its control;

AND WHEREAS section 444 of the *Municipal Act, 2001* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

AND WHEREAS it is deemed expedient to pass this by-law;



NOW THEREFORE The Council of The Corporation of the City of London hereby enacts as follows:

1.0 DEFINITIONS

1.1 For the purpose of this By-law:

“**Applicant**” means a person applying for a licence under this By-law;

“**Chief of Police**” means the chief of police for the London Police Service;

“**City**” means The Corporation of the City of London;

“**Council**” means the Municipal Council of The Corporation of the City of London;

“**Director of Building Controls**” means the Chief Building Official as appointed by Council pursuant to the *Building Code Act*;

“**Fire Chief**” means the Chief of London Fire Services of the City or a person delegated by him or her for the purposes of this By-law;

“**Hearings Committee**” means a person or body that has been delegated the power or duty to hold a hearing or provide an opportunity to be heard for the purpose of this By-law;

“**Hearings Officer**” means a Hearings Officer appointed under the City’s Hearings Officer By-law A.-6653-121, as amended;

“**Licensee**” means any person licensed under this By-law;

“**Licence Manager**” means the Director of Building Controls;

“**Manager of By-law Enforcement**” means the Manager of By-law Enforcement of the City or a person delegated by him or her for the purposes of this By-law;

“**Medical Officer of Health**” means the Medical Officer of Health for the Middlesex-London Health Unit or a person delegated by him for the purposes of this By-law;

“**Municipality**” means the land within the geographic limit of the City of London;

“**Methadone Clinic**” means a clinic or medical dental office that wholly, or in part, is used for the prescription of methadone as more than an ancillary activity and may include other support services such as, but not limited to, a methadone pharmacy, the provision of counselling services, and/or laboratories, but does not include a hospital. For the purposes of this definition, an ancillary activity shall mean prescribing methadone to a maximum of 30 clients per day.

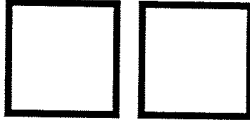
“**Methadone Pharmacy**” means a pharmacy which wholly, or in part, is used for the dispensing of methadone as more than an ancillary activity, but does not include a hospital. For the purposes of this definition, an ancillary activity shall mean dispensing methadone to a maximum of 30 clients per day.

2.0 PROHIBITIONS

2.1 No person shall operate a Methadone Clinic or Methadone Pharmacy without holding a current valid licence issued under the provisions of this By-law.

2.2 No person shall hold himself, herself or itself out to be licensed under this By-law if they are not.

2.3 No person shall contravene or fail to comply with a term or condition of his, her or its licence imposed under this By-law.



3.0 ADMINISTRATION

3.1 The administration of this By-law is assigned to the Licence Manager who shall generally perform all of the administrative functions conferred upon him or her by this By-law and without limitation may:

- (a) receive and process all applications for all licenses and renewals of licences under this By-law;
- (b) issue licenses in accordance with the provisions of this By-law;
- (c) impose terms and conditions on licences in accordance with this By-law; and,
- (d) refuse to issue or renew a licence or revoke or suspend a licence in accordance with this By-law.

4.0 APPLICATIONS FOR A LICENCE AND RENEWAL OF LICENCE

4.1 Every application for a licence and renewal licence shall be made to the Licence Manager on the forms provided by the Licence Manager. Without limitation, every application for a licence or a renewal shall include the following information:

- (a) the name, municipal address and telephone number of each Applicant or Licensee;
- (b) if the Applicant or Licensee is a partnership, the name, address and telephone number of each partner;
- (c) if the Applicant or Licensee is a corporation, the address of its head office, the name, address and telephone number of each director and officer;
- (d) the municipal address and legal description of the business;
- (e) a sworn statement by the Applicant or Licensee certifying the accuracy, truthfulness and completeness of the application;
- (f) if the Applicant or Licensee is a partnership, a sworn statement by each partner certifying the accuracy, truthfulness and completeness of the application; and,
- (g) if the Applicant or Licensee is a corporation, a sworn statement by an officer of the corporation duly authorized for that purpose certifying the accuracy, truthfulness and completeness of the application.

4.2 Every person applying for a licence or a renewal of a licence shall provide in full at the time the application is submitted all of the information requested on the application form as well as:

- (a) payment of the prescribed fee as set out in Schedule "A" of this By-law;
- (b) if the Applicant or Licensee is a corporation, a copy of the incorporating documentation, a copy of the last initial notice or notice of change which has been filed with the provincial or federal government and a Certificate of Status issued by the Ministry of Government and Consumer Services dated no later than fifteen (15) days prior to the date of the application;
- (c) any other documentation or information as may be required in any other Part of this By-law and by the Licence Manager.

