

November 20, 2019

To: Members
Priorities and Planning Committee

Re: Zoning Bylaw Regulations for Massage Parlours

RECOMMENDATION

1. That the amendments proposed to *The Regina Zoning Bylaw, 2019 (No. 2019-19)* in relation to the regulation of land use for massage parlours, as outlined in Appendix B to this report, be approved.
2. That an amendment to *The Regina Zoning Bylaw, 2019 (No. 2019-19)* and *The Licensing Bylaw* regarding residential businesses, including therapeutic massage, be approved which restores the requirement from *Zoning Bylaw No. 9250* that a residential business must be operated by the resident of the home.
3. That the City Solicitor be directed to prepare the necessary bylaw to authorize the respective amendments.
4. That this report be forwarded to the December 16, 2019 meeting of City Council for approval, which will allow sufficient time for advertising the required public notices for the bylaw.

CONCLUSION

Administration recommends approval of amendments to *The Regina Zoning Bylaw, 2019 (No. 2019-19)* to address the regulation of massage parlours as a land use. These amendments will fulfill the policy direction of City Council at its September 23, 2019 meeting (see Appendix A – Approved Policy Recommendations) and contribute to the achievement of the public safety and neighbourhood character objectives set out by City Council.

Administration also recommends approval of amendments to *The Zoning Bylaw* and *The Licensing Bylaw* regarding residential businesses, including therapeutic massage, to ensure that a residential business is operated by the resident of the home. This recommendation restores an element of *The Zoning Bylaw* that was eliminated in the new bylaw.

The report also provides options for consideration regarding the regulation of massage parlours as a land use. This information supplements the recommendations and provides the opportunity to establish a more focused policy framework should it be required.

BACKGROUND

On September 23, 2019 City Council approved a new zoning and licensing framework that focuses on harm reduction for workers, operators and their clients, minimizes community nuisances and protects the integrity of the city's residential neighbourhoods. City Council directed the City Solicitor to prepare the necessary amendments to the zoning bylaw, and Administration to return with proposed licensing regulations by March 31, 2020. A detailed outline of the approved policy recommendations can be found in Appendix A – Approved Policy Recommendations.

Additionally, City Council requested that Administration report on alternative options for where massage parlours may be allowed in the city. This report presents the proposed zoning regulations approved by Council at its September 23, 2019 meeting, together with two alternative options for Council's consideration.

DISCUSSION

The current *Regina Zoning Bylaw No. 9250* allows massage parlours as a discretionary land use in industrial zones (IA – Light Industrial Zone, IB – Medium Industrial Zone and IC – Heavy Industrial Zone) with required separation distances of 182.88 metres from:

Adult entertainment establishments	Nursery schools
Residential land use zones	Clubs
Single or multiple-unit residences	Funeral homes or crematories
Churches or religious institutions	Vocational schools
Elementary or high schools	Enclosed rinks
Public parks	Bowling centres
Child day care centres/homes	Recreational service facilities

On August 26, 2019 City Council approved a new *Zoning Bylaw, 2019 (No. 2019-19)* which requires the approval of the Minister of Government Relations. The new bylaw has been submitted to the province for review and will take effect 30 days after obtaining provincial approval. While it is not clear how long the review and approval process will take, a decision could be forthcoming at any time.

In light of the substantial amendments required to effect the zoning changes for massage parlours and given that the new bylaw could take effect in the near term, Administration recommends that Council approve amendments to the new bylaw only, with the amendments to take effect on the coming into force of the new bylaw. It is anticipated that the new bylaw will be approved by the Province by the end of 2019 or early in 2020.

Proposed Amendments to New Bylaw

To address the approved recommendations, it is proposed to amend three categories of the zoning regulations:

Approved Recommendations	
Define the service	<ul style="list-style-type: none"> ▪ Distinguish between massage parlours and therapeutic massage services offered by an accredited member of a professional body.
Identify the zones	<ul style="list-style-type: none"> ▪ Allow massage parlours only in industrial and major arterial commercial zones (or the equivalent in the new zoning bylaw) as a discretionary land use.
Establish separation distances	<ul style="list-style-type: none"> ▪ Impose a separation distance equal to one city block between massage parlours and: <ul style="list-style-type: none"> – schools, churches and daycares; and – other massage parlours, except that existing parlours that do not meet the separation distance but are otherwise regulatory compliant would not be required to relocate or cease operations.

The chart below sets out the proposed amendments, detailed in Appendix C – Proposed Bylaw Amendments to this report, to effect the changes for each of the above three categories.

