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TO:	CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE
FROM:	G. KOTSIFAS, P. ENG. DIRECTOR OF BUILDING CONTROLS AND CHIEF BUILDING OFFICIAL
SUBJECT:	METHADONE MAINTENACE TREATMENT CLINICS October 31, 2011

RECOMMENDATION

That on the recommendation of the Director of Building Controls and Chief Building Official, this report and attached draft licensing by-law **BE RECEIVED** for information purposes and Administration **BE DIRECTED** to schedule a public participation meeting to receive public input on the draft licensing by-law.

BACKGROUND

On November 15, 2010, Municipal Council resolved that Civic Administration be requested to consider licensing as an option to address concerns related to methadone clinics during the above noted process .

It is a community challenge to determine a reasonable balance of integrating drug addiction maintenance treatment centers into established urban settings. Public concerns about safety, declining property values, quality of life issues and a perceived increase in drug related criminal activity have been noted. Recognizing the need for these services, municipalities have been faced with the challenge of ensuring that the needs of the clients are met (adequate waiting areas, safe exterior environments) as well as quality of life issues related to the neighbouring properties and community (discouraging loitering, addressing illegal activities).

There have been several reports presented to BNEC on this matter. Together with this report, there are several reports including a Research Compendium from the City Planner on this issue. Staff from the Municipal Law Enforcement Services office participated in interviewing citizens, business owners, property owners and citizens on this issue. The information in the Research Compendium is not being replicated in this report. Rather, the purpose of this report is to outline licensing as an option to address issues related to methadone maintenance treatment clinics in the community.

The *Municipal Act, 2001* gives municipalities powers to pass by-laws with respect to business licensing. Municipalities may provide for a system of licences with respect to a business and may: prohibit the carrying on or engaging in the business without a licence; refuse to grant a licence or to revoke or suspend a licence; impose conditions as a requirement of obtaining a licence; impose special conditions on a business; and license, regulate or govern real and personal property used for the business and persons carrying it on or engaged in it.

The Town of New Tecumseth recently passed an amendment to their business licensing by-law to license methadone maintenance treatment establishments. The rationale for licensing these establishments is to integrate these uses into the business community in a manner that is respectful of the clients, the surrounding businesses and the community; that the health, safety and well being of clients, staff and community is ensured; and that public nuisances such as loitering, harassment of the public and illegal activities will not disrupt the character of the area in which the methadone maintenance treatment establishment is located. The Town of New Tecumseth's amendment lists specific conditions ensuring that clients execute and abide by a behavior contract and will not engage in illegal activity; loiter in the area; or be disruptive or aggressive with local residents, retailers and customers of local retailers. Additional conditions include: adequate waiting room space; hours of operation and appointment only service.

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Based on the information in the Research Compendium and previous reports, it is in the public interest to enact a licensing by-law for methadone maintenance treatment clinics. The municipal purpose of such a licensing by-law is twofold. Firstly, to ensure the health, safety and wellbeing of persons or clients of methadone maintenance treatment clinics, a licensing by-law may offer solutions to meet this municipal purpose. Secondly, it is desirable to ensure that activities associated with methadone maintenance treatment clinics do not negatively impact surrounding properties and that the amenity and stability of local neighbourhoods be maintained with respect to acceptable quality of life measures.


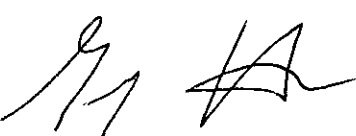
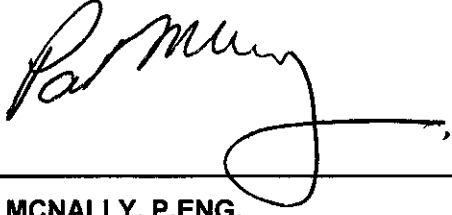
The attached by-law contains licensing provisions addressing: interior space accommodations for clients; hours of operation; installation of security cameras to ensure the safety and security of the public; operational conditions limiting clients to appointment only service and security requirements. At this time it is not possible to determine the cost of such a license however, this information will be available at a future public meeting if Council directs that such a public meeting be held.

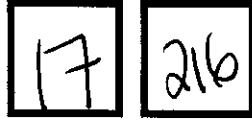
There may be legal issues in connection with the Canadian Charter of Rights and Freedoms (as per the recent Supreme Court of Canada decision (Attorney General of Canada v. PHS Community Services Society)). Consideration must also be given to the Ontario Human Rights Code to ensure that any by-law does not discriminate against a Code protected group including persons who are disabled as a result of substance abuse. Council may wish to request a legal opinion on these two matters at or before the public meeting.

