Minutes – Executive Policy Committee – June 16, 2021

REPORTS

Item No. 4 Strategies and Tools to Enhance Neighbourhood Liveability via the Doing Business in Winnipeg By-law – Problematic Business Activities

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service, as amended, and recommended to Council:

1. That Recommendations 1,4, 5, and 6 be laid over for up to 180 days, namely:

    1. That the name of By-law No. 91/2008 be changed from "the Doing Business In Winnipeg By-law" to "the Business Licencing for Community Standards By-law".

    4. That effective October 4, 2021 a reduction to annual licence fees be approved for body rub practitioners and escorts from $371 to $25.

    5. That effective October 4, 2021 a new registration fee in the amount of $25 be established for staff who are not licenced body rub practitioners or escorts working in Body Rub Parlors and Escort Agencies.

    6. That the Public Service be directed to review the current zoning restriction limiting the operation of Body Rub Parlours and Escort Agencies only in the Downtown area.

2. That a by-law be enacted to amend the Doing Business In Winnipeg By-law No. 91/2008 (draft amending by-law attached as Appendix A), with the following amendments:

    A. Delete all sections with respect to Adult Oriented Businesses

    B. Delete all sections with respect to changing the name of the By-law from "the Doing Business In Winnipeg By-law" to "the Business Licencing for Community Standards By-law".

    and the Director of Legal Services and City Solicitor be directed to prepare and bring directly to Council for enactment the By-law in accordance with the above.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

3. That the new fines set out in Appendix B be approved, which will be enforced through the Municipal By-Law Enforcement Act, with the following amendments:

    A. Delete all sections with respect to Adult Oriented Businesses

    and the Director of Legal Services and City Solicitor be directed to prepare and bring directly to Council for enactment the By-law in accordance with the above.

4. That the Public Service be directed to report back within 180 days detailing how making business licenses available to adult oriented businesses reconciles and/or complies with *The Protection of Communities and Exploited Persons Act*, incorporating consultations with:

    A. Organizations that work with victims of human trafficking including, but not limited to, the Ma Mawi Wi Chi Itata Centre and The Joy Smith Foundation.

    B. Stakeholders specifically in line with the National Inquiry Calls to Justice 4.3, 18.14, 12.14, and 9.11 calling upon governments to promote safety and security in partnership with people with lived experience in the sex industry.

    C. Escorts and body rub practitioners and the Sex Workers of Winnipeg Action Coalition.

    D. The Massage Therapy Association of Manitoba, Manitoba Justice and Manitoba Health.

5. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor Gillingham,

WHEREAS the section of the public service report *Strategies and Tools to Enhance Neighbourhood Liveability via Doing Business in Winnipeg By-law - Problematic Business Activities* ("The Report") related to Adult Oriented Businesses would benefit from additional consultation with relevant stakeholders.

THEREFORE BE IT RESOLVED that the recommendation of the Winnipeg Public Service be concurred in with the following amendments and forwarded to Council:

- Delete Recommendations 1,4,5 and 6 and replace with the following:

  "1. That Recommendations 1,4, 5, and 6 be laid over for up to 180 days, namely:

    "1. That the name of By-law No. 91/2008 be changed from "the Doing Business In Winnipeg By-law" to "the Business Licencing for Community Standards By-law".

    4. That effective October 4, 2021 a reduction to annual licence fees be approved for body rub practitioners and escorts from $371 to $25.

    5. That effective October 4, 2021 a new registration fee in the amount of $25 be established for staff who are not licenced body rub practitioners or escorts working in Body Rub Parlors and Escort Agencies.

    6. That the Public Service be directed to review the current zoning restriction limiting the operation of Body Rub Parlours and Escort Agencies only in the Downtown area.""

- Add the following to the end of Recommendation 2:

  "with the following amendments:

  A. Delete all sections with respect to Adult Oriented Businesses.

  B. Delete all sections with respect to changing the name of the By-law from "the Doing Business In Winnipeg By-law" to "the Business Licencing for Community Standards By-law".

  and the Director of Legal Services/City Solicitor be directed to prepare and bring directly to Council for enactment the By-law in accordance with the above."

DECISION MAKING HISTORY (continued):

- Add the following to the end of Recommendation 3:

  "with the following amendments:

  A. Delete all sections with respect to Adult Oriented Businesses

  and the Director of Legal Services/City Solicitor be directed to prepare and bring directly to Council for enactment the By-law in accordance with the above."