4.3 The Licence Manager may require affidavits in support of an application for or a renewal of a licence.



4.4 Every application may be subject to investigations by and comments or recommendations from the municipal or provincial department or agencies as the Licence Manager deems necessary including but not limited to:

- (a) the Director of Building Controls;
- (b) the Fire Chief;
- (c) the Manager of By-law Enforcement;
- (d) the Medical Officer of Health; and
- (e) the Chief of Police.

5.0 ISSUANCE OF LICENCES

5.1 Every licence issued under this By-law shall be in the form and manner as provided by the Licence Manager and without limitation shall include on its face the following information;

- (a) the licence number;
- (b) the name, address and telephone number of each Licensee;
- (c) the date the licence was issued and the date it expires; and,
- (d) the municipal address of the premise to be used for the Methadone Clinic or Methadone Pharmacy.

5.2 Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- (a) the Applicant or Licensee shall pay the prescribed licence fee as set out in Schedule "A" of this By-law;
- (b) the Applicant or Licensee shall pay all fees and fines owed by the Applicant or Licensee to the City;
- (c) the Applicant or Licensee shall have a contractual or proprietary interest in the premises upon which the Methadone Clinic or Methadone Pharmacy is to be operated which will enable the Applicant or Licensee to carry on the business;
- (d) the Applicant or Licensee shall allow, at any reasonable time and when permitted by law, the City to inspect the premises used for the Methadone Clinic or Methadone Pharmacy;
- (e) the premises used for the Methadone Clinic or Methadone Pharmacy shall be in accordance with the requirements of the *Building Code Act* and the Regulations thereunder, the *Fire Protection and Prevention Act*, and the Regulations thereunder, and the City's Property Standards By-law CP-16;
- (f) the premises used for the Methadone Clinic or Methadone Pharmacy are not constructed or equipped so as to hinder the enforcement of this By-law;
- (g) the use of the premises used for the Methadone Clinic or Methadone Pharmacy is permitted or conforms with the uses permitted under the applicable zoning by-law or is a legal non-conforming use;
- (h) the operation of the Methadone Clinic or Methadone Pharmacy shall comply with all federal and provincial laws;
- (i) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, shall not afford reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the



operation of the Methadone Clinic or Methadone Pharmacy in accordance with the law or with honesty or integrity; and

- (j) if the Applicant or Licensee is a partnership or a corporation, any change in the composition of the partnership or of the officers and/or directors of the corporation shall be reported to the Licence Manager within ten (10) days.

5.3 The issuance of a licence or renewal thereof under this By-law is not intended and shall not be construed as permission or consent by the City for the Licensee to contravene or fail to observe or comply with any law of Canada, Ontario or any by-law of the City.

5.4 A licence issued under this By-law shall be valid only for the period of time for which it was issued.

5.5 Every licence, at all times, is owned by and is the property of the City and is valid only in respect of the person and for the Methadone Clinic or Methadone Pharmacy named therein. A separate licence shall be required for each Methadone Clinic or Methadone Pharmacy.

5.6 The Licensee shall notify the Licence Manager of any change in ownership of the Methadone Clinic or Methadone Pharmacy and shall surrender his, her or its licence to the Licence Manager within seventy-two (72) hours of the completion of such change.

5.7 All licence fees and inspection fees paid under this By-law are non-refundable.

6.0 REGULATIONS

6.1 The Licensee shall ensure that:

- (a) a log is maintained by the Licensee providing a daily summary of the number of patients for which methadone was prescribed or dispensed;
- (b) a security plan based on the number of clients expected on a daily basis taking into consideration best practices of Crime Prevention Through Environmental Design Techniques is prepared and approved by the Licence Manager;
- (c) that the Licensee attend a meeting held at least annually and scheduled by the Licence Manager with representation from the neighbouring community to discuss issues of common concern which may result in amendments to the security plan as approved by the Licence Manager;
- (d) a legible copy of the licence issued under this By-law is posted and maintained in a prominent and visible position inside the Methadone Clinic or Methadone Pharmacy.

7.0 POWERS OF THE LICENCE MANAGER

7.1 The power and authority to issue or renew a licence, refuse to issue or refuse to renew a licence, to cancel, revoke or suspend a licence, to impose terms and conditions, including special conditions, on a licence, are delegated to the Licence Manager.

