



CITY OF RICHMOND

REPORT TO COMMITTEE

TO: General Purposes Committee

DATE: June 28, 2000

FROM: Paul Kendrick
City Solicitor

FILE: 8060-20-7135

**RE: AMENDMENTS TO BYLAWS REGARDING MASSAGE THERAPISTS AND
RELATED BUSINESSES**

STAFF RECOMMENDATION

That Bylaw 7135, which amends the Business Regulation Bylaw regarding Body-Rub Parlours, and Bylaw 7149, which amends the Municipal Ticket Information Authorization Bylaw to add the ability to issue tickets for offences to the Massage Parlour and Body-Rub Parlour regulations, each be introduced and be given first, second and third readings.

Paul Kendrick
City Solicitor

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STAFF REPORT

ORIGIN

On June 12th, 2000, Council heard delegations on the existing and proposed Massage Parlour regulations. As a result of the comments and questions raised, Council asked for further information, and adopted the following referral resolution:

That the report (dated May 31st, 2000, from the City Solicitor) regarding Business Regulation Amendment Bylaw 7135 and Municipal Ticket Information Amendment Bylaw 7136, be referred to the City Solicitor:

- (a) to clarify the status of the legal issues currently before the Court;***
- (b) to provide an explanation on the definitions of the various business types regulated by the Business Regulation Bylaw, and how the bylaw would address situations where several business types such as massage therapy and body-rubs were being conducted in the same facility;***
- (c) to report on whether the proposed amendment to the closing time was justified in light of the issues addressed in item (b) above;***
- (d) to contact Ms. Chin and Ms. Green regarding the current and any proposed amendments to the definitions in the Business Regulation bylaw.***

FINDINGS OF FACT

Status of Legal Action:

The City adopted a bylaw in December 1999, that regulated Body-Rub Parlours, setting out standards for dress, cubicles, staff, hours of operation and the keeping of lists of customers. Four of the massage parlour operators challenged the bylaw in Supreme Court by applying for an "interim injunction" to stop the City from enforcing these new regulations. In April of this year, a court ruled that the City could enforce the bylaw, except for the section that required the keeping of customer's names. This court order is still in place, and thus the City is fully within its rights to enforce the new regulations and to issue tickets for a breach of those regulations.

The next step in the court proceeding would be for the operators of the businesses that are challenging the validity of the bylaw, to set the matter down for a hearing. To date, this has not been done, and until it is done, and a court ruling is made stopping the City from enforcing its bylaw, the City can and should continue to enforce the regulations established by the bylaw. The lawyer representing the City on this matter is confident that the City's bylaws will be upheld.

Definitions

The scheme in the bylaw was designed to have three separate designations for those providing massages.

The first category is the "Massage Therapist (Registered)" – these are businesses that only employ massage therapists those who are registered by the Association of Physiotherapists and Massage Practitioners of British Columbia. These businesses are not regulated in any way beyond the general regulations that apply to every business in the City.

The second category is the "Massage Therapist (Unregistered)" – these are the practitioners of alternative therapies such as shiatsu, reflexology etc. Under the City's current regulations, the only requirement for this category of business is the keeping of an up to date list of employees' names. The operating hours of these businesses are not regulated, but it has been suggested that they should be required to close at 9:30 p.m. Unfortunately, there is no recognized association for the various therapies listed in the definition, and thus, the definition is by necessity, vaguer than one would normally prefer.

The third category is the "Body-Rub Parlours" - these are businesses which provide a massage by someone who is either not provincially registered (first category above), or not performing one of the alternative touch therapies (second category above). This third category has many special requirements, in order to obtain a business licence including a \$3,000 business licence fee, and 11:00 p.m. closing hours each day.

We have been in contact with the lawyers who appeared before Council, and their main concern is the restricted hours of operation. One of the lawyers, Ms. Green, suggested that her clients would prefer that they be allowed to stay open until 2:00 a.m., however, the RCMP point out that 2:00 a.m. would be later than allowed in other jurisdictions. Surrey and Vancouver require midnight closing; New Westminster has a 9:00 p.m. closing, and Burnaby has no restrictions on the hours of operation.

