



Staff Report for Council Meeting

Date of Meeting: October 28, 2020

Report Number: SRCS.20.31

Department: Community Services
Division: Community Standards

Subject: Spas, Wellness Centres & Body Rub Parlours

Purpose:

To respond to the Council direction that staff report on the feasibility of a by-law to license, regulate and govern spas and wellness centres within the City of Richmond Hill.

Recommendations:

- a) That Staff Report SRCS.20.31 be received.
- b) That a copy of Staff Report SRCS.20.31 be sent to York Regional Police, the Regional Municipality of York, and the Ministry of the Attorney General.

Contact Person:

Tracey Steele, Director of Community Standards, Extension 2476

Don Guy, Supervisor of By-law and Licensing Enforcement, Extension 2427

Report Approval:

Submitted by: Darlene Joslin, Commissioner of Community Services

Approved by: Mary-Anne Dempster, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the reports approval are attached.

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Background:

At its April 16th, 2018 meeting Council passed a Member Motion resolving that:

Staff be directed to examine the feasibility of passing a by-law to license, regulate and govern Spas and Wellness Centres in the Town of Richmond Hill, and to report back to Council.

The full Council Motion and Resolution is attached to this report as Attachment 1.

It is the understanding of staff that this motion was intended to direct staff to investigate whether a licensing system for spas and wellness centres would be effective in helping to eliminate businesses that providing illegal sexual services while outwardly portraying an image of being a “spa” or “wellness centre.”

Discussion:

Richmond Hill’s Body Rub Parlour By-law

Richmond Hill currently has a Body Rub Parlour By-law No. 193-05 (Municipal Code Chapter 834) (the “By-law”), which was enacted in 2005. The By-law establishes a licensing system for businesses which provide “body rub” services. A “body rub” is defined in the By-law as a massage performed by an attendant who is not professionally qualified (e.g., as a Registered Massage Therapist); specifically:

834.1.5 “body-rub” includes the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person’s body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

Among other things, the By-law sets out Body Rub Parlour requirements and restrictions for services provided, signs, design of the premises, hours of operation, employees and locations. Additionally, it is important to note, that the By-law specifically prohibits the offering of sexual services of any kind at a licensed body rub parlour:

834.1.5 No person shall provide in a body-rub parlour any services designed to appeal to erotic or sexual appetites or inclinations, or any other adult entertainment service as defined in Section 834.1.1.

Provincial and Federal Legislative Framework

The Body Rub Parlour By-law was enacted pursuant to the Ontario *Municipal Act, 2001, c. 25*, which specifically (Section 154) provides municipalities with the authority to license adult entertainment establishments, including businesses that provide body rub services. The By-law relies on enforcement provisions set out pursuant to the *Provincial Offences Act R.S.O. 1990*.

In 2014, the federal government enacted the *Protection of Communities and Exploited Persons Act, R.S.O. 2014* (the “Act”). The Act is based on the “Nordic Model” approach

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to prostitution law which decriminalizes prostitution while criminalizing the purchase of sexual services. Additionally, the Act makes it a criminal offence to sell the sexual services of another individual. Therefore, any business that hires attendants to provide sexual services is illegal under federal law. Police are responsible for enforcing the federal legislation and York Regional Police (“YRP”) have a dedicated team responsible for investigating criminal activities that may involve human trafficking.

Body Rub Parlour Enforcement and Collaboration Initiatives

Since Richmond Hill enacted its Body Rub Parlour By-law in 2005, the City’s By-law and Licensing Enforcement team has been proactively investigating “spas” and “wellness centres” and taking enforcement action against any that are providing body rub services without licenses. In situations where criminal activity is suspected, investigations are undertaken collaboratively with the YRP Community Response Unit. Enforcement efforts have resulted in the closure of 26 illegal body rub parlours since 2010 (with 11 closures in 2019 specifically) and remain ongoing. Recent enforcement approaches have focused on cooperation with landlords and property owners to facilitate evictions of businesses providing illegal services.

Within the last year, staff have met with representatives from Bridge North, Defend Dignity, the Council of Women Against Sex Trafficking in York Region, and Parents Against Child Trafficking – Markham. These community-based organizations advocate to address and prevent the problems faced by victims of sexual exploitation and human trafficking, and provide programs to assist with the departure and transition of exploited individuals from the sex industry. Discussions with these groups have focused on knowledge exchange and collaboration on ways to improve the City’s enforcement program while facilitating the safety and well-being of attendants employed in illegal businesses.

