

Zoning Bylaw Regulations for Body Rub Establishments - Separation Distances

Date	January 29, 2020
To	City Council
From	City Planning & Community Development
Service Area	Planning & Development Services
Item No.	CM20-1

RECOMMENDATION

That City Council:

1. Approve the *recommended separation distance* for body rub establishments of 182.88 metres from schools, parks, daycares, enclosed rinks, libraries, community centres, sensitive lots and other body rub establishments, with a 'grandfathering' provision for existing establishments.
2. Direct the City Solicitor to prepare the necessary amendment to *The Regina Zoning Bylaw, 2019 (No. 2019-19)* to reflect Recommendation #1 above.

ISSUE

On December 16, 2019 City Council considered an Administration report (CR19-112) that recommended a separation distance for body rub establishments (BREs) of 182.88 metres from schools, parks, daycares, enclosed rinks, libraries, community centres, sensitive lots and other BREs, with a 'grandfathering' provision for existing BREs that do not meet the separation distance from other existing BREs but are otherwise regulatory compliant (the "*recommended separation distance*").

City Council requested that Administration provide additional information on the impacts if the buffer was expanded to 365.76 metres and included residences, places of worship and recreation facilities (the "*expanded separation distance*").

IMPACTS

The recommendation will have no financial, environmental, or other implications.

OTHER OPTIONS

Administration recommends that City Council approve the *recommended separation distance* for BREs:

Recommended separation distance

182.88 metres from schools, parks, daycares, enclosed rinks, libraries, community centres, sensitive lots and other BREs, with a 'grandfathering' provision for existing BREs that do not meet the separation distance from other BREs but are otherwise regulatory compliant.

There are two options:

Option 1: Approve the *expanded separation distance* by expanding the buffer to 365.76 metres and adding residences, places of worship and recreation facilities.

Map A-1 in Appendix A shows the locations where BREs may be permitted under this option, which is explored more fully below. This would leave only a few small pockets of areas that could accommodate BREs, thus restricting the City's ability to reasonably accommodate these establishments.

Option 2: Approve a hybrid between the recommended and the expanded separation distances by maintaining a buffer of 182.88 meters and adding residences, places of worship and recreation facilities.

This option is illustrated in Map A-2 in Appendix A. It combines elements of both the recommended and expanded separation distances by keeping the buffer at 182.88 metres and expanding the original list of land uses – schools, parks, daycares, enclosed rinks, libraries, community centres, sensitive lots and other BREs – to include residences, places of worship and recreation facilities.

While this option allows for more potential locations than a buffer of 365.76 metres, BRE operators would still likely experience challenges finding locations that work for their purposes while also meeting the City's requirements. A cursory review of the character of available industrial lands not covered by separation buffers shows few potential commercial storefront locations that may be physically suited for a BRE. There are very few locations east of the Ring Road that appear to be suitable. There is some industrial land generally west of Park Street, and east of Eastview, and within the Tuxedo Industrial Park that offers some potential spaces, although likely not enough to accommodate all BREs that exist today.

COMMUNICATIONS

This recommendation will have no communication implications.

DISCUSSION

The current zoning bylaw and the *recommended separation distance*. The *Zoning Bylaw, 2019 (No. 2019-19)* – which took effect on December 21, 2019 – requires BREs to be at least 182.88 metres (600 feet or one block) from:

- adult entertainment establishments
- adult entertainment stores
- other BREs, and
- sensitive lots (which includes properties zoned as residential, mixed, institutional or direct control).

A reference guide to the above terms and their definitions in the bylaw is attached as Appendix B.

On September 23, 2019 City Council approved policy recommendations (attached as Appendix C) for BREs that included imposing a separation distance equal to one city block between BREs and:

- schools, churches, daycares; and
- other BREs, except that existing BREs that do not meet the separation distance but are otherwise regulatory compliant would not be required to relocate or cease operations.

Administration returned to the Priorities & Planning Committee on November 20, 2019 with a report and proposed amendments to the zoning bylaw (*PPC19-13 Zoning Bylaw Regulations for Massage Parlours*). In its report, Administration noted that the September 23, 2019 distances were proposed before the cannabis zoning regulations were approved, which set separation distances of 182.88 metres between cannabis stores and certain sensitive land uses, including those associated with youth. They are:

- schools
- parks
- daycare centres
- enclosed rinks
- public libraries
- public community centres, and
- other cannabis stores.

As these standards are more comprehensive than the September 23, 2019 distances, and given that both cannabis stores and BREs are similarly sensitive land uses in nature, Administration recommended that they have equivalent separation distances and the proposed amendments reflected that recommendation. The amendments included the

addition of sensitive lots and a 'grandfathering' provision for existing BREs that do not meet the separation distance from other existing BREs but are otherwise regulatory compliant.

On December 16, 2019 City Council considered *CR19-112 Priorities and Planning Committee: Zoning Bylaw Regulations for Massage Parlours*. The report included the *recommended separation distance*, which is consistent with the separation distance for cannabis retail stores.