ANALYSIS

Operators of some "Massage Parlours (Unregistered)" claim that they require hours later than 9:00 p.m. However, we have surveyed 13 registered Massage Therapists, as well as contacting the provincial association, and all would be agreeable to a section in the bylaw that would require a 9:30 p.m. closing for their business. Logically the same hours should be suitable for those providing the therapies done by the "Massage Parlours (Unregistered)", and the bylaw amendments reflect this.

Establishing a closing time of 2:00 a.m. for "Body-Rub Parlours" can not be justified, however Council could consider amending the bylaw, to require "Body-Rub Parlours" to close at midnight on weekdays and at 1:00 a.m. on weekends. The RCMP are prepared to accept these suggested hours, and the bylaw amendment attached reflects this as well.

While, at first blush, it would seem illogical to restrict the hours of businesses that do not cause the City any concerns such as the registered massage services listed above, and give those which have been a problem (Body Rub Parlours) less restricted hours, this variance in hours can be justified. It encourages those who do not offer either registered massage services or the therapeutic touch techniques to obtain the appropriate business licence thus enabling the City to better regulate these services. The body rub licence and accompanying regulations encourage a physical layout that help ensure the safety of the customers and employees, and has a licence fee that reflects the higher cost of policing these businesses.

FINANCIAL IMPACT

Not applicable

CONCLUSION

Business Regulation Amendment Bylaw 7135, which removes the requirement for keeping customer names, and which establishes the closing hours for Massage Parlours, Massage Parlours (Unregistered) and Body-Rub Parlours should be adopted. At the same time, Municipal Ticket Information Authorization Amendment Bylaw 7136, which allows the issuing of tickets for violations of the bylaw, should also proceed. If there is a successful challenge to these bylaws, subsequent amendments will be required to both.

Paul Kendrick
City Solicitor

PK:pk

CITY OF RICHMOND
BUSINESS REGULATION BYLAW NO. 6902,
AMENDMENT BYLAW NO. 7135

The Council of the City of Richmond enacts as follows:

1. Bylaw No. 6902 is amended by deleting clause (b) of sub-section 5A.1.1, and by substituting the following:

“(b) permit such business to be open only during the following hours:

Monday, 8:00 a.m. to midnight
Tuesday, 8:00 a.m. to midnight
Wednesday, 8:00 a.m. to midnight
Thursday, 8:00 a.m. to midnight
Friday, 8:00 a.m. to 1:00 a.m. Saturday
Saturday, 8:00 a.m. to 1:00 a.m. Sunday
Sunday, 8:00 a.m. to midnight”

2. Bylaw No. 6902 is amended by deleting clause (c) of section 5A.1.1 (Body-Painting/Body-Rub Studio Regulation).
3. Bylaw No. 6902 is amended by adding the following as Part Eight A:

“PART EIGHT A: MESSAGE THERAPIST (REGISTERED)

8A.1 Operator Obligations

8A.1.1 Every **Message Therapist (Registered) operator** must permit such business to be open only during the following hours:

Monday, 8:00 a.m. to midnight
Tuesday, 8:00 a.m. to midnight
Wednesday, 8:00 a.m. to midnight
Thursday, 8:00 a.m. to midnight
Friday, 8:00 a.m. to 1:00 a.m. Saturday
Saturday, 8:00 a.m. to 1:00 a.m. Sunday
Sunday, 8:00 a.m. to midnight “

4. Bylaw No. 6902 is amended by deleting section 9.1 (Massage Therapist [Unregistered] Regulation - Operator Obligations) and by substituting the following:

“9.1 Operator Obligations

9.1.1 Every **massage therapist (unregistered)** operator must:

- (a) provide the **Licence Inspector** with 24 hours' written notice of any changes in the personnel employed or engaged in such **business**, and the applicable provisions of the **Business Licence Bylaw** apply to any new persons proposed to be employed or engaged by the said **massage therapist (unregistered)**; and
- (b) permit such business to be open only during the following hours:

