

## Body Rub Establishment Licensing Program

<b>Date</b>	July 8, 2020
<b>To</b>	Executive Committee
<b>From</b>	City Solicitor's Office
<b>Service Area</b>	Licensing & Parking Services
<b>Item No.</b>	EX20-26

### RECOMMENDATION

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The Executive Committee recommends that Council:

1. Approve the implementation of a licensing program for Body Rub Establishments as outlined in Appendix B, to include:
  - a. Licensing for establishments;
  - b. Requirements for workers and establishments including: criminal record checks, completion of an education program, proof of age and ability to work in Canada;
  - c. Reporting requirements;
  - d. Health and safety requirements;
  - e. Limited hours of operation.
2. Direct the City Solicitor to prepare the necessary bylaw to implement the licensing requirements as outlined in Appendix B Licensing Requirements, to be brought forward to the meeting of City Council one month following the disposition of this report.
3. Approve these recommendations at its July 29, 2020 meeting.

### ISSUE

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On September 23, 2019 City Council approved a new zoning and licensing framework that focuses on safety and harm reduction for workers, operators and their clients, minimizes community nuisances and protects the integrity of the city's residential neighbourhoods. The zoning options and the related bylaw amendments were approved by City Council in January and April 2020.

Policy direction provided by City Council included licensing the BRE only and not the workers but with requirements for the establishment to be responsible to: obtain identifying information from its workers, ensure workers are of legal age and legally eligible to work in Canada, and ensure workers receive training in safe practices and community resources. Also included in the policy direction was a plan to limit operating hours and require compliance with health and safety standards.

## **IMPACTS**

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### **Financial**

Resources to implement the recommendation include staff and training expenses. The estimated annualized cost of the program is between \$52,287 and \$115,000. A portion of these costs will be recovered from the licensing fees collected.

Ongoing expenses related to the training program of \$10,000 will need to be requested through the 2021 budget process.

### **Policy/Strategic**

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

## **OTHER OPTIONS**

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### **Licence Body Rub Establishment owners and workers**

Municipal research indicates that licensing both the body rub establishment owner/operator and the workers is the most common approach. This was not Administration's recommended approach because during the engagement process workers raised concerns regarding their names being included on the licence document. Access to information legislation in Saskatchewan (and elsewhere) considers the issuance of a licence to carry on business to be public information. This means that the names of license holders (but not the supporting documentation submitted to obtain the licence) are subject to the access to information regime in *The Local Authority Freedom of Information and Protection of Privacy Act* (LAFOIPPA).

As an alternative to licensing workers, the Administration has recommended that licensed BRE owner/operators be required to verify and collect information from its workers and submit it to the City upon request. However, should Council choose to licence the workers in addition to the owners, Administration recommends that the requirements for worker licences be as follows:

- Attendance in person to produce government issued photo identification containing legal name and age to be at least 18 years;
- List of all aliases and/or pseudonyms;
- Proof of completion of BRE education program;
- Legally be eligible to work in Canada;
- Certificate of approval from the Regina Police Service;
- Submit licence fee of \$100.

Workers would also be required to submit updated information any time they changed their place of employment and renew the licence each year. The recommended fee of \$100 is consistent with the amount charged by the City of Saskatoon.

## **COMMUNICATIONS**

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Materials outlining licensing program requirements will be prepared and distributed to all current businesses and workers.

## **DISCUSSION**

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Administration conducted a jurisdictional review of licensing programs, summarized in Appendix A, held public engagement sessions, met with industry participants, the Regina Police Service (RPS) and various community interest groups to develop the proposed licensing program. All research conducted, and participants in the process acknowledged the need to ensure safety for workers, patrons and the community, resulting in a proposed licensing program with safety as its primary goal. The licensing program identifies the required documentation for owners to obtain a BRE licence, information they must collect and maintain from all workers, requirements for patrons, hours of operation, building and advertising requirements, applicable fees and violations. Each of the proposed licensing requirements are discussed below and included in Appendix B.