- Add the following new Recommendation 4 and renumber the remaining recommendation accordingly:

  "4. That the Public Service be directed to report back within 180 days detailing how making business licenses available to adult oriented businesses reconciles and/or complies with *The Protection of Communities and Exploited Persons Act,* incorporating consultations with:

  A. Organizations that work with victims of human trafficking including, but not limited to, the Ma Mawi Wi Chi Itata Centre and The Joy Smith Foundation.

  B. Stakeholders specifically in line with the National Inquiry Calls to Justice 4.3, 18.14, 12.14, and 9.11 calling upon governments to promote safety and security in partnership with people with lived experience in the sex industry.

  C. Escorts and body rub practitioners and the Sex Workers of Winnipeg Action Coalition.

  D. The Massage Therapy Association of Manitoba, Manitoba Justice and Manitoba Health."

Yea:	Bowman, Allard, Browaty, Gillingham, Gilroy, Mayes, Rollins	7
Nay:		0

Carried

DECISION MAKING HISTORY (continued):

The following persons submitted communications:

- Joy Smith, The Joy Smith Foundation Inc., submitted a communication dated June 16, 2021, in opposition to the matter
- Tricia Weidenbacher submitted a communication dated June 15, 2021, in opposition to the matter
- Michael Gupton, Director, KMG Environmental Incorporated, DBA/ KMG Gold Recycling, submitted a communication dated June 16, 2021, with respect to the matter

ADMINISTRATIVE REPORT

Title: Strategies and Tools to Enhance Neighbourhood Liveability via the Doing Business in Winnipeg By-law – Problematic Business Activities

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
W. Yee	C. Fernandes	C. Kloepfer	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The *Doing Business in Winnipeg By-law* was passed by Council on April 23, 2008, and implemented on June 1, 2008. The By-law had three key principles for licensing businesses in Winnipeg: 1) public health protection; 2) fire safety; and 3) crime prevention. With the transfer of Public Health Services to the Province of Manitoba in 2012, and the subsequent elimination of Public Health-related licences in 2015, the current licensing By-law only applies to a small number of businesses in Winnipeg, most of which fall under a crime prevention or housing standards umbrella.

The recommended by-law changes are focused on certain multi-family Accommodations, Used/Resold Goods, and Adult Orientated Businesses. They serve to update the City's Licensing program, provide further protection for vulnerable persons, simplify licensing categories, and provide additional regulatory tools for law enforcement. Consequential changes will increase compliance inspections and reporting expectations on licencee, improve enforceability, and impose penalties where appropriate to ensure sufficient tools to achieve compliance.

The By-law focuses on four key policy objectives for licensing businesses in Winnipeg:

1) Enhance Safety for Vulnerable Persons: To set minimum accommodations standards for lower spectrum housing and apply a health, safety, well-being, and protection approach to workers of adult orientated businesses so that minimum safety standards are in place and educational resources are available.
2) Fire Prevention: To enable local authorities, for the purpose of fire prevention and life safety, to regulate and control businesses which have historically presented a high risk due to the likelihood, or the severity of impact of fire.
3) Crime Prevention: To enable local authorities, in order to suppress conditions that may foster crime and to assist law enforcement, to regulate and control businesses or those engaged in the business of buying and/or selling of second-hand goods.
4) Increase Regulatory Effectiveness: Design and implement by-laws for law enforcement and regulators, which are pragmatic tools and which when administered and inspected, and supported by the credible threat of enforcement, will produce an intended or expected result consistent with the City of Winnipeg's policy objectives.

All changes to the by-law support one or more of these policy objectives. Consultation with local businesses and community organizations helped inform the recommended changes to the Doing Business in Winnipeg By-law.

RECOMMENDATIONS

1. That the name of By-law No. 91/2008 be changed from “the Doing Business In Winnipeg By-law” to “the Business Licencing for Community Standards By-law”.

2. That a by-law be enacted to amend the Doing Business In Winnipeg By-law No. 91/2008 (draft amending by-law attached as Appendix A).

3. That the new fines set out in Appendix B be approved, which will be enforced through the Municipal By-Law Enforcement Act.

4. That effective October 4, 2021 a reduction to annual licence fees be approved for body rub practitioners and escorts from $371 to $25.

5. That effective October 4, 2021 a new registration fee in the amount of $25 be established for staff who are not licenced body rub practitioners or escorts working in Body Rub Parlors and Escort Agencies.

