

TO:	CHAIR AND MEMBERS COMMUNITY AND PROTECTIVE SERVICES COMMITTEE PUBLIC PARTICIPATION MEETING ON SEPTEMBER 12, 2017
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	PUBLIC PARTICIPATION MEETING BUSINESS LICENSING BY-LAW REVIEW ADULT LIVE ENTERTAINMENT PARLOUR, ADULT ENTERTAINMENT BODY-RUB PARLOUR, UNSOLICITED MOTOR VEHICLE TOWING AND STORAGE

RECOMMENDATION

That, on the recommendation of the Managing Director, Development & Compliance Services and Chief Building Official, this report **BE RECEIVED** as information, it being noted that upon completion of all public participation meetings related to the review of the Business Licensing By-law, a further public participation meeting will be scheduled to repeal and replace the current Business Licensing By-law as per the direction of Municipal Council on December 19, 2016.

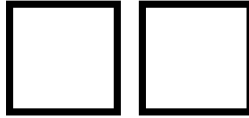
PREVIOUS REPORTS

June 21, 2016	CPSC	Proposed new categories / existing by-law changes
November 15, 2016	CPSC	Putting Consumers First Act
December 13, 2016	CPSC	Status Update
January 24, 2017	CPSC/PPM	General Provisions, Payday Loans, Door to Door Sales
February 22, 2017	CPSC/PPM	Contractors, Donation Bins, Personal Service Establishments, Tobacco and Electronic Cigarette Retailers
April 25, 2017	CPSC/PPM	Commercial Parking, Pet Shops, Public Halls, Seasonal Sales Businesses
May 24, 2017	CPSC/PPM	Food Premises, Refreshment Vehicles, Auto Services
June 20, 2017	CPSC/PPM	Adult Entertainment Establishments
July 18, 2017	CPSC/PPM	Lodging houses, Second Hand Stores, Salvage Yards

BACKGROUND

Civic Administration previously reported on a number of new categories of businesses to be licensed for a variety of municipal purposes, as well as consideration of existing businesses that require updated licensing regulations. The purpose of this report is to receive public comments on proposed licensing regulations for the following consolidated categories:

- Adult Live Entertainment Parlour
- Adult Entertainment Body-rub Parlour
- Unsolicited Motor Vehicle Towing and Storage



Adult Live Entertainment Parlour and Adult Entertainment Body-rub Parlour

As previously reported, Civic Administration is proposing to utilize section 23 of the *Municipal Act* authorizing the delegation of legislative powers. The intent of this section is to streamline City Council’s decision-making process and enable it to focus on larger issues in a more strategic manner. The Licence Manager has a written Standard Operating Procedure on delegated authority of regulation development including public consultation and posting of the regulations on the City’s web site.

The *Municipal Act* gives municipalities powers to pass by-laws with respect to business licensing. In addition to this broad power, the *Municipal Act*, also grants municipalities the authority to have particular control over adult entertainment establishments.

Under section 154 of the *Act*, adult entertainment establishments include goods, entertainment, and body rubs that are designed to appeal to erotic or sexual appetites or inclinations. Section 154 states:

Restrictions re adult entertainment establishments

154. (1) Without limiting sections 9, 10 and 11, a local municipality, in a by-law under section 151 with respect to adult entertainment establishments, may,
 (a) despite section 153, define the area of the municipality in which adult entertainment establishments may or may not operate and limit the number of adult entertainment establishments in any defined area in which they are permitted; and
 (b) prohibit any person carrying on or engaged in an adult entertainment establishment business from permitting any person under the age of 18 years to enter or remain in the adult entertainment establishment or any part of it.

Premises

(2) Any premises or any part of them is an adult entertainment establishment if, in the pursuance of a business,
 (a) goods, entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided in the premises or part of the premises; or
 (b) body-rubs, including the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person’s body, are performed, offered or solicited in the premises or part of the premises, excluding premises or part of them where body-rubs performed, offered or solicited are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered to do so under a statute of Ontario.

Power of entry

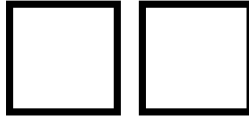
(3) Despite subsection 436(1), a local municipality may exercise its administrative power of entry under section 436 at any time of the day or night to enter an adult entertainment establishment. 2006, c. 32, Sched. A, s. 82.

Evidence rule

(4) For the purpose of a prosecution or proceeding under a by-law with respect to adult entertainment establishments, the holding out to the public that the entertainment or services described in subsection (2) are provided in the premises or any part of them is admissible in evidence as proof, in the absence of evidence to the contrary, that the premises or part of them is an adult entertainment establishment.

