

BY-LAW NUMBER 17-2016

OF

THE REGIONAL MUNICIPALITY OF DURHAM

being a by-law to regulate compliance with infection prevention and control best practices and disclosure of health inspection information to the public regarding Personal Services Settings.

WHEREAS s. 11(2) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, otherwise authorizes a Council of an upper tier municipality to pass by-laws related to the health, safety and well being of persons;

AND WHEREAS the regulation of personal services settings within the Region of Durham is a matter related to the health, safety and well-being of its inhabitants;

AND WHEREAS the Regional Municipality of Durham, in its capacity as a designated Board of Health under the provisions of the *Health Protection and Promotion Act, R.S.O. 1990, c. H-7* and the *Municipal Act, 2001 S.O. 2001 c.25* has a duty to ensure the provision of health programs and services in a variety of areas;

AND WHEREAS the Ministry of Health and Long-Term Care has identified within its Ontario Public Health Standards, as amended from time to time, the board of health shall ensure that the medical officer of health or designate receives reports of and responds to complaints regarding infection prevention and control practices in settings for which no regulatory bodies, including regulatory colleges, exist, particularly personal services settings. This shall be done in accordance with the Infection Prevention and Control in Personal Services Settings Protocol, 2015 (or as current) and the Infection Prevention and Control Practices Complaint Protocol, 2015 (or as current);

AND WHEREAS the Council of the Regional Municipality of Durham deems it desirable for the health, safety and well-being of inhabitants and visitors to the Region of Durham to provide them with information regarding the safety performance of Personal Services Settings in the Region of Durham;

AND WHEREAS the Council of the Regional Municipality of Durham has endorsed the creation of a mandatory health inspection disclosure program in order to improve the health of Region of Durham inhabitants and visitors on the terms set forth herein;

NOW THEREFORE, the Council of the Regional Municipality of Durham hereby enacts as follows:

Definitions

1. In this by-law,

“Municipal Act” means the *Municipal Act, 2001 S.O. 2001, c.25*, as amended, and any regulations created there under;

“HPPA” means the *Health Protection and Promotion Act, R.S.O. 1990, c. H-7*, as amended, and any regulations created there under;

“Board of Health” means a board of health, as defined in the *HPPA*;

“Infection Prevention and Control Best Practices for Personal Services Settings” means the most current Guidelines produced by the Ministry of Health and Long-Term Care for the control of infections and to assist in developing policies and procedures to ensure an optimal level of care is provided, where such Guidelines should be seen as directing principles and indications or outlines of the expected practice.

“Infection Prevention and Control in Personal Services Settings Protocol” means the Infection Prevention and Control in Personal Services Settings Protocol, 2015, and any amendment thereto, published by the Ministry of Health and Long-Term Care under the authority of the Health Protection and Promotion Act (HPPA) to specify the mandatory health programs and services provided by boards of health, in this case the protocol developed to provide direction to boards of health to minimize the risk of contracting blood-borne and other types of infections for both clients and Personal Service workers during the delivery of Personal Services.

“Personal Services Settings Inspection Report” means an original copy of an inspection report that corresponds to an inspection conducted by a Public Health Inspector, that has been completed, signed and dated by a Public Health Inspector, and that has been issued to an operator of a Personal Services Settings.

“*Know Before You Go* Inspection Summary” means an original colour copy sign in the form depicted in one of Schedules “A”, “B” and “C” to this by-law belonging to and issued by the Regional Municipality of Durham to a Personal Services Setting as a result of any inspection of such Personal Services Setting conducted pursuant to the *HPPA*;

“Personal Services” means any, service where there is a risk of exposure to blood, such as, but not limited to: hairdressing and barber shops, tattoo and body piercing studios, electrolysis, acupuncture and various aesthetic services;

“Personal Services Setting” means any premises where Personal Services are offered and includes home-based and mobile premises.