6. That the Public Service be directed to review the current zoning restriction limiting the operation of Body Rub Parlours and Escort Agencies only in the Downtown area.

7. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On September 26, 2019, Council concurred in the recommendation of Executive Policy Committee and adopted changes to the Neighbourhood Liveability By-law, and the Vacant Building By-law for the purposes of enhancing neighbourhood liveability. As part of that report titled “Strategies and Tools to Enhance Neighbourhood Liveability”, Recommendation 10 directed the Public Service to further examine whether additional regulations on problematic business activities will enhance the City’s ability to address and maintain community standards, and report back to Council at, or before, its final meeting of 2020.

On December 17, 2020, Council granted an extension of time of 120 days to report back on the matter.

Further, on April 29, 2021, Council granted an additional extension of 60 days to report back on the matter.

Council approval is required to move forward with proposed policy changes, adopt an amended licensing by-law, and to establish fees and fines.

IMPLICATIONS OF THE RECOMMENDATIONS

The proposed by-law amendments serve to update the City's business licensing program, provide further protection for vulnerable persons, simplify licensing categories, and provide additional regulatory tools for law enforcement. Consequential changes will increase compliance inspection and reporting expectations on licencees, improve enforceability, and impose penalties where appropriate to ensure sufficient tools to achieve compliance.

Renaming of the By-law
Upon adoption of the report the following by-laws will need to be amended to reflect the renaming of this by-law:

1. Municipal Enforcement By-law No. 59/2016
2. Downtown Winnipeg Zoning By-law No. 100/2004
3. Winnipeg Zoning By-law No. 200/2006

Consolidating classes of "accommodations" licences
Upon adoption of the report and amending by-law, four classes of licences will be reduced to three. The licensing of Converted Residential Dwellings (CRD), CRD with Shared Facilities, Shared Facility Dwellings, and Hostels (which includes Bed and Breakfast) will be consolidated into three classes of licences: (1) CRD, (2) CRD with Shared Facilities, and (3) Shared Facility Dwellings.

The financial implications of the consolidation of categories of licences are minimal. The annual licence fees will remain the same with the exception of that for hostels (including bed and breakfasts), which as a category has a current fee of $559. On consolidation with Shared Facilities Dwelling the new fee will be $549. Currently there are three Hostel licences issued.

Floor plans and posting accommodations licences
All applicants or licencees with accommodations type licences must submit current floor plans as part of the application or renewal of licence, and be required to post the licence on the exterior of the premises. Failure to provide current floor plans or posting accommodations licence information will be an offence under Municipal Bylaw Enforcement Act (MBEA), and a penalty section will be added to the MBEA.

All CRDs must be licenced
All owners of CRDs will be required to be licenced, unless the property owner can provide proof of one of the following to be eligible to no longer licence:

I. Provides a completion notification (if the building is converted to a single-family dwelling or duplex) or an occupancy permit (for commercial conversions complying to current building code) issued from the City of Winnipeg demonstrating that the property no longer meets the definition of a CRD, or
II. Demonstrates to the satisfaction of the designated employee that the property is owner occupied and that no part of the building is available for rent, or
III. Vacates the property as defined under the Vacant Building By-law 79/2010 and therefore subject to administration and enforcement under that by-law.

Antique Dealers to be licenced
Upon adoption of the report and amending by-law, all Antique Dealers will be required to apply for a licence as a used goods dealer. Antique Dealers would fall under the current Used Goods Dealers' licence category with an established licence fee of $1,377. It is estimated that 10 current businesses would now require licensing, resulting in estimated revenues of $13,700 annually.

Dealers in scrap metal
The obligations on dealers in scrap metal will be eased or relaxed so that records are no longer needed unless it involves the acquisition of high value metals including copper, platinum, palladium, rhodium or brass. Used bicycles and bicycle parts will be specifically exempted from the category of "scrap metal" so that the records will be required to be made when acquiring them.

Precious Metals Dealers
The number of days that Precious Metal Dealers be required to hold items acquired will change from 15 days to 30 days.

Adult orientated businesses: Body Rub Parlours, Practitioners, Escorts, and Escort Agencies.
A health, safety, well-being, and protection approach to licensing of body rub practitioners and escorts has been incorporated into the by-law through the lowering barriers to licensing, including:

I. reduction of the fees for practitioners and escorts from $371 to $25 for all applications and renewals effective October 4, 2021,
II. implementing a mandatory information session for practitioners, escorts, and staff at those businesses effective October 4, 2021 so that resources including health, social services, and community policing are readily available,
III. reducing the number of photos required as part of the application for body rub practitioners or escort licences from 3 to 2.
IV. allowing for online receipt and approval of body rub practitioner and escort licences, and
V. eliminating the requirement for a certificate from the records review board as part of the licensing of body rub practitioners and escorts.