Since the previous Public Participation Meeting (PPM), staff have met with the adult entertainment industry and their agents and have reviewed the comments received at the PPM. The following are the substantive changes made to the attached draft regulations:

- The previous draft consolidated the two adult related categories. In meetings with the industry, there was unanimous support to split the two categories due to different services being offered some in private settings and some in a more public realm with alcohol being



served. In this draft, the two categories are defined and regulated separately.

- These two categories are licensed for the municipal purposes of protecting the health and safety of the patrons, to ensure the business is not a nuisance to the surrounding properties and neighbourhood, and consumer protection of those individuals who attend and partake in the services provided in the establishment. Each of the individual categories contain the same locational requirements in terms of distance separations from incompatible land uses (places of worship, day cares, residential land uses and schools).
- The matter pertaining to the licensed operators remains for both categories however the fee has been reduced to \$120 and the requirement for separate licences for separate locations has been removed. The role of the licensed operator is to ensure compliance with the by-law regulations and for operational oversight of the facility.
- The issue of “no touch” regulations was discussed with the industry who maintain that lap dancing is a service offered in many live entertainment parlours. A lap dance is a type of erotic dance performance in which the attendant (either fully or semi-clothed) typically has body contact with a seated patron. With full-contact lap dances, the attendant may engage in simulated sexual contact with the patron, such as "grinding" his or her body against the patron. A further review of municipal by-law regulations pertaining to lap dancing was undertaken. Staff have taken the position that lap dancing, in its most conventional form, does involve some form of touching, whether or not the touching is being done by the patron or by the attendant. Charges of the current “no touch” regulations have led to convictions. A by-law regulation prohibiting touching is a valid exercise of provincial legislative authority delegated to the municipality and conforms to the municipal purpose of protecting the health and safety of patrons and attendants.

Unsolicited Motor Vehicle Towing and Storage

The municipal purpose of licensing motor vehicle towing and storage operators, who perform tows and storage of vehicles without the consent of the vehicle owner or operator, is for consumer protection such that a consumer will know who to contact in the case their vehicle has been towed and/or stored to allow them to retrieve their vehicle.

The current regulations were introduced in approximately 2000 to address aggressive unsolicited towing practices - where your vehicle gets towed and is stored without your explicit permission or direction. Many of the current provisions were developed by a City Council initiated Towing Subcommittee who undertook a stakeholder review. At that time, the business licensing by-law was void of regulations to address unsolicited towing. The aggressive towing actions of several firms was detrimental to the downtown community where visitors and patrons were having their vehicles towed for no apparent reason other than having expired time in metred parking lots. It was common for tow trucks to “hook up” a vehicle and wait for the vehicle owner to arrive only to initiate a negotiation for a cash “drop fee”. The current regulations combined unsolicited towing and storing of motor vehicles and the regulations were dealt with together in a way such that the parking lot owners were prohibited from directing that specific vehicles be towed unless they had prescribed signage on display. Towing companies were prohibited from towing unless such signs were on display. The regulations only applied to limited types of parking lots.

During the height of the unsolicited towing incidents, there were eleven towing companies performing unsolicited tows / storage. A high proportion of enforcement resources were directed at towing activities (in partnership with London Police Services) and several towing firms had their business licenses revoked by the Board of Control following numerous licensing convictions.

Since that time, a Private Parking Enforcement Program was initiated by the City as a solution to dealing with illegally parked vehicles on private property. This program allows for the ticketing and towing of illegally parked vehicles on private property. The tickets are the same format as those issued by the City for parking on public property (i.e. street parking meters). To date, 270 private properties are enrolled in this program. The parking issues on private property are solved by issuing warnings and tickets. Very few vehicles are towed. To date, 4,600 tickets have been issued under the program in 2017.

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The draft regulations for this category expand the application of unsolicited towing to all private parking lots which are signed advising patrons of the option of towing as a consequence of illegal parking. The Licence Manager may make regulations on the following:

- Required signage
- Information a Towing Business must provide to London Police Service prior to towing
- Prescribing the format of the log book

By-law regulations will provide a maximum fee for towing (\$75) and storage (\$10 per day to a maximum of \$70). The regulations will also address the hours of operation of a storage yard in order to allow vehicle owners to retrieve their vehicle.

The fee for this category is \$311. This fee covers the administration and enforcement costs.

PREPARED BY:	RECOMMENDED BY:
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