

## **Review of Body Rub Parlour and Holistic Centre By-laws - Consultation and Research Findings**

**Date:** May 6, 2019

**To:** General Government and Licensing Committee

**From:** Executive Director, Municipal Licensing and Standards

**Wards:** All

### **SUMMARY**

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This report provides an update on the research and consultations completed to date that inform the ongoing review of the Body Rub Parlour (BRP) and holistic centre By-laws. It seeks City Council's endorsement on an approach to regulating these industries based on the principles of ensuring the health, safety and well-being of persons; consumer protection; and ensuring the general well-being of the City of Toronto, including mitigating community impacts.

The City regulates adult entertainment parlours, including BRPs, to ensure health and safety of workers and the public and to mitigate for community nuisance. In 1998, the City began regulating holistic services to ensure public health and safety and consumer protection. Since its introduction, the misuse of the licensing category by providers of services that are not holistic services has undermined this original intent.

Many holistic centres currently providing unauthorized services would be better captured under the BRP licence category. However, the BRP licences in the City of Toronto are capped at 25, preventing new businesses from obtaining a BRP licence. The BRP licence category and cap have not been reviewed formally since the rules were first enacted in 1975.

Staff are considering a number of amendments to modernize the BRP licence category and better reflect the changes within the industry. The central amendment being considered is the removal of the cap on BRPs. This would allow businesses offering body rub services to qualify for a licence with an appropriate level of regulations and oversight.

Staff are also considering general updates to the BRP By-law to bolster health and safety requirements for BRPs. These changes would include requiring that BRP managers are licensed and undergo criminal record checks; removing the requirement for workers to work for only one parlour owner; and requiring that workers be provided with information on how to access resources and supports.

In conjunction with the review of the BRP By-law, City staff are reassessing the need to license holistic services. With this proposed approach, those holistic centres and practitioners providing body rub services would be required to obtain body rub licences.

Staff are seeking Council direction to report back in the fourth quarter of 2019 with further analysis and final recommendations on modernizing the BRP licence category and reviewing the cap on the number of BRPs, and re-evaluating the need for holistic licensing.

Staff have consulted with Legal Services, Social Development Finance and Administration (SDFA), Toronto Public Health (TPH), and City Planning in the preparation of this report.

## **RECOMMENDATIONS**

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The Executive Director, Municipal Licensing and Standards, recommends that:

1. City Council adopt the following principles for regulating the body rub industry:
  - a. Ensuring the health, safety and well-being of persons;
  - b. Consumer protection; and
  - c. Ensuring the general well-being of the City of Toronto, including mitigating community impacts.
  
2. City Council direct the Executive Director, Municipal Licensing and Standards, to report to the General Government and Licensing Committee in the fourth quarter of 2019 with proposed amendments to the Body Rub Parlour and Holistic Centre By-laws that are informed by the principles in Recommendation 1, and include an analysis of the feasibility and impacts of:
  - a. Removing the licence requirements for holistic centres and practitioners;
  - b. Modernizing the requirements of the Body Rub Parlour By-law, including increasing or removing the cap on the number of body rub parlours permitted in the City of Toronto; and
  - c. Increasing safety requirements in the Body Rub Parlour By-law.

## **FINANCIAL IMPACT**

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There are no financial implications beyond what has already been approved in the current year's budget.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

## DECISION HISTORY

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On April 24, 2018, City Council adopted [LS24.2 Work Plan for Review of Chapter 545, Licensing, Body-Rub Parlours and Holistic Centres](#) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.LS24.2>) with amendments to Municipal Code, Chapter 545, Licensing, so that no application for a new holistic practitioner licence be accepted from members associated with a list of five Professional Holistic Associations affiliated with the largest number of non-compliant holistic practitioners.

On November 7, 2017, City Council adopted [AU10.3, A Review of Municipal Licensing and Standards Division's Management of Business Licences - Part Two: Licensed Holistic Centres](#) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.AU10.3>) with amendments, directing the Executive Director, Municipal Licensing and Standards, to conduct a detailed review of regulations for BRPs, holistic centres, and professional holistic associations, and report back on changes to ensure effective oversight and enforcement.

On December 16, 2013, City Council adopted [EX36.13, Initiatives to Address Human Trafficking](#) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX36.13>) with amendments, directing the Executive Director, Municipal Licensing and Standards, in consultation with the Toronto Police Service to undertake a review of businesses that are destinations for human trafficking to establish measures and policies aimed at addressing the consequences of human trafficking from the perspectives of health and safety, and crime prevention.