A new registration requirement for all staff who are not licenced body rub practitioners or escorts is established in the by-law for those working in a licenced Body Rub Parlours and Escort Agencies. Failure to ensure all staff are either licenced or registered is an offence by the owner and punishable under the MBEA.

Currently, 52 practitioner and escort licences are issued at a fee of $371, resulting in annual revenue of $19,292. With the reduction of the fee to $25 annualized revenue for the same number of licences is $1,300, a loss of $17,992. However, feedback from advocates and Police is that there are practitioners and escorts operating who are not licenced who may apply for licences at the recommended fee. Additionally, the establishment of a new registration requirement and new fee in the amount of $25 for all staff who are not licenced body rub practitioners or escorts will further mitigate the overall financial impact of the reduction in the practitioner and escort licence fee.

The creation and administration of mandatory information sessions will be managed within existing Council approved budgets.

Effective October 4, 2021 licenced Body Rub Parlours will be required to have a working CCTV system at the reception area with a required 72 hours retention of recordings, and panic alarms with local sounding alarm in the business sufficient to notify all in the business, in all rooms used by body rub practitioners; a failure to do so would be an offence punishable under the MBEA.

At the direction of Council, the Public Service will review the current zoning restriction for Body Rub Parlours and escort agencies to operate only in the Downtown area, and report back.

New Fines in Municipal By-Law Enforcement Act (MBEA)
It is estimated through enforcement efforts by Winnipeg Police Services and Community By-Law Enforcement Services MBEA penalties may yield $5000 - $10,000 initially for failure to comply with the new licensing requirements. Subsequently, we estimate as businesses become compliant enforcement revenue pertaining to these licence requirements will begin to level off.

HISTORY/DISCUSSION

The *Doing Business in Winnipeg* (DBIW) *By-law* was passed by Council on April 23, 2008, and implemented on June 1, 2008. The By-law addressed recommendations in the Red Tape Commission Report of 2005, and significantly reduced the number of businesses in the city that would be required to hold a licence, focusing on three key principles for licensing businesses in Winnipeg: 1) Public Health Protection; 2) Fire Safety; and 3) Crime Prevention.

During the development and adoption of the current DBIW By-law, Council considered Red Tape Recommendation 3 which was designed to reduce red tape for small business and to focus the City's resources on key public and municipal regulatory goals. A balanced approach to business regulation was proposed, whereby business activities would be regulated strategically in order to meet clear and specific goals. On December 19, 2007, Council concurred with the Winnipeg Public Service that the new Doing Business in Winnipeg By-law should be limited to regulating businesses only where it is necessary to address issues of public health, fire safety, law enforcement and crime prevention. This rationale is consistent with the authority vested by the City of Winnipeg Charter.

The by-law amendments proposed in this report are consistent with the original direction of Council, with updates based on subsequent amendments and consultations. The By-law has since been amended on three occasions to further reduce the number of business types licenced by the City. For example, business types that fell under the umbrella of 'public health protection' (Body Modification Services (tattooing), Food Services, and Swimming Pools) were removed on April 1, 2015, as a result of the transfer of public health inspection services from the City of Winnipeg to the Province of Manitoba.

Currently, Licensing Services issues approximately 900 licences annually, more than three-quarters of which are for Accommodation Licences. In general, a significant majority of businesses in Winnipeg do not require a business licence from the City of Winnipeg to operate. A change in the name of the By-law from *Doing Business In Winnipeg* to *Business Licensing for Community Standards* will better reflect the nature, intent, and scope of the by-law and licenced activities.

In an effort to address the increasing prevalence of methamphetamine (meth) and other Illicit drugs in our community, the City's Executive Policy Committee, in its July 2, 2019 meeting, directed the Public Service to conduct a review of the City's legislative authority to require scrap metal dealers to require photo identification of sellers and report back to the appropriate standing committee. As a result, the most recent amendment was made on May 29, 2020 to include dealers in bicycle parts in the bicycle dealers licensing category, and to include dealers in scrap metal in the used goods dealers licensing category.