“Medical Officer of Health” means the duly appointed Medical Officer of Health for The Regional Municipality of Durham, and includes any designate acting on his or her behalf;

“Municipal Law Enforcement Officers” are persons who, by virtue of their employment with the Region of Durham are charged with enforcement of the by-laws of the Region;

“Operator” means any person or persons who own, occupy, manage, control, govern, or has responsibility for and control over the activity carried on or within a defined Personal Services Setting. For the sake of clarity it is recognized that there may be more than one operator of a defined Personal Services Setting;

“Public Health Inspector” means a Public Health Inspector acting under the direction of the Medical Officer of Health for the Regional Municipality of Durham;

“Region” “Durham Region” or “Region of Durham” means the Regional Municipality of Durham;

“Sign Holder” means a Sign Holder issued by the Region of Durham or other Sign Holder approved by the Region of Durham.

PART 1 - PSS

Application

2. This by-law shall apply to all Personal Services in the Region of Durham.

Notice Requirement

3. Every person who intends to commence to operate a Personal Services Setting within the geographic boundaries of the Region of Durham shall give written notice of such intention to the Medical Officer of Health no less than 30 days prior to opening.

Infection Prevention and Control Requirement

4. Every person owning, operating, employed on or in a Personal Services Setting shall comply with the *Infection Prevention and Control Best Practices for Personal Services Settings*, 2009, as set by the Ministry of Health and Long-Term Care and the Province of Ontario pursuant to the HPPA.
5. Every person who operates a Personal Services Setting shall furnish the Medical Officer of Health with such information as the Medical Officer of Health requests in respect of operations of the Personal Services Setting.

Posting Requirement

6. Every Operator of a Personal Services Setting shall keep posted in the Personal Services Setting, in a conspicuous location at or near the entrance or entrances of such Personal Services Setting and clearly visible to members of the public, the most recent *Know Before You Go Durham* Inspection Summary.
7. Where a Personal Services Setting does not have an entrance or entrances at which the most recent *Know Before You Go Durham* Inspection Summary may be posted, then the Operator shall ensure that the *Know Before You Go Durham* Inspection Summary is posted at or near a location clearly visible to members of the public.
8. Every Operator of a Personal Services Setting shall keep a copy of the most recent Personal Services Setting Inspection Report readily available on-site and shall produce same for viewing by a Public Health Inspector or member of the public upon request.
9. Every *Know Before You Go Durham* Inspection Summary and Sign Holder shall remain the property of the Region of Durham. Operators, subject to the approval of the Region of Durham, are permitted to have Sign Holders other than that which is provided by the Region of Durham provided same in no way impair or obscure the visibility of the *Know Before You Go Durham* Inspection Summary.
10. No person shall deface, alter or remove any *Know Before You Go Durham* Inspection Summary properly posted in a Personal Services Setting.

Enforcement

11. All Public Health Inspectors exercising their duties pursuant to this by-law are hereby appointed as Municipal Law Enforcement Officers for that purpose.
12. A Public Health Inspector may enter and have access to, through and over any Personal Services Setting, at any reasonable time, for the purposes of enforcing this by-law or the exercise of any power or duty under this by-law, the *HPPA* or the *Municipal Act, 2001*.
13. An Operator shall return to Durham Region any *Know Before You Go Durham* Inspection Summary and/or Sign Holder upon the request of a Public Health Inspector.

Obstruction

14. No person shall hinder or obstruct a Public Health Inspector lawfully carrying out a power, duty or direction under this by-law.

Offences

15. Any person who contravenes any provision of this by-law is guilty of an offence and upon conviction is liable to a fine in accordance with the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.

Severability

16. If any section or sections of this by-law or parts thereof are found by any court of competent jurisdiction to be illegal or beyond the power of the Council of Durham Region to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this by-law shall be deemed to be separate and independent there from and to be enacted as such.

Effective Date

17. This by-law as it relates to posting of the *Know Before You Go Durham* Inspection Summary at the entrance of a Personal Services Setting shall come into force and take effect on June 1, 2016.

Miscellaneous

18. Nothing in this by-law shall limit or be deemed a voluntary restriction upon any right, power, ability or duty of the Region of Durham, the Medical Officer of Health or any Public Health Inspector under any statute, regulation, by-law or law in force in the Province of Ontario.

Short Title

19. This by-law may be referred to as the “Durham Region Personal Services Setting By-Law”.

BY-LAW read and passed this 9th day of March, 2016.

Roger Anderson, Regional Chair and CEO

Debi A. Wilcox, Regional Clerk