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REPORT
Meeting Date: November 24, 2011
Regional Council

DATE: October 25, 2011

REPORT TITLE: **LICENSING OF PERSONAL SERVICES SETTINGS AND FEES FOR PUBLIC HEALTH INSPECTION SERVICES**

FROM: Janette Smith, Commissioner of Health Services
David L. Mowat, MBChB, MPH, FRCPC, Medical Officer of Health

RECOMMENDATION

That the City of Mississauga be requested to license personal services settings, in consultation with Peel Public Health staff;

And further, that the Town of Caledon be requested to expand their current tattoo and piercing licensing by-law to include other types of personal services settings, in consultation with Peel Public Health staff;

And further, that fees for inspection services by Peel Public Health not be imposed at this time.

REPORT HIGHLIGHTS

- The Ontario Public Health Standards (2008) require regular inspection of a variety of private and public sector enterprises for the purpose of public health protection and disease prevention.
- Personal services settings are businesses where aesthetic services such as body piercing, tattooing, hairdressing, barbering, manicure, pedicure and other services are provided. Public health inspections help to reduce the risk of acquiring infections and blood-borne diseases from these services.
- Personal services settings operators are not required to notify the Medical Officer of Health of their intention to operate.
- Municipal licensing of all personal services settings facilitates the identification, inspection and enforcement of standards of practice.
- Currently, all personal services settings are licensed by the City of Brampton; tattooing and body piercing establishments are licensed by the Town of Caledon; no personal services settings are licensed by the City of Mississauga.
- A consistent approach to licensing would allow for consistent enforcement of standards of practice across the Region.
- Most of public health inspection services are intended to be cost-shared 75:25 per cent provincial:municipal, while some are 100 per cent provincially funded services. No fees are currently charged for inspection services.

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LICENSING OF PERSONAL SERVICES SETTINGS AND FEES FOR PUBLIC HEALTH INSPECTION SERVICES

DISCUSSION

1. Background

At the February 10, 2011 meeting of Regional Council the Medical Officer of Health was requested to communicate with area municipal licensing departments to request that the cost of health inspections be incorporated within the licensing fee and to require the licensing of all tattoo and body piercing establishments. In addition, the Medical Officer of Health was further requested to report to a future meeting of Regional Council on the feasibility of recovering health inspection costs related to inspections of private sector enterprises.

The Ontario Public Health Standards (2008) require regular inspection of a variety of private and public sector enterprises for the purpose of public health protection and disease prevention. Businesses and services under inspection include:

- food premises
- public swimming pools, spas, wading pools and splash pads
- bathing beaches
- tobacco vendors
- personal services settings including tattoo, body piercing, manicurists/pedicurists, hair salons
- small drinking water systems
- boarding and lodging homes

Most of these inspection services are intended to be cost-shared 75:25 per cent provincial:municipal, while some are 100 per cent provincially funded services.

Currently, fees for Peel Health, Environmental Health services are limited to food handler training and certification courses, materials and exams, and marijuana grow-op investigations. No fees are currently charged for inspection services.

The area municipalities currently charge an annual licensing fee for a number of different businesses under inspection by Peel Public Health staff. However, the licensing by-laws and fees vary significantly from municipality to municipality.

2. Findings

a) Licensing of Personal Services Settings

With respect to the licensing of tattoo and body piercing establishments, the City of Brampton and Town of Caledon currently require these establishments to hold a municipal license.

Town of Caledon By-law 2010-062 requires that no person shall engage in or carry on any business that conducts tattoo or piercing procedures unless that person is licensed in accordance with the by-law. The by-law does not apply to other types of personal services settings such as barbers, hair salons, manicure or pedicure services. In addition, the Town of Caledon by-law is supported by an approved schedule of set fines which allows for offence notices to be issued for areas of non-compliance.

In Brampton, Schedule S-27 to Licensing By-law 1-2002 requires that a license be obtained by every person who owns or operates a business which offers personal aesthetic procedures. Personal aesthetic procedures are defined as any procedures that contact intact or non-intact skin, or which penetrate skin, and include shaving, tattooing, piercing, manicures and pedicures.