### **BRE Owner/Operator Requirements**

All BRE owner/operators would be required to apply for a BRE licence. The process would be similar to the current business licence process. Licences would be issued for one calendar year and would need to be renewed each year. The BRE owner would be required to attend in person to submit the application and provide the following information and documentation at the time of initial application and licence renewal:

- Documentation regarding ownership
- Government issued identification containing legal name
- List of all aliases and/or pseudonyms
- Government issued identification showing they are 18 years or older
- Proof of completion of education programs
- Legal eligibility to work in Canada
- Certificate of approval from RPS

- Approved development permit
- Submit BRE licence fees

RPS has identified that when owner/operators and workers are required to provide proof of their identity, the level of safety increases. Collecting and maintaining this information provides some assurance that the individual is not participating against their will. Therefore, BRE owner/operators will be required to collect the following information for each worker before they begin work in the establishment and annually thereafter:

- Government issued identification containing legal name
- List of all aliases and/or pseudonyms
- Government issued identification showing they are 18 years or older
- Proof of completion of education programs
- Legal eligibility to work in Canada
- Certificate of approval from RPS

The BRE owner/operator must maintain these records for a period of twelve months and provide this information to the Licence Inspector or the Regina Police Service upon request.

### **Certificate of Approval Process**

The Certificate of Approval Process will be conducted by RPS. The process will include a Criminal Record Check (CRC) and full enquiry into the applicant's suitability for a BRE licence and/or providing services in such an establishment. The process may include background checks determined to be appropriate by the Chief of Police, circumstances of offences, involvement in criminal activity relevant to operation of a BRE or providing services within such an establishment and/or an in-person interview. Once completed, the outcome would be provided to the City. This process is similar to the certificate of approval process in place for taxi drivers and ensures applicants attend to RPS in person. To ensure information is up to date, the certificate of approval and CRC must be no older than 30 days at time of application.

### **Education Program**

Ensuring the safety for those working in this industry has been a concern for all stakeholders and Administration recommends mandatory completion of an annual training program focusing on safe practices and community resources for all BRE owner/operators and workers. It was determined the program should be facilitated by a third party with expertise in these areas. The use of a third party provider is also intended to increase the comfort and participation of workers who may not feel as comfortable receiving training from the entity who also enforces the bylaw.

Administration has approached the Regina Sexual Assault Centre (RSAC) to discuss the opportunity to develop and deliver the education program. RSAC has a mandate to reduce incidents and impacts of sexual violence through education and support, and although not all individuals engaged in BRE work require this support, they have found that ensuring engagement and support from people within the community such instances occur less frequently. RSAC will also identify experts in other areas to participate in the program. The education program will include information on topics such as:

- basic sexual health
- personal safety while working in the industry
- how to identify human trafficking risks
- overdose awareness and naloxone administration
- sexual assault programs, violence reporting and safe shelters
- how to exit the industry if desired
- bylaw regulations regarding BRE

Participants will also be provided contact information for general supports that are available, as well as a contact from both the City of Regina and RPS that will lead outreach activities. BRE owner/operators will also be required to post this information in their establishment. Successful participants will be issued a certificate from the program facilitator.

The City of Edmonton has successfully offered a similar program for the past four years. Workers have shared that the program content is informative and assists with keeping them safe.

### **Patrons**

In discussion with RPS on measures to ensure safety, they suggested that safety is increased when patrons are required to provide identification. As a result, Administration recommends that BRE be required to obtain proof of identity through government issued photo identification for all patrons prior to providing services. For the safety of the workers, the patrons must not appear to be intoxicated in any way from alcohol or drugs. All patrons will also need to provide proof that they are over the age of 18 to enter the establishment. This requirement is consistent with all other municipalities researched.

### **Hours of Operation**

Consultations with industry participants indicated there was a desire to operate their businesses 24 hours a day. Many identified that they are single operators and set their hours based on demand, taking time off when demand is low. Currently the City does not regulate hours of operation for other businesses that are licensed (residential businesses, pawn dealers, secondhand dealers etc.) However, research indicated that most municipalities either prescribe or restrict the hours a BRE may operate. RPS supports definitive opening and closing hours as this ensures workers are not being pressured to work all hours of the day, allowing workers time to eat, sleep and attend to other matters. To reflect the interest of this type of business and address concerns shared by the RPS, Administration recommends a restriction on the hours of operation for BRE to not operate between 2 a.m. and 10 a.m. any day of the week.

Administration also recommends that a minimum of two workers are present at all times during business hours. When reviewing other municipalities, only Edmonton requires two workers while other municipalities require the business owner to be in attendance at all times. From a safety perspective, ensuring multiple workers are present is more beneficial than prescribing whom should be present.