This report is based on four key policy objectives for licensing specific businesses in Winnipeg: 1) Enhance safety for vulnerable persons; 2) Fire Prevention, 3) Crime Prevention; and 4) Increase regulatory effectiveness of the by-law. The key difference from the original goals of the By-law is that the public health objective has been replaced by the goal of enhancing safety for vulnerable persons. This reflects the transfer of public health responsibilities to the Province in 2015. In addition, the emphasis in regulating adult orientated businesses is now on protecting vulnerable persons through enhanced health, safety, and protection measures combined with crime prevention.

Policy Objectives:

1) Enhance Safety for Vulnerable Persons: To set minimum accommodations standards for lower spectrum housing and apply a health, safety, well-being, and protection approach to adult orientated businesses so that minimum safety standards are in place and educational resources are available.
2) Fire Prevention: To enable local authorities, for the purpose of fire prevention and life safety, to regulate and control businesses which have historically presented a high risk due to the likelihood, or the severity of impact of fire.
3) Crime Prevention: To enable local authorities, in order to suppress conditions that may foster crime and to assist law enforcement, to regulate and control businesses or those engaged in the business of buying and/or selling of second-hand goods.
4) Increase Regulatory Effectiveness: Design and implement by-laws for law enforcement and regulators, which are pragmatic tools and which when administered and inspected, and supported by the credible threat of enforcement, will produce an intended or expected result consistent with the City of Winnipeg's policy objectives.

Renaming of the By-law:

The scope of the current Doing Business in Winnipeg By-law is extremely limited, and most businesses do not fall under any of the categories of licensing currently prescribed. Changing the name of the by-law to the Business Licensing for Community Standards By-law will provide greater clarity on the purpose, intent, and scope of the licensing by-law.

Accommodations Licences:

Upon adoption of the report and amending by-law, four classes of accommodation licences will be reduced to three. Removing a separate category for hostels (which includes bed and breakfasts) will provide greater clarity focusing on converted residential dwellings (CRDs) regulated under the Residential Buildings Fire Safety By-law No. 4304/86, and provide simplified criteria for Shared Facility Licences. Currently, the primary distinction between hostels and other shared facilities is that the former can host guests for a maximum of 28 days while the latter can do so indefinitely. Determining the length of a guest's stay is difficult and ultimately irrelevant to the purposes of creating this licensing category. Eliminating the hostel

category will result in regulatory efficiencies. All current hostel licencees (including operators of bed and breakfast) will be provided with updated licences that "fit" their building structure and operations when their current licences expire.

A significant and primary reason the City of Winnipeg began licensing CRDs is to support the enforcement of the City's Residential Buildings Fire Safety By-law No. 4304/86 which is designed to improve the life safety in single family buildings and duplexes that have been converted to multi-family dwellings, including rooming houses. This by-law is administered and enforced by the Planning, Property, and Development (PPD) Department and the Fire Prevention Branch of the Winnipeg Fire Paramedic Service. This by-law required existing converted buildings to meet the minimal standards set out in By-law No. 4304/86 in lieu of current building code. The by-law was enforced by a "point in time" inspection from PPD to confirm initial compliance and subsequent inspections by the Fire Prevention Branch.

While new conversions are governed by the Manitoba Building Code, older conversions are governed by the Residential Buildings Fire Safety By-law No. 4304/86. While some of these involve shared sanitary or cooking facilities, others do not. The rationale for licensing these residential dwellings is the concern over the lack of fire safety associated with the conversion.

As noted, licensing of CRDs is important, as the maintenance of the standards in By-law No. 4304/86 is addressed within a licensing framework that requires licensed properties to undergo regular inspections by the Fire Prevention Branch. The standards imposed by By-law No. 4304/86 are important minimum standards for occupant safety, and safety of first responders, and as such ongoing licensing is a mechanism to ensure minimum life safety measures are being met.

A Division II Building, defined in By-law No. 4304/86 as, *"…a building containing a residential occupancy, having a maximum building height of three storeys, and which was originally designed for use by one or two families but has been converted so as to provide more than two suites or more than one suite with a commercial occupancy"* is considered a CRD for the purposes of the Doing Business in Winnipeg By-law. Under the current Doing Business in Winnipeg By-law 91/2008, CRDs are currently licenced under two classes (1) a CRD, and (2) CRD with shared facilities. An example of the first would be a single family home that had been converted to a triplex. An example of the second is a single-family home that has been converted to a rooming house.