On May 24, 2012, Licensing and Standards Committee referred [LS13.8, Conditions for the Licensing of Holistics Establishments](#) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS13.8>), to the Executive Director, Municipal Licensing and Standards to report on implementing licensing measures to better control the nuisances created by holistic establishments.

On June 28, 2012, the Licensing and Standards Committee referred [LS14.3, Request for a Staff Report to increase and ensure effective prosecution of charges against body rub, holistic and adult entertainment establishments - Motion MM23.29 referred by City Council on May 8 and 9, 2012](#) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.LS14.3>), to the Executive Director, Municipal Licensing and Standards.

On May 17, 2011, Council referred [LS3.1, Review of Application to be Included in the City's List of Approved Professional Holistic Associations](#) (<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.LS3.1>), to Licensing and Standards Committee for further consideration in conjunction with the forthcoming report on a review of the current regulatory regime for holistic centres.

On October 30, 1998 City Council adopted recommendations in Report entitled "[Holistic Practitioner Licensing Category](https://www.toronto.ca/legdocs/1998/minutes/council/appa/cc981028/ep11rpt.htm)" (<https://www.toronto.ca/legdocs/1998/minutes/council/appa/cc981028/ep11rpt.htm>).

## **COMMENTS**

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The City of Toronto has licensed and limited the number of BRPs since the 1970s. Since then, the body rub industry has evolved. More businesses are offering body rub services across the city, and are doing so without a BRP licence. Staff have estimated that a large number of businesses that are licensed as holistic centres offer body rub services.

Staff have undertaken a review of the By-laws that govern the BRP and holistic industries, to better reflect the industry and ensure that there is adequate oversight of businesses offering body rub services.

This report provides an update of the results of the research and consultations done to date. It also outlines the various issues and challenges identified and provides an overview of proposed approaches to amending the BRP and Holistic By-laws using the following principles: ensuring the health, safety and well-being of persons; consumer protection; and ensuring the general well-being of the City of Toronto, including mitigating community impacts.

### **Business Licensing and Municipal Authority**

The City of Toronto Act (COTA), gives the City the authority to regulate and license various business activities, trades, and occupations within the City of Toronto.

In addition to the general authority to license businesses, the City has specific authority to regulate and limit adult entertainment establishments through COTA. This authority allows the City to regulate the number and location of establishments offering body rub services and other adult entertainment services.

### **BRPs in the City of Toronto**

BRP owners, operators, and body rubbers are required to be licensed under Chapter 545, Licensing. COTA defines body rubs as the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person's body for non-medical and non-therapeutic purposes.

Body rub establishments are any place where these non-medical or non-therapeutic massaging services are provided by someone not otherwise recognized by the Province as being "duly qualified" (for example, registered massage therapists), or other licensed holistic practitioners.

## **Cap on the Number of BRPs**

The City has the authority under COTA to limit the number of establishments offering body rub services. In 1975, the City placed a cap on the BRP licences issued in an effort to prevent the proliferation of BRPs. The cap was set at 25 and has not been changed since.

## **Zoning Restrictions**

BRPs are defined as body rub services in the City-wide Zoning By-law 569-2013 and are only permitted in employment industrial zones. Separation distance conditions require BRPs to be at least:

- 100 metres from residential zones;
- 500 metres from a lot with a public school, private school, or place of worship;
- 500 metres from a lot with an adult entertainment use; and
- 100 metres from a lot with a body rub service use.

## **Licence fees**

The City collects user fees to recover costs related to licensing and enforcement. Fees are established based on the resources required to address the risks or community impact a business or industry may have. Fees for BRPs are higher than licensing fees for most other licensed businesses. Currently, the BRP owner application fee is \$13,614.41 and the annual renewal fee is \$13,155.32. By contrast, the holistic centre application fee is \$280.71 and the annual renewal fee is \$154.22.

As part of this review, staff will undertake a review of these licensing fees to identify if any adjustments are needed.

## **Holistic Centres in the City of Toronto**

Holistic services are defined as any modality used as a tool for therapeutic and wellness purposes. This excludes body rubs, and medical or therapeutic treatments performed by "persons otherwise duly qualified". Holistic practitioners are also required to be members of one of the 37 approved Professional Holistic Associations (PHAs).