### **Building**

Municipal research revealed that building requirements varied greatly from city to city. Regulations related to lighting, ventilation, washroom, sanitation, signage, separation distances, dwelling usage and entryways. Signage, separation distances and zoning for dwellings are regulated within *The Regina Zoning Bylaw*. Washroom and sanitation guidelines are specified in other provincial regulations and rather than duplicating these requirements, Administration recommends including a requirement that the BRE licence may be suspended or revoked for violations of other laws.

To promote safe access, Administration recommends that all entrances must be well lit, free from obstruction and the front door must be used for all customer entry and exit. For safety within the building, there shall be no locking mechanisms on any interior doors. These requirements are consistent with most other municipalities researched.

Although not a requirement in other municipalities, RPS suggested a mandatory mechanism for workers to alert other employees of a potential safety concern. Administration recommends that working panic alarms must be installed in or within close access to all treatment rooms.

### **Advertising**

All advertising, including signage at the establishment, must include the BRE licence number. This requirement is consistent with Toronto, Windsor and Edmonton and ensures the ability to quickly confirm if the operator holds a valid licence.

### **Fees**

Resources to implement the recommendation include staff and training expenses. Ongoing costs beginning in 2021 relate to licensing and RPS staff for reviewing and processing licences, outreach activities and enforcement. Additional costs for training of BRE owners and workers, in partnership with a community group, will also be incurred.

The estimated annualized cost of the program is between \$52,287 and \$115,000 as detailed below. Actual costs of the program would be dependent on the number of BRE that are licensed and those that require enforcement activities. These costs relate only to licensing and enforcement of new BRE that will begin operation under the new framework and does not include enforcement or legal costs to close operations currently in violation of *The Zoning Bylaw*.

	20 Locations	10 Locations	5 Locations
Licensing Officer	45,000	25,397	18,123
RPS Constable	60,000	33,863	24,164
Training Program	10,000	10,000	10,000
<b>Total Costs</b>	<b>115,000</b>	<b>69,260</b>	<b>52,287</b>
Cost Recovery (per location)	\$ 5,750	\$ 6,926	\$ 8,715

The proposed licence fee is not full cost recovery because this would make obtaining a licence cost prohibitive. While the licensing fees do not recover all costs related to the industry, regulating this industry benefits the safety of the community and not just members of the industry and therefore it is not inappropriate to recover the costs from general revenues.

Edmonton found that prohibitive licence costs simply lead to non-compliance. Taking a harm-reduction approach to the sector has proven to be more effective from the perspective of safety and neighbourhood impact. Feedback from RPS also indicated a preference for lower fees in order to achieve compliance and higher fines for those that do not comply. Administration recommends an annual licence fee of \$630. This is consistent with the licence fee charged by Edmonton, who also provides a training program for BRE owners, operators and workers.

### **Violations**

Existing fines for failure to obtain a business licence (cost of the licence plus 50 per cent) are not sufficient to address the variety of circumstances and violations contained within the proposed licensing scheme. Administration recommends that fines for BRE violations be subject to determination by a court upon conviction up to the maximum amounts prescribed in *The Cities Act*.

## **DECISION HISTORY**

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CR19-78 was presented to Council at the September 23, 2019 meeting and approved an approach to massage parlours in Regina be adopted that regulates the industry as a business and that focuses on harm reduction for workers, operators and their clients and the plan to develop a licensing program for massage parlours as outlined.

CR19-112 was presented to Council at the December 16, 2019 meeting. The report was referred back for Administration to provide additional information on increasing separation distances and adding additional land uses.

CM20-1 was presented to Council at the January 29, 2020 meeting where the recommendation was approved.

Bylaw 2020-11, being *The Regina Zoning 2019 Amendment Bylaw (No. 2)* received first and second reading by Council on February 26, 2020. The Bylaw was adopted by Council on April 29, 2020.

Respectfully Submitted,



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Dawn Schikowski, Manager Licensing & Parking Services 6/30/2020

Respectfully Submitted,



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Byron Werry, City Solicitor

7/2/2020

Prepared by: Dawn Schikowski, Manager, Licensing & Parking Services

### **ATTACHMENTS**

Appendix A Jurisdictional Review

Appendix B Licensing Requirements