One enforcement concern that has existed for years is that owners of licenced CRDs will fail to renew their licence, claiming (without proof) that the building no longer qualifies as a CRD. Owners are not required to prove that this is the case and are not required to permit inspections so that City enforcement officers can verify their claim. The proposed by-law will address this concern by requiring that CRDs must be licenced until and unless:

I. The property owner can provide a completion notification (if the building is converted to a single-family dwelling or duplex) or an occupancy permit (for commercial conversions complying to current building code) issued from the City of Winnipeg demonstrating that the property no longer meets the definition of a CRD, or
II. The owner can demonstrate to the satisfaction of the designated employee that the property is owner occupied and that no part of the building is available for rent, or
III. The property is vacant as defined under the Vacant Building By-law 79/2010 and therefore subject to administration and enforcement under that by-law.

For the most part, the proposed classes under accommodations licences – CRDs, CRDs with Shared Facilities, and Shared Facility Dwellings – tend to be on the lower income spectrum of housing that are available to the public. Hence, the licensing of these facilities is consistent with the policy objectives to enhance safety for vulnerable persons.

Requirements to obtain and maintain licensing will shift greater responsibility to property owners to:

- Provide accurate floor plans.
- Post Licensing information on outside of property.

It will also increase enforcement capacity by:

- Provides with additional enforcement tools.
- Establishing new penalties for non-compliance.
- Clarifying licence classification.
- Provides a better regulatory framework for licensing of CRDs.

All licencees with accommodations licences will be allowed until renewal of their licences to provide current and accurate floor plans as part of their licence renewal. All new applications for accommodations licences will be required to submit current floor plans as part of the licensing process.

Requiring licences to be posted in a conspicuous location allows for more efficient communications from Winnipeg Fire Paramedic Service (WFPS) and Winnipeg Police Service (WPS) to the Licensing Branch on potential non-licenced facilities. If first responders attend to a shared facility dwelling and the licence is not visible on the front of the property, the Licensing Branch can be notified for follow up investigation. Posted licensing details about the property is also useful to first responders attending properties during emergencies. In addition, there will be high transparency and accountability to current and potential occupants, as well as to the surrounding community that valid licences and safety measures of the property are in place. Any property being operated without a posted licence will signal to residents and the community that the premises are unlicenced and uninspected; this may prompt community or advocacy groups to report their concerns to the City.

Used / Resold Goods:

On February 27, 2013, Council approved the elimination of the Antique Dealers category as, at the time, the risk associated with these venues being used to market stolen goods was not significant. Since that time, the Winnipeg Police Service (WPS) has requested to add “antique dealers” back into the used goods dealers category, they have observed that some of those businesses have been leveraged to sell stolen phones, computers, and other items for cash. Requiring antique dealers to get used goods dealers licences will enhance the City’s ability to address such business activities by requiring the dealer to keep items for 15 days, and to report daily transactions to the WPS. In addition, a licence will allow for regular inspections of the businesses to ensure compliance.

Further, the WPS has developed an effective working relationship with current licenced Used Goods dealers, who have expressed their concern about Antique Dealers operating in a similar fashion, using similar business models as them, yet remaining exempt from operating within the established licensing requirements. Through conversations with the industry, the WPS has

learned that some Used Goods Dealers may consider switching their business to an 'antique dealer' name solely to allow them to operate without oversight through the current by-law.

This is a risk to both the Used Goods dealers, who may now feel they can operate outside of the By-law, and to the WPS, as both types of businesses may be viewed as a solution to evade police, which could lead to an increase of acquisition and resale of stolen goods.

Although legally the definition for "business" in The City of Winnipeg Charter (which includes businesses operating intermittently) applies to businesses governed by the by-law, the explicit addition of this definition will clarify and reinforce that the by-law applies where businesses close intermittently.

The Amendment to Scrap Metal Dealers is being made to resolve issues that have been raised by stakeholders following the adoption of Scrap Metal Dealers into the DBIW by-law in May 29, 2020. This includes:

- With the exception of bike parts and high value metals as identified below, remove the conditions to record "serial numbers, make, model number, and manufacturer's name of any manufactured used goods acquired" and detailed statements of any writing and engraving and any other distinctive marks, due to the large amount of material received that make it impossible to comply with the current by-law.
- Adding a section specific to Scrap Metal Dealers pertaining to acquisition of items for records retention that provide greater seller details when items sold include: high value metals such as copper, platinum, palladium, rhodium, or brass.