CONCLUSION

In a report from the City Planner, it is well documented that regulatory options are required to properly locate methadone maintenance treatment clinics within the community with minimal impacts to surrounding properties and businesses. This report outlined licensing as an option in addition to planning related regulations that could assist in addressing issues related to methadone maintenance treatment clinics.

Administration recommends that licensing methadone maintenance treatment clinics is in the public interest to ensure the health, safety and wellbeing of clients of these facilities and to ensure that activities associated with these clinics do not create a nuisance to surrounding properties and that the amenity and stability of local neighbourhoods are maintained. To implement this municipal objective, it is a requirement that a public meeting be held to receive public feedback on the draft by-law.

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	PAT MCNALLY, P.ENG. EXECUTIVE DIRECTOR - PLANNING, ENVIRONMENTAL & ENGINEERING SERVICES



Bill No.
2011

By-law No.

A By-law to provide for the licensing and regulation of Outpatient Addiction Treatment Clinics and Outpatient Treatment Dispensaries 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 Outpatient Addiction Treatment Clinics and Outpatient Treatment Dispensaries for the purpose of protecting the health and safety 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 building or part of a building which is used principally for the prescription or dispensing or both of methadone and may include the provision of counselling and other support services but does not include a hospital;

“Methadone Dispensary” means a business selling or filling methadone prescriptions for customers as the primary activity of the business but does not include a pharmacy or a pharmacy that is accessory and ancillary to a hospital;

“Outpatient Addiction Treatment Clinic” means a business operated for the purpose of and specializing in the care, treatment and/or rehabilitation of persons suffering with addictions. This includes, but is not limited to, substance abuse treatment programs and Methadone Clinics. An Outpatient Addiction Treatment Clinic does not include an inpatient or residential addiction treatment program, or a program consisting solely of support group activities without treatment by licensed health practitioner;

“Outpatient Treatment Dispensary” means a business operated for the purpose of and specializing in business selling or filling controlled drug prescriptions for customers as the primary activity of the business including a Methadone Dispensary but excludes a pharmacy or a pharmacy that is accessory and ancillary to a hospital.

2.0 PROHIBITIONS

2.1 No person shall operate an Outpatient Addiction Treatment Clinic or an Outpatient Treatment Dispensary 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;

; and

- (d) 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary.

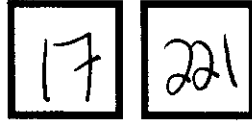


5.2 Every licence that is issued for the first time, and every renewal thereof, is subject to the following conditions of obtaining, continuing to hold and renewing a licence all of which shall be performed and observed by the Applicant or the Licensee:

- (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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary;
- (e) the premises used for the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary are not constructed or equipped so as to hinder the enforcement of this By-law;
- (g) the use of the premises used for the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary named therein. A separate licence shall be required for each Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary.

5.6 The Licensee shall notify the Licence Manager of any change in ownership of the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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

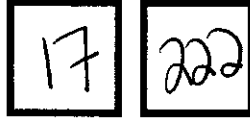
6.1 The Licensee shall ensure that:

- (a) there is adequate waiting room space inside the premises used for the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary to accommodate all persons and their companions attending for an appointment, awaiting test results and during treatment and counseling;
- (b) the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary shall operate only between the hours of 8:00 A.M. and 7:00P.M.;
- (c) the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary shall operate only on an appointment basis and not as a walk in clinic and shall provide services only to persons who have scheduled an appointment in advance of their attendance at the premises;
- (d) security cameras are installed, maintained and monitored to the satisfaction of the Licence Manager on the interior and exterior of the premises used for the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary;
- (e) the premises used for the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary are, during its hours of operation, patrolled and secured by professional security personnel; and
- (f) a legible copy of the license issued under this By-law is posted and maintained in a prominent and visible position inside the Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary.

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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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 Outpatient Addiction Treatment Clinic or Outpatient Treatment Dispensary 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.

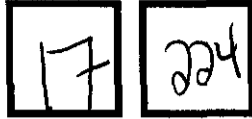
10.2 A director or officer of a corporation who knowingly concurs in the contravention of any provision of this By-law is guilty of an offence.

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 "Outpatient Addiction Treatment Clinics and Outpatient Treatment Dispensaries Licensing By- law".

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

Passed in Open Council on _____, 2011

Joe Fontana
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –

Schedule "A" - FEES