Administration is not aware of any study or research on the impact of separation distances for BREs or similar uses. Decisions for each municipality that chooses to establish a separation distance are based on its own policies, priorities and practicalities. In the absence of any other planning rationale, adopting the separation distances for other similar land uses aimed at adults – namely cannabis stores – offers the most useful precedent and guideline for BREs.

While the *recommended separation distance* may allow for BREs to operate in proximity to some sensitive land uses, such as residential units in converted warehouses or dance clubs for youth and children, the regulations intend to balance these concerns with the above-noted goals and still reasonably accommodate BREs.

Map A-3 in Appendix A shows the locations where BREs may be permitted under the *recommended separation distance*.

The expanded separation distance. The expanded separation distance for BREs would increase the buffer to 365.76 metres (1,200 feet or two blocks) and include residences, places of worship and recreation facilities in addition to those land uses and zones included in the original recommendation.

Map A-1 in Appendix A illustrates that the *expanded separation distance* restricts the City's ability to accommodate BREs. In total there were 82 additional properties that would require separation. Within industrial zones the Administration identified 30 properties that currently accommodate a recreation facility, 51 properties that contain a residence, and one property that contains a place of worship.

Administration gathered data through its own sources as well as using Google Maps. The City has no easy way to query location-specific land uses such as athletic clubs or dance clubs, so secondary sources of data were necessary. In the review of an application, Administration would more thoroughly review the buffer area surrounding the proposed location to ensure there are no conflicts.

The data shows that the *expanded separation distance* – while not amounting to a complete ban – would limit BREs to very few locations.

Assuming a BRE would require a limited size storefront type commercial unit, there appear to be limited properties in these areas that could physically accommodate such a use. The lands in the north east industrial area are utilized by oil refinery and related uses and could not accommodate a BRE. Remaining industrial areas may only offer limited space opportunities for BREs as most buildings are designed to accommodate industrial users. Furthermore, once a BRE has lawfully established in a location a separation buffer would be

applied around the location, which would prevent another BRE from locating within 365.76 metres.

The potential locations within the industrial zones are not well served by transit, especially during evening hours. There would be limited transportation options for workers as these establishments would be mostly outside of typical walking distance from any residential areas.

It is also worth noting that while the zoning bylaw allows for recreation facilities in industrial zones, it mostly prohibits additional residences or places of worship. Over time, the number of recreation facilities in industrial zones may continue to grow, whereas residences or places of worship may only be considered on a case-by-case basis through bylaw amendments by City Council. Also, as the separation distance would be applied both ways, (for example, from a proposed BRE to a recreation facility, or from a proposed recreation facility to an existing BRE) further development of recreation facilities within industrial zones, or any other separated land use, would be encumbered.

For the above reasons, Administration recommends that City Council approve the *recommended separation distance*.

DECISION HISTORY

On December 5, 2018 the Executive Committee considered *EX18-35 Plan to Engage the Public and Stakeholders on the Regulation of Massage Parlours* and approved a public engagement plan and the provision of further information on how to regulate the industry.

On June 12, 2019 the Executive Committee considered *EX19-24 Regulation of Massage Parlours* and adopted a resolution to table the report to a future meeting.

On June 20, 2019 the Priorities & Planning Committee considered *PPC19-7 Regulation of Massage Parlours* and requested a supplemental report on the licensing, enforcement and legal implications respecting Option B (licensing regime) and Option D (ban), as well as the engagement undertaken with Indigenous groups and academic experts for consideration by City Council.

On September 23, 2019 City considered *CM19-13 Supplemental Report – Regulation of Massage Parlours* and *CR19-78 Regulation of Massage Parlours* and approved a new zoning and licensing framework for BREs 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 2019 (No. 2019-19)*, and Administration to return with proposed licensing regulations by March 31, 2020.

On November 20, 2019 the Priorities & Planning Committee considered *PPC19-13 Zoning Bylaw Regulations for Massage Parlours* and made recommendations to City Council.

On December 16, 2019, City Council resolved to:

1. Amend the zoning bylaw to:
 - allow BREs as a permitted use exclusively in industrial zones IL and IH, and that Administration report back within one year on any impacts of this change;
 - require that operators of residential home businesses reside in the residence (which would preclude an operator from operating more than one residential home business);
 - change the applicable definitions in the bylaw from *Service Trade, Adult to Service Trade, Body Rub Establishment*, and
 - add the Canadian Massage & Manual Osteopathic Therapists Association (CMMOTA) to the list of professional bodies from which therapeutic massage therapists may maintain credentials;
2. Direct the City Solicitor to prepare the necessary bylaw to authorize the respective amendments; and
3. Direct the Administration to bring additional information to City Council on the expanded separation distance and land uses as discussed in this report.

Respectfully Submitted,

Respectfully Submitted,



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



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

1/23/2020

Prepared by: Ben Mario, Senior City Planner
Donna Mitchell, Public Policy Consultant

ATTACHMENTS

- Appendix A: Map A-1
- Appendix A: Map A-2
- Appendix A: Map A-3
- Appendix B: Reference Guide
- Appendix C: Approved Policy Recommendations