Scrap metal dealers receive a large amount of materials on a daily basis, much of which is indistinguishable, making it difficult to comply with current by-law requirements. The proposed changes will reflect the operational reality of these businesses, focusing on items which are more desirable to be sold through criminal activity as outlined above.

WPS has requested to amend the current 15 day hold period to a 30 day hold period for Precious Metal Dealers. The current 15 day hold period makes it difficult for WPS to identify possible criminal activity and to verify if property was part of criminal acquisition of items. This will enhance the Police's ability to address such business activities by requiring the dealer to keep items purchased for 30 days, allowing the WPS time required for such investigations.

Consultation with local businesses helped inform the recommended changes related to used and resold goods.

Adult Oriented Businesses:

Upon adoption of the report, components of a harm reduction approach will be applied for Body Rub Practitioners and Escorts, and measures will be implemented based on the principles of ensuring the health, safety, well-being, and protection of workers to heighten safety in Body Rub Parlours and Escort Agencies.

Escorts, Escort Services, Body Rub Parlours, and Body Rub Practitioners have traditionally been licenced in Winnipeg and throughout Canada for a variety of reasons, including concerns about appropriate land use, crime prevention and the suppression of conditions that are conducive to crime rather than the reduction of harm to escorts and body rub practitioners.

The location where Escort Services and Body Rub Parlours can operate is regulated by the Zoning By-law 200/2006 and the Downtown Winnipeg Zoning By-law, rather than the Doing Business in Winnipeg By-law. The Zoning By-law 200/2006 prohibits both Escort Agencies and Body Rub Parlours from being located outside the area regulated by the Downtown Zoning By-law. The Downtown Zoning By-law allows them as a conditional use.

Law enforcement and harm reduction advocates have indicated that this restriction has resulted in these businesses often operating outside the downtown without any regulation. With this in mind, it is recommended that the Public Service be directed to review the zoning by-laws and determine if changes are needed. Any changes with regard to regulating the location of these businesses would be done by Council amendments to the Winnipeg Zoning By-laws, which require public hearing processes.

Recent research (Tania Kajner Consulting & Zenev and Associates – Edmonton – April 27, 2020 Research Report on Body Rub Centre Licensing) indicates that body rub practitioners in Edmonton identified safety as their primary concern and asserted that Body Rub Centres are safer than other spaces. It is worth noting that many of these places have CCTV, alarms, and other measures in place to address staff safety. This position is echoed in literature on licensing in Canada, and was consistent with feedback from our consultations with some advocacy groups in Winnipeg.

Licensing of Body Rub Parlours in Winnipeg is a key strategy for ensuring the health, safety, well-being, and protection of workers in these establishments. Licensing contributes to worker safety and enables the City to provide information (via a mandatory information session) to those workers which will focus on providing key resources for any worker wanting help or assistance in their specific circumstance. It is recommended that a mandatory information session (which could be online) be implemented as part of the application and renewal of licence and registration processes so that practitioners, escorts, and staff of both businesses are able to know where to access resources including health, social services, and community policing.

Part of our approach is to reduce barriers workers may face from the licensing process; in this regard, a reduction in the licensing fee of body rub practitioners and escorts from $371 to $25 is proposed.

To further reduce barriers, this report proposes that the City allow for online receipt and approval of body rub practitioner and escort licences, and staff registration. The elimination of criminal records check via a certificate from the Records Review Board as part of the licensing of body rub practitioners and escorts are intended to remove an obstacle preventing unlicenced individuals currently working in the industry from getting licenced.

Many escorts and body rub practitioners advise that they started in the industry by working in other jobs in Body Rub Parlours or Escort Agencies. Establishing a new registration requirement for staff who are working in a Body Rub Parlour and or Escort Agency but are not body rub practitioners or escorts, will allow the Licence Branch to ensure that they have information about resources available to them. This will make it harder to groom, influence, or pressure these workers to become body rub practitioners or escorts. The additional requirement for all Body Rub Parlours and Escort Agencies to only have registered or licenced staff working in those businesses provides law enforcement and regulators with additional tools when working with operators.

Feedback from police indicate these places are higher risk to mostly marginalized people. In addition, jurisdictional scan has indicated the use of CCTV and panic alarms are considered best practices in these facilities for the protection of staff. The new requirement for licensed Body Rub Parlours to be required to have a working CCTV system at the reception area, and panic alarms in all rooms used by body rub practitioners, is intended to increase safety for workers at those businesses. A panic alarm which can be heard throughout the premises will make it easier for victims to call for help and a CCTV camera will help police identify people who may have been involved in any illegal activities.