Spa and Wellness Centre Licensing

In response to the April 16, 2018 Council Motion staff have reviewed body rub, spa, wellness centre and holistic centre regulation and enforcement in other jurisdictions. “Spa and wellness centre” licensing in other municipalities has been problematic. For example, a May 6, 2019 City of Toronto Staff Report from the City’s Executive Director of Municipal Licensing and Standards indicates:

In 1998, the City began regulating holistic services to ensure public health and safety and consumer protection. Since its introduction, the misuse of the licensing category by providers of services that are not holistic services has undermined this original intent. Many holistic centres currently providing unauthorized services would be better captured under the Body Rub Parlour licence category.

It is our understanding that in regulatory regimes requiring licensing of spas, wellness centres or holistic centres, businesses offering body rub and/or illegal sexual services have been able to secure licenses (under the guise of being legitimate spa, wellness or holistic centres), with the following consequences:

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1. Potential risk of liability and criticism resulting from the fact that the City has issued a license to a business that is providing illegal services in contravention of federal legislation; and,
2. Loss of municipal ability to lay a charge or issue a fine for failure to obtain a license and resulting enforcement complications.

The enforcement challenges associated with businesses providing body rub services in contravention of the municipal by-law or providing sexual services in contravention of the federal legislation are numerous. For example, municipalities do not have authority to unilaterally close businesses. Municipalities must initiate charges before the Provincial Courts and it is only based on a successful conviction that a Justice of the Peace can impose an Order that prohibits the continuation or repetition of the offence. Additionally, court timelines are also a challenge. It regularly takes upwards of a year for a charge to be tried at court, and recent closures of the courts due to the Covid-19 pandemic have further impacted this timeline. Staff continue to recommend transfers of other minor by-law offence adjudications to the Administrative Monetary Penalty System, so that provincial court time can be used to address serious offences such as those related to body rub parlours.

In summary, staff believe that the City's existing Body Rub Parlour By-law, combined with ongoing enforcement and community group collaboration efforts, represents a municipal best practice for addressing body rub parlours and assisting police to address businesses providing illegal sexual services. It is not recommended that the By-law be amended at this time.

It is recommended that a copy of this report be circulated to York Regional Police, the Regional Municipality of York, and the Ministry of the Attorney General in order to continue to foster communication and collaboration amongst agencies involved in regulation and enforcement.

Financial/Staffing/Other Implications:

None.

Relationship to the Strategic Plan:

The recommendations of this report are consistent with the Strategic Plan action item of maintaining a safe community through education, community involvement and enforcement.

Conclusion:

On April 16th, 2018 Council directed staff to examine the feasibility of passing a by-law to license, regulate and govern Spas and Wellness Centres in the City of Richmond Hill.

Richmond Hill currently has a Body Rub Parlour By-law No. 193-05 (Municipal Code Chapter 834) (the "By-law"), which was enacted in 2005. Enforcement efforts pursuant

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to this By-law have resulted in the closure of 26 illegal body rub parlours since 2010 (with 11 closures in 2019 specifically) and remain ongoing. Recent enforcement approaches have focused on cooperation with landlords and property owners to facilitate evictions of businesses providing illegal services.

In response to the April 16, 2018 Council Motion staff reviewed body rub, spa, wellness centre and holistic centre regulation and enforcement in other jurisdictions and found that “spa and wellness centre” licensing in other municipalities has been problematic. Staff believe that the City’s existing Body Rub Parlour By-law, combined with ongoing enforcement and community group collaboration efforts, represents a municipal best practice for addressing body rub parlours and assisting police to address businesses providing illegal sexual services. As a result, it is not recommended that the By-law be amended at this time.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- Attachment 1 – Approved April 16, 2018 Member Motion directing staff to examine the feasibility of passing a by-law to license, regulate and govern Spas and Wellness Centres

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Report Approval Details

Document Title:	SRCS.20.31 Body Rub Parlour By-law Update.docx
Attachments:	- C041618 - SpaWellnessCentreResolution.pdf
Final Approval Date:	Oct 16, 2020

This report and all of its attachments were approved and signed as outlined below:

Tracey Steele - Oct 15, 2020 - 3:25 PM

Darlene Joslin - Oct 15, 2020 - 4:03 PM

MaryAnne Dempster - Oct 16, 2020 - 10:11 AM