Both the Town of Caledon by-law and the City of Brampton by-law outline sanitation, equipment, documentation and record keeping and record retention requirements which are also included in the **Inspection Prevention and Control Best Practices for Personal Services Settings** (Ministry of Health and Long-Term Care, January 2009). In addition, both by-laws require that all procedures and handling of equipment and instruments conforms to all applicable guidelines established by the Province of Ontario and the Medical Officer of Health. The inclusion of these requirements allows Town of Caledon, City of Brampton and Peel Public Health staff to collaborate on charges for non-compliance. Both by-laws also impose a requirement for proof of general liability insurance for all establishments offering tattooing services. In addition, the Town of Caledon by-law requires proof of liability insurance for piercing services.

Mississauga does not currently license personal services settings. Mississauga Compliance and Licensing Enforcement staff indicate that the by-law amendments required to license such establishments are not currently in their work plan.

Personal services settings operators are not required to notify the Medical Officer of Health of their intention to operate and can establish their business without notifying public health. In addition, the standards for personal services settings which currently inform public health inspections are provincial guidelines which cannot be enforced. The City of Brampton and Town of Caledon licensing by-laws codify important sections of the provincial guidelines, thus enabling enforcement through collaboration between Peel Public Health and City of Brampton or Town of Caledon staff.

A consistent approach to licensing would allow for consistent enforcement of standards of practice across the Region of Peel.

b) Charging Fees for Public Health Inspections

There is ample literature discussing the concept, advantages and disadvantages of charging fees for public health and health care services. With respect to public health, a recurrent theme is that services related to population health should be tax revenue supported (e.g. immunization to prevent epidemics), while services that are of benefit to a narrower portion of population could be considered for cost-sharing between tax supported and fee for service. Examples of this might include food handler training courses or vaccines that provide health protection for an individual or small group rather than the population as a whole.

It could be argued that mandatory public health programs, including the inspection of personal services settings, do benefit the broader community as much or more than they benefit the individual business operator and patrons alone.

Moreover, the Ministry of Health and Long-Term Care (MOHLTC) Program Based Budget User Guide provides clear direction on charging user fees. The Guide indicates that boards of health may, pursuant to the *Municipal Act, 2001,* charge user fees for mandatory and related programs as long as charging for the service is not specifically prohibited by a regulation. There are currently no provincial regulations specifically prohibiting the charging of fees for public health services.

However, where a board of health elects to charge a user fee all revenue collected must be offset against the expense before the subsidy is applied. This is consistent for all areas with funding from the MOHLTC. By way of example, assuming 75:25 percent cost sharing, a $100,000 program would attract a $75,000 subsidy and leave $25,000 for the tax levy. If $20,000 in user fees were charged, the total expense would drop to $80,000, with the subsidy dropping to $60,000 and the tax levy to $20,000. This results in the province benefiting significantly more from the user fee than the municipality.

In addition, the administrative costs associated with collecting the fees would be at the expense of the municipality.

c) Other Considerations

The MOHLTC Program Based Budget User Guide suggests that the following considerations also be taken into account when determining whether or not to charge user fees for mandatory programs:

- the impact on the public (i.e. spectrum of public benefit versus public harm);
- the impact on low-income or other special-needs populations (e.g. affordability and accessibility);
- only charging for the recovery of direct costs;
- directing the revenue back to the program to enhance public safety;
- ensuring revenue received exceeds the cost of its collection; and
- ensuring the user fee is not deemed to be an indirect tax.

A scan of other Greater Toronto Area health units revealed that none charge a fee for inspection services. Implementing inspection fees in Peel would not likely be well received by small business owners, particularly during the current economic climate.

3. Proposed Direction

Based on the considerations alluded to in this report it is not recommended that fees for inspection services be imposed at this time.

With respect to the licensing of all tattoo and body piercing establishments, it is recommended that the City of Mississauga and Town of Caledon in consultation with Peel Public Health staff, develop a plan to license all personal services settings.

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FINANCIAL IMPLICATIONS

Inspections of personal services settings are currently budgeted for in the Peel Public Health budget and are cost-shared with the Ministry of Health and Long-Term Care. No changes in services are anticipated and therefore no changes in the Council approved budget would be required.

CONCLUSION

For the reasons outlined in this report it is not recommended that a fee be imposed for inspection of personal services settings or other businesses under inspection by Peel Public Health. It is recommended that consistent personal services settings licensing by-laws be established in the Region of Peel. Therefore, it is recommended that the City of Mississauga license all personal services settings and the Town of Caledon enhance their current licensing by-law to include other types of personal services settings.

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Approved for Submission:

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