The change to the requirement of providing only 2 passport photos from three is a minor administrative change. It is no longer necessary to have 3 photos submitted since the Licence Branch now scans photos to WPS rather than mailing the third photo.

A jurisdictional review was conducted with a focus on Edmonton, Toronto, and Regina. Recent research in Edmonton, Toronto, and the Winnipeg Regional Health Authority (WRHA), as noted in Appendix D, and consultation with community organizations, helped inform the recommended changes and approach to regulating adult orientated businesses. The below chart outlines what Winnipeg is proposing in comparison to what other jurisdictions currently have in place, or are being considered, with the main focus being workers safety.

Winnipeg	Proposed changes: • Focus on workers safety • Reduce fees for practitioners • Mandatory information session • Eliminate records review • CCTV system in the reception area • Panic Alarms in rooms used by practitioners
Edmonton	Key findings similar to Winnipeg: • Focus on workers safety • Mandatory information sessions • Security cameras and alert systems as best practice
Toronto	Changes being considered – currently being reviewed: • Remove licensing requirements for practitioners • Increase safety requirements in the Body Rub Parlour By-Law • Require alert systems in BRP Rooms • Permitting cameras in designated areas of BRPs for security purposes • Requiring management staff of BRP to be Licenced • Process to provide educational information which may help individuals at risk
Regina	Key findings similar to Winnipeg: • Mandatory Education program for practitioners • Panic alarms in close access to rooms • Reduced fees for practitioners

Penalties:

New penalties punishable under the MBEA are proposed for:

- Failing to post Accommodation licensing information outside the property.
- Failing to submit the most current floor plans at the time of applications or renewal.
- Failing to provide a working CCTV system in the main reception area, and panic alarms in all rooms used by practitioners.
- the owners of body rub parlours or escort agencies failing to ensure staff are registered.

The fines and early payment amounts are set out in Appendix B.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 25, 2021

Project Name:

Strategies and Tools to Enhance Neighbourhood Liveability via the Doing Business in Winnipeg By-law – Problematic Business Activities

First Year of Program **2021**

	2021	2022	2023	2024	2025
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: No budget adjustment is required as a result of the recommendations of this report.

Annualized revenue loss resulting from the reduction to the licence fee for hostels ($559 to 549) and the licence fee for body rub practitioners and escorts ($371 to $25) is $18,022 based on the current number of licences issued. The loss is mitigated in part by the amending by-law requirement for Antique Dealers to apply for a licence under the current Used Goods Dealers' licence category with an established licence fee of $1,377. Based on the assumption that ten (10) known Antique Dealers will require licencing, the estimated annual revenue is $13,700. The remaining net loss of $4,322 will be further mitigated by the new registration requirement and fee for staff working in licenced Body Rub Parlours and Escort Agencies who are not licenced body rub practitioners or escorts, and MBEA fines for non-compliance of the new licencing requirements estimated to yield $5,000 - $10,000 initially for failure to comply with the new licensing requirements levelling off as businesses become compliant. The creation and administration of the mandatory information sessions for Body Rub Practitioners and Escorts and staff at Body Rub Parlours and Escort agencies will be managed within existing Council approved budgets. The report includes Appendix B, a schedule of MBEA fines and Appendix C, a schedule of current and proposed licencing fees and charges under the Bylaw.

Original signed by K. Lemoine

Kelly Lemoine, CA, CPA
Manager, Finance and Administrative Services
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)
Planning, Property and Development Department
Winnipeg Fire Paramedic Service (Fire Prevention Branch)
Winnipeg Police Service

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg
01-2a Collaborate to make safe communities.
Direction 6: Take a broad-scaled, complete and collaborative approach to crime prevention.

01-4 Housing
Direction 4: Provide leadership in encouraging and enforcing property-related housing standards that create and promote safe living conditions for homeowners, tenants and for communities as a whole.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Community Services
Division: Community By-law Enforcement Services
Prepared by: T. Cormier, Licensing Coordinator
Date: May 25, 2021
File No: CMS-2021-1

Attachments:

Appendix A - Amending By-law

Appendix B - DBIW By-Law Proposed MBEA Admin Penalty

Appendix C - Fees and Charges

Appendix D – History and Research to Support Recommendations Related to Body Rub Parlours and Escort Agencies