Proposed Amendments	
Define the service	<ul style="list-style-type: none"> ▪ The amendments define massage parlours and therapeutic massage services as <i>Service Trade, Adult</i> and <i>Service Trade, Clinic</i> respectively. ▪ <i>Service Trade, Clinic</i> practitioners of massage services must be active members in good standing with either the Massage Therapist Association of Saskatchewan, Inc. or the Natural Health Practitioners of Canada. ▪ <i>Service Trade, Adult</i> references services offered for sensual or sexual pleasure or by a person who is not a member in good standing with either the Massage Therapist Association of Saskatchewan, Inc. or the Natural Health Practitioners of Canada.
Identify the zones	<ul style="list-style-type: none"> ▪ The Mixed High-Rise Zone (MH) in the new bylaw will replace the zoning of most properties currently zoned as Major Arterial Commercial (MAC) in the current bylaw. <p>The amendments allow massage parlours in the MH zone as discretionary land use. This is where most suspected massage parlours are operating.</p> <ul style="list-style-type: none"> ▪ There are two equivalent industrial zones in the new bylaw: <ul style="list-style-type: none"> – Industrial Light Zone (IL) – Industrial Heavy Zone (IH)

	<p>The amendments allow massage parlours in both zones as a discretionary land use.</p> <ul style="list-style-type: none"> ▪ A description of permitted and discretionary land uses is attached as Appendix D – Permitted and Discretionary Land Uses. ▪ Maps showing the locations of the allowable zones are attached as Appendix E-1 – Body Rub Location IL and IH Zones and E-2 – Body Rub Location – MH Zone.
<p>Establish separation distances</p>	<ul style="list-style-type: none"> ▪ The recommended separation distances were proposed before the cannabis zoning regulations were approved, which set separation distances of 182.88 metres (600 feet or one block) between cannabis stores and certain sensitive land uses, including those associated with youth. They are: <ul style="list-style-type: none"> – schools – parks – day care centres – enclosed rinks – public libraries – public community centres – other cannabis stores ▪ As these standards are more comprehensive than the distances initially recommended for massage parlours, and given that both cannabis stores and massage parlours are similarly sensitive land uses in nature, Administration recommends that they have equivalent separation distances and the proposed amendments reflect this recommendation. ▪ The amendments include a “grandfathering” provision for existing massage parlours that do not meet the separation distance from other existing massage parlours but are otherwise regulatory compliant. ▪ Maps showing how the separation buffers would be applied in the evaluation of a development permit are attached as Appendix E-1 – Body Rub Location IL and IH Zones and E-2 – Body Rub Location – MH Zone.

Additional Considerations

1. Legal non-conforming use. Notwithstanding the above amendments, there is one legislative requirement that will result in some properties not having to comply with the new regulations. Rather, these properties will be “grandfathered” and thus remain compliant.

Section 89 of *The Planning and Development Act, 2007* permits an owner to continue a specific use of property if it becomes unlawful by a new bylaw. This means that a use

that does not conform to a new bylaw is permitted to continue lawfully under the new bylaw if:

- it was properly in use up to the day of the amending bylaw; and
- the previous lawful use is continuing uninterrupted after the amending bylaw.

This means that therapeutic massage services that are lawfully existing when the amending bylaw is passed will not have to comply with the new accreditation requirements. Rather, the new accreditation requirements will apply to new therapeutic massage services only.

2. Existing Parlours. The separation distances recommended in the September 23 report included a recommendation that existing parlours would be exempt from separation distances from each other. The Administration expects that two existing locations would qualify for this exemption. To implement this, it is proposed that a baseline date of September 23, 2019 (the date on which City Council approved the policy) be used. Any parlour that applies for a development permit within the first 30 days of coming into force of the Bylaw would be eligible to submit proof that the parlour existed on the baseline date and would then be exempt from maintaining a separation distance from another existing parlour until either parlour moves or closes.

3. Residential Businesses. The new *Regina Zoning Bylaw, 2019 (No. 2019-19)* does not require that a person live at the home where the residential business is located. Nor does it prohibit employees from being hired to run the business. These are both requirements of the current *Zoning Bylaw No. 9250*. This report recommends that these requirements, which removed the residency requirement for residential businesses, be restored. The amendment does not affect massage parlours as they cannot operate in residential areas, but relates to therapeutic massage and other residential business. This requirement ensures that unoccupied homes are not operating as businesses in residential areas.

Accordingly, Administration recommends amending the *Regina Zoning Bylaw, 2019* and *The Licensing Bylaw* to include the current requirements that:

- an individual must be a primary resident of the home operating the residential business; and
- no employees are permitted in a residential business.

