

Bill No. 250
2013

By-law No. L-_____

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* provides that a municipality may pass by-laws respecting: in paragraph 5, Economic, social and environmental well-being of the municipality; in paragraph 6, Health, safety and well being of persons, in paragraph 7, Services and things that the municipality is authorized to provided under subsection (1); in paragraph 8, Protection of persons and property; in paragraph 11 Business Licensing;

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;

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

“**Enforcement Officer**” means a Municipal Law Enforcement Officer appointed by the Council or a police officer with the London Police Services;

“**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 Managing Director of Development and Compliance Services;

“**Manager of Municipal Law Enforcement Services**” means the Manager of Municipal Law Enforcement Services of the City or a person delegated by him or her 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 office which 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 40 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 40 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.

2.4 No person shall operate a Methadone Clinic or Methadone Pharmacy while their licence issued under this By-law is under suspension.

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 Chief Building Official;
- (b) the Fire Chief;

- (c) the Manager of Municipal Law Enforcement Services; and
- (d) 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 dispensed or prescribed; no personal information shall be entered in the log ; the log shall be kept on the premise for the current year and previous year and be made available for immediate review by an Enforcement Officer upon their request;
- (b) a fully-operational security camera system that has been approved by the Licence Manager that is capable of recording images of the exterior area adjacent to the subject building be installed and maintained and that access to the information recorded by the security camera system be limited to an Enforcement Officer to access the information for law enforcement purposes and to the licensee;
- (c) 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 September 1, 2013.

Passed in Open Council on June 11, 2013.

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading – June 11, 2013
Second Reading – June 11, 2013
Third Reading – June 11, 2013

Schedule "A"- FEES

Methadone Clinic Licence fee \$700

Methadone Pharmacy Licence fee \$700

Hearings Officer Appeal Fee \$150