7.2 (a) The Licence Manager shall issue a licence or renew a licence where the requirements or conditions of this By-law have been met.

(b) The Licence Manager may refuse to issue, refuse to renew or revoke or suspend a licence or impose a term or condition on a licence on the following grounds:

- (i) the conduct of the Applicant or Licensee, or any partner, officer, director, employee or agent of the Applicant or Licensee, affords reasonable cause to believe that the Applicant or Licensee will not carry on or engage in the



operation of the Methadone Clinic or Methadone Pharmacy in accordance with the law or with honesty or integrity;

- (ii) there are reasonable grounds to believe that an application or other documents provided to the Licence Manager by or on behalf of the Applicant or a Licensee contains a false statement;
- (iii) an Applicant or Licensee is carrying on activities that are in contravention of this By-law;
- (iv) an Applicant or Licensee is not in compliance with any federal or provincial law or City by-law, including this By-law; or
- (v) an Applicant or Licensee does not meet all of the requirements of this By-law or that the Methadone Clinic or Methadone Pharmacy does not comply with the provisions of this By-law.

7.3 Notwithstanding any other provision of this By-law, the Licence Manager may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as are necessary in the opinion of the Licence Manager to give effect to this By-law.

7.4 Where the Licence Manager is of the opinion that:

- (a) an application for a licence or renewal of a licence should be refused;
- (b) a reinstatement should not be made;
- (c) a licence should be revoked;
- (d) a licence should be suspended, or,
- (e) a term or condition of a licence should be imposed;

the Licence Manager shall make that decision.

7.5 Where the Licence Manager has made a decision under subsection 7.4, the Licence Manager's written notice of that decision shall be given to the Applicant or the Licensee by regular mail to the last known address of that person and shall be deemed to have been given on the third day after it is mailed. Service on a corporation can be effected by registered mail to the address of the corporation's registered head office.

7.6 The written notice to be given under subsection 7.5 shall:

- (a) set out the grounds for the decision;
- (b) give reasonable particulars of the grounds;
- (c) be signed by the Licence Manager; and,
- (d) state that the Applicant or Licensee is entitled to request a hearing by a Hearings Officer if the Applicant or Licensee files with the City Clerk a notice of appeal in writing and the appeal fee as set out in Schedule "A" of this By-law within ten (10) days after the notice in subsection 7.5 is served. The notice of appeal must comply with the requirements as set out in Schedule 1 of the City's Hearings Officer By-law A.-6653-121, as amended

7.7 Where no appeal is registered within the required time period, the decision of the Licence Manager shall be final.

7.8 Despite subsection 7.6 where a licence is voluntarily surrendered by the Licensee for revocation, the Licence Manager may revoke the licence without notice to the Licensee.



8.0 HEARINGS BEFORE THE HEARINGS OFFICER

8.1 The power and authority to conduct hearings of appeals under this By-law are hereby delegated to the Hearings Officer.

8.2 The provisions of the City's Hearings Officer By-law A.-6653-121, as amended, apply to all hearings conducted by a Hearings Officer.

8.3 The Hearings Officer may uphold or vary the decision of the Licence Manager or make any decision that the Licence Manager was entitled to make in the first instance.

8.4 The decision of the Hearings Officer is final.

9.0 ENFORCEMENT

9.1 This By-law may be enforced by a City municipal law enforcement officer or a London Police Service police officer.

9.2 No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this By-law, including carrying out an inspection.

10.0 PENALTY

10.1 Any person who contravenes any provision of this By-law is guilty of an offence.

10.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

10.3 A person convicted under this By-law is liable to a maximum fine of \$25,000.00 upon a first conviction and a maximum fine of \$50,000.00 for any subsequent conviction.

10.4 Despite subsection 10.3, where the person convicted is a corporation, the corporation is liable to a maximum fine of \$50,000.00 upon a first conviction and a maximum fine of \$100,000.00 for any subsequent conviction.

10.5 If this By-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and,
- (b) requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

11.0 GENERAL

11.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

11.2 If there is a conflict between a provision of this By-law and a provision of any other City by-law, then the more restrictive provision shall apply.

12.0 MISCELLANEOUS

12.1 This by-law may be referred to as the "Methadone Pharmacy and Methadone Clinics Licensing By-law".

12.2 This by-law shall come into force and effect on _____, 2012.

--	--

Passed in Open Council on _____, 2012

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

Schedule "A"- FEES

Methadone Clinic \$700

Methadone Pharmacy \$700