A PHA is defined in the By-law as a registered not-for-profit organization established for the purpose of ensuring safe and proper provision of one or more kinds of holistic services. This is intended to be achieved through means such as admission of qualified members, enforcement of the code of ethics, and the establishment of a disciplinary system.

There are currently 389 licensed holistic centres and 2,167 holistic practitioners in the City of Toronto. Holistic centres are allowed to operate in commercial residential zones in the City of Toronto.

## Changes in Industries

In an effort to regulate alternative wellness treatments offered by practitioners not regulated as health professions by the province, the City's holistic By-law was enacted in 1998 in part to protect consumers by ensuring that the services being offered were by qualified professional holistic practitioners.

Today, many holistic centres are providing unauthorized services not related to holistic modalities, such as body rub services. In addition, these holistic centres are operating in areas where body rub services are not permitted, such as in commercial residential zones.

Over the years, the City has taken steps to enhance oversight of holistic centres, including introducing a requirement in 2005 for them to be accredited with a PHA. The introduction of this requirement was intended to ensure that practitioners were skilled at providing holistic services, as well have PHAs apply a code of ethics and disciplinary process.

Each PHA is expected to provide effective oversight and to apply governing By-laws, regulations, and procedures. However, it has been determined that this is not always the case. The November 2017 Auditor General report titled [A Review of Municipal Licensing and Standards Division's Management of Business Licences – Part Two: Licensed Holistic Centres](#) reviewed the 10 PHAs with the largest memberships, which represented 92 per cent of licensed holistic practitioners in Toronto.

The Auditor General found that many had no physical addresses and several directors were convicted of operating unlicensed BRPs. The report also identified 107 licensed holistic centres that had the appearance of offering unauthorized services such as body rub services. These findings are consistent with MLS investigations data, which also showed that significant numbers of holistic centres are providing services outside of their licensing category.

To address these compliance issues, in April 2018, the City of Toronto introduced a moratorium on the issuance of new licences to holistic practitioner applicants associated with the top five PHAs affiliated with the largest number of non-compliant holistic practitioners. Since then, there has been migration of existing licensees from PHAs under the moratorium to other PHAs that are able to accept members. Approximately 50 per cent of these transfers have been to two specific PHAs.

Under the current By-law, MLS is unable to audit and delist PHAs who fail to adequately screen and oversee members. The By-law does not specifically provide for a process of removal of a PHA from the approved list to address situations where a PHA fails to enforce its code of ethics or its disciplinary process, or otherwise fails to meet requirements, as set out in the By-law. Currently, only Council is able to remove approved PHAs from the By-law.

## Overview of Work Completed to Date

Between November 2018 and May 2019, staff undertook a comprehensive review of the Body Rub and Holistic Licensing By-laws. To date, staff have completed the following consultations and research:

**1. Conducted public and stakeholder consultations:** Throughout the review, staff engaged over 300 participants through a total of 14 external consultations from February to mid-April.

Four of the 14 external consultations were open to the general public and held throughout the city. Five were invite-only consultations for licensees (holistic centre owners, holistic practitioners, body rubbers, BRP owners) and one for PHAs.

In addition to these consultations, staff held a total of five meetings with members of the following groups:

- Aura Freedom International;
- Butterfly Asian and Migrant Sex Worker Network;
- Canadian Centre to End Human Trafficking;
- Canadian HIV/AIDS Legal Clinic;
- Canadian Women's Foundation;
- Holistic Practitioners' Alliance;
- Maggie's; and
- Survivors of human trafficking.

Notably, staff estimate that the majority of attendees at both stakeholder and public consultations were affiliated with an advocacy group or licence category.

To inform the public on the consultations, staff sent mail-outs to licensees; used emails and social media to reach interested third parties and members of the public; and sent communications to City Council. See Attachment 1 for a summary of the consultations.

Staff also participated in the S DFA-led consultations with advocacy groups, academic experts, and survivors of human trafficking. In addition to consultations, staff reviewed 32 written submissions from the public, licence holders, and advocacy groups and organizations.

Staff had ongoing dialogue with S DFA, Legal Services, TPH, and the Toronto Police Service and engaged the Ministry of Labour; Ministry of Children, Community, and Social Services; and Ministry of Health and Long-Term Care.

**2. Created a dedicated website:** The website provided an overview of the By-law review process, including the scope of review and ways to provide input on the review.

**3. Undertook jurisdictional scan:** Staff have compiled a jurisdictional scan of practices in Canadian municipalities that regulate BRPs and holistic centres.

## **Jurisdictional Scan**

### **Ontario and Canada**

Staff have undertaken a review of various jurisdictions across Canada, which regulate BRPs; and some of which regulate holistic centres. This includes Brampton, Calgary, Edmonton, Hamilton, London, Markham, Mississauga, Newmarket, Oakville, Ottawa, Vancouver, Vaughan, and Winnipeg.

#### *BRP Licensing*

Almost all of the jurisdictions surveyed require BRP owners to be licensed, and most of them require individuals providing body rub services to be licensed as well.

Many of the jurisdictions that do license BRPs have placed a cap on body rub licences, including: Brampton, Hamilton, London, Markham, Mississauga, Newmarket, Oakville, Ottawa, Richmond Hill, and Vaughan. The analysis of caps in other jurisdictions and average number of establishments per capita shows that Toronto's cap of 25 is generally lower than other jurisdictions. Cities such as Edmonton, Calgary, and Winnipeg license BRPs, but have not placed a cap on the number of licences.

Some jurisdictions have placed zoning restrictions on BRP licences; and they are generally restricted to operating in industrial zones of the cities and/or away from sensitive uses such as schools, religious institutions, residential areas, and/or other adult entertainment businesses. For example, Calgary prohibits BRPs from being 300 metres within another BRP.

Like Toronto, many jurisdictions surveyed restrict hours of operation of BRPs. With the exception of Markham and Brampton, the majority have less restrictive hours of operation: in Calgary, Edmonton, Richmond Hill, and Winnipeg, BRPs may not operate after 11pm; after 12am in Vancouver; and after 1am in Hamilton.

Similarly to the City of Toronto, many jurisdictions have rules related to health and safety, including standards of cleanliness, prohibitions on locking doors, criminal record checks, etc. Many of the jurisdictions surveyed do not require body rubbers to undergo medical examination. In some jurisdictions, body rubbers are not required to register for a municipal licence.

Edmonton also introduced a Body Rub Centre Task Force which was created with the intent of using By-laws, enforcement and social services to minimize the exploitation of vulnerable people and identify cases of human trafficking. It holds a mandatory course for body rubbers, which provides an overview of employment standards, regulations, laws, rights and health information for workers.

Vancouver has a By-law that includes licensing requirements for BRPs, but operationally, does not issue BRP licences. Winnipeg licenses BRPs, and provides exemptions to the licensing requirement if an individual is a member in good standing of an exempt organization (For example, a municipally-approved holistic association).

Many jurisdictions surveyed told MLS staff that they also have enforcement challenges with unlicensed establishments, including holistic centres, providing body rub services.

### *Holistic Centre Licensing*

Many of the jurisdictions surveyed do not license holistic services, including Brampton, London, Markham, Mississauga, Newmarket, and Ottawa. Calgary, Edmonton, and Hamilton require licences from businesses providing holistic services.

Hamilton licenses personal wellness centres, which are defined as: services for any part of the human body which includes, but is not limited to, kneading, manipulating, rubbing, massaging, touching, or stimulating, by any means of a person's body or part of a person's body. Services which are exempt from this licence those provided by provincially-licensed massage therapists; as well as any designed to appeal to erotic or sexual appetites, or are advertised as such. Hamilton staff also interview applicants about their knowledge of the wellness service, and have the authority to deny issuing a licence.

Edmonton licenses health enhancement centres, which is defined as: businesses that provide health services, including the physical external manipulation of the soft tissues of the human body, from a municipally-approved accredited professional association. One of these associations is also registered as a PHA in the City of Toronto.

Calgary requires individuals to have a massage licence, and be accredited by a municipally-approved organization. This includes massage therapist associations, as well as a holistic practitioner association which is also registered as a PHA with the City of Toronto. Holistic services that do not involve massages are exempt from the licensing requirement.

Vancouver licenses Health Enhancement Centres, which are licensed to offer holistic services or any other "therapeutic touch technique". In response to the Missing Women Commission of Inquiry, Vancouver police respond to community complaints related to workers by taking action that is "consistent and proportional to the risk presented" and which is the "least intrusive strategy" to keep workers safe. Vancouver By-law enforcement also follows a similar approach, and states that when responding to complaints about workers, the safety, health and rights of individuals will be respected.

### **Compliance-Focused Enforcement Model**

In recent months, MLS has instituted a co-operative compliance enforcement model which involves a focus on collaborating with key community partners.

MLS enforcement has made significant operational changes. A dedicated team of one supervisor and six By-law Enforcement Officers have been dedicated to BRPs, adult entertainment, and holistic centres. This team is made of 50 per cent female officers and receives specific training on enforcement related to the industry, including training on human trafficking, and Indigenous Cultural Competency Training.

MLS is also modernizing its approach to inspections and discontinuing the prior standard of twelve inspections per holistic centre, per year. It is being replaced with data-driven and risk-based decision making to strategically prioritize investigations and inspections.

MLS is taking an approach which prioritizes education and outreach, community partnership, before resorting to legal enforcement tools.

### *Education and Outreach*

As part of this cooperative compliance model, enforcement efforts will be focused on providing information to industry members regarding the By-laws, regulations and how they apply. Keeping in mind the reported language barriers experienced by many holistic practitioners, By-law enforcement will provide educational materials to raise awareness of the rules and regulation under the By-law.

MLS has initiated a project with Strategic Communications for plain language media in Simplified Chinese and other languages to assist holistic owners and practitioners with their understanding of the associated By-laws. The intent is to raise awareness so that practitioners are not inadvertently contravening rules and regulations they are not familiar with or aware of.

As part of this educational approach, enforcement will also work with community partners to educate licensees about City and Province-wide resources that may be useful. As well, enforcement efforts will focus on making this information available and accessible and will work with community partners to tailor the information as needed.

### *Community Partnership*

MLS is working with community-based and peer-to-peer organizations that are in direct contact with or represent the industry in order to promote initiatives to increase compliance within the holistic industry and to broker solutions in cases where compliance is identified as an issue. MLS is at the beginning stages of building a relationship with community partners.

Community partners working with holistic centres and practitioners have advised that non-compliance is largely due to misinformation. City staff will work with community partners to try to remedy this in order to promote compliance and assist licensees in coming into compliance.

### *Consultation Feedback on Enforcement*

While staff did not explicitly ask about enforcement at consultations, there were a number of comments about the frequency of inspections and enforcement measures taken. Based on feedback from advocacy groups, holistic centres and holistic practitioners, it seems like there is a lack of trust in enforcement officers, and uniformed officials, generally.

An advocacy group composed of some holistic practitioners self-identifying as "Asian and migrant sex workers" reported feeling targeted by By-law enforcement in the past; while anti-human trafficking advocates and self-identified survivors of human trafficking were concerned that there is a lack of enforcement in both holistic centres and BRPs.

Many licensees also noted that there had been an improved rapport with By-law enforcement in the past few months, as a shift towards a more cooperative approach has been operationalized by By-law enforcement.

## **Proposed Approaches Being Considered**

In the following section, staff have provided an overview of the proposed approaches being considered to respond to the Council directives related to BRP and Holistic By-laws. MLS has reviewed its business licensing procedures to both modernize and enhance health and safety measures, to more effectively regulate the industry.

The approaches being considered are as follows:

1. Deleting the requirement for holistic licensing and PHA registration
2. Removing the restriction on number of BRP licences
3. Requiring Alert Systems in BRP Service Rooms
4. Permitting Cameras in Designated Areas of BRPs
5. Increasing Hours of Operation of BRPs
6. Removing Medical Requirements
7. Amending Requirement for Written Contract of Service
8. Requiring BRP Managers to be Licensed
9. Requiring Posting of Information at BRPs
10. Removing Restriction on Place of Employment

The section also includes an overview of the consultation feedback received for each proposed approach that was consulted on.

## **1. Proposed Approach to Holistic Regulations**

### **Deleting the requirement for holistic licensing and PHA registration**

#### *Approach Under Consideration*

The holistic licensing category was originally meant to address consumer protection and safety concerns. Changes in provincial law, evolution of the holistic and BRP industries over time, and the misuse of the holistic licence by businesses offering services not authorized under the holistic licence (such as body rub services), have undermined the purpose of the holistic licensing category.

Deleting the holistic licence will allow the City to re-align businesses to the right licensing category in order to achieve appropriate industry oversight.

In addition, MLS is considering a recommendation that the City focus on modernizing the body rub licence to make it more accessible to new entrants wishing to provide body rub services and to otherwise improve the By-law to support enforcement and prosecutions efforts in cases where