Other Options for New Zoning Regulations

At its meeting on September 23, 2019 City Council requested that Administration report on alternative options for where massage parlours may be allowed in the City.

Appendix A sets out two other zoning options, along with their advantages and disadvantages. The options generally include: (1) restricting massage parlours to industrial zones as a permitted land use; and (2) to allow massage parlours in industrial zones as a permitted use and Major Arterial Commercial Zones as a Discretionary Use. While there are advantages and

disadvantages to each approach, the recommended option would allow massage parlours as a discretionary use in MH – Mixed High Rise Zones as well as IL-Industrial Light and IH-Industrial Heavy Zones.

Enforcement of New Zoning Regulations

Once the new zoning regulations take effect Administration recommends taking an enforcement approach aimed at first achieving voluntary compliance. It is estimated that a six-month period would allow for:

- the licensing bylaw regulations to be developed and approved by Council;
- a period of education and outreach to existing massage parlours to help owners and practitioners understand the new regulatory framework and provide them with an opportunity to adjust and voluntarily comply with the requirements; and
- the disposal of non-compliant properties by owners through real estate transactions or lease terminations.

The benefits of this approach are twofold:

- enforcement measures are strengthened with a combined zoning and licensing framework; and
- the enforcement burden and costs will decrease significantly if existing massage parlours have an opportunity to voluntarily comply and fewer operations are required to be shut down involuntarily.

Education and enforcement. Following approval of the bylaw amendment, the City’s development officer (or designate) will work with enforcement partners at the Regina Police Service to identify suspected massage parlour owners and help them understand the new regulatory framework and the steps required to comply. Once the licensing framework is in place, City officials will work with enforcement partners at the Regina Police Service to fully enforce the regulatory framework and achieve compliance.

RECOMMENDATION IMPLICATIONS

Financial Implications

Resources to implement the recommendations will be considered as part of the 2020 and 2021 budget processes. Personnel costs include costs related to the transition and implementation of the new licensing and zoning regulatory framework in 2020, including education and outreach to existing massage parlours.

Ongoing costs in 2021 relate to personnel costs for zoning approvals and enforcement, licensing, and Regina Police Service support for criminal record, property ownership and business ownership checks. Additional costs for training of massage parlour practitioners may also be incurred in partnership with a community organization through an annual grant.

The estimated annualized cost of the program is \$310,000 plus any grant provided to a community organization for training.

	2020	2021
Development Officer	\$ 100,000	\$ 100,000
Licensing Officer	90,000	90,000
Regina Police Service Personnel	0	120,000
Annual Costs	\$ 190,000	\$ 310,000

From a cost recovery perspective, the City is allowed to set licensing and zoning fees to recover the full or partial cost of providing the services or to achieve other policy goals. In that regard, the City is currently reviewing its user fee framework to ensure that all services have cost recovery levels that are consistent with best industry practices and the benefits model set out in *Design Regina – Official Community Plan*.

That review is expected to result in the development of a formal policy regarding charges and fees that will be submitted for Council’s approval in early 2021. Any licensing and zoning fees that are established will be in full compliance with the benefits model and any future policy.

Environmental Implications

None with respect to this report.

Policy and/or Strategic Implications

The proposal is consistent with the policies contained within Part A of *Design Regina: The Official Community Plan Bylaw No. 2013-48* with respect to:

Section D11 – Social Development

Goal 3 – Community Security: Ensure that Regina is a safe community where everyone feels secure in their homes and neighbourhoods.

13.12 Promote health and safety by embracing the principles of Crime Prevention through Environmental Design (CPTED).

Section E – Realizing the Plan

Goal 7 – Zoning Bylaw Compliance: Ensure that the Zoning Bylaw facilitates development in accordance with the goals and policies of this Plan.

14.40 Ensure that applications to amend the zoning regulations, or requests for the rezoning of land consider the following:

14.40.2 The need to protect all forms of land use from harmful encroachments by incompatible uses.

Other Implications

None with respect to this report.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

The proposed amendments will be published in *The Leader-Post* on November 30 and December 7, 2019.

Interested parties will receive a copy of this report and notice of the meeting to appear as a delegation in addition to receiving a written notice of City Council's decision.

Information on the zoning bylaw regulations for massage parlours will also be posted on Regina.ca.

DELEGATED AUTHORITY

City Council's approval is required, pursuant to Part V of *The Planning and Development Act*, 2007.

Respectfully submitted,



Fred Searle, A/Exec. Director, City Planning & Community Dev.

11/12/2019

Respectfully submitted,



Diana Hawryluk, Executive Director, City Planning & Community Dev.

11/13/2019

Report prepared by: Donna Mitchell, Consultant, Public Policy