Monday, 8:00 a.m. to midnight
 Tuesday, 8:00 a.m. to midnight
 Wednesday, 8:00 a.m. to midnight
 Thursday, 8:00 a.m. to midnight
 Friday, 8:00 a.m. to 1:00 a.m. Saturday
 Saturday, 8:00 a.m. to 1:00 a.m. Sunday
 Sunday, 8:00 a.m. to midnight “

5. This bylaw is cited as “**Business Regulation Bylaw No. 6902, Amendment Bylaw No. 7135**”.

FIRST READING

SECOND READING

THIRD READING

ADOPTED

_____	CITY OF RICHMOND

_____	APPROVED for content by originating dept.
_____	APPROVED for legality by Solicitor

MAYOR

CITY CLERK

CITY OF RICHMOND

**MUNICIPAL TICKET INFORMATION AUTHORIZATION
BYLAW NO. 7139, AMENDMENT BYLAW NO. 7149**

The Council of the City of Richmond enacts as follows:

1. Bylaw No. 7139 is amended by deleting Schedule B 3 and by substituting the Schedule denoted as A which is attached and forms a part of this bylaw, as Schedule B 3.
2. This bylaw is cited as **“Municipal Ticket Information Authorization Bylaw No. 7139, Amendment Bylaw No. 7149”**.

FIRST READING

SECOND READING

THIRD READING

APPROVED BY THE CHIEF JUDGE OF THE
PROVINCE OF BRITISH COLUMBIA

ADOPTED

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor

MAYOR

CITY CLERK

SCHEDULE A to BYLAW 7149**Page 1 of 2****BUSINESS REGULATION BYLAW NO. 6902**

Column 1	Column 2	Column 3
Offence	Bylaw Section	Fine
Failure to produce a licence	1.1.1(a)	\$100
Failure to display a licence	1.1.1(c)(i)	\$ 50
Operating amusement machines outside the permitted hours	4.2.3	\$100
Operating more than 4 amusement machines when not permitted	4.3.1(f)	\$100
Failure to provide written notice of change in personnel employed/engaged by body-painting/body-rub studio	5A.1.1(a)	\$100
<i>Operating a body painting/body rub studio outside permitted hours</i>	5A.1.1(b)	\$100
<i>Failure to maintain room free of any locking device</i>	5A.2.1(a)	\$100
<i>Failure to provide window</i>	5A.2.1(c)	\$100
<i>Failure to keep window unobstructed</i>	5A.2.1(c)(ii)	\$100
<i>Permitting an under-aged employee in the premises</i>	5A.3.1(a)	\$100
<i>Permitting an under-aged person in the premises</i>	5A.3.1(b)	\$100
<i>Permitting the wearing of outer garments not covering the body between the neck and the top of the knee</i>	5A.3.1(c)	\$100
Operating a billiard/pool hall outside the permitted hours	5.1.1 5.1.2	\$100
Permitting an unaccompanied person under the age of 16 to be present in a billiard/pool hall	5.2.1(a)	\$100
Failure to provide written notice of change in personnel employed/engaged by escort service	6.1.1(a)	\$100
Failure to provide written notice of change in personnel employed/engaged by massage therapist (unregistered)	9.1.1	\$100

SCHEDULE A to BYLAW 7149**Page 2 of 2**

<i>Operating massage therapist (unregistered) outside permitted hours</i>	9.1.1(b)	\$100
Peddler standing/locating directly outside premises which offers the same or similar items for sale	11.2.1(a) 12.2.1(a)	\$100 \$100
Displaying or selling farm produce which is grown or raised outside the City	14.2.1(a)	\$100
Displaying or selling farm produce which is grown or raised outside the Province of British Columbia	14.3.1	\$100
Selling of firewood which is not ancillary to the sale of farm produce	14.4.3	\$100
Failure to maintain a second-hand dealer/ pawnbrokers' register as required	15.1.1(a)	\$100
Failure to produce a second-hand dealer/ pawnbrokers' register	15.1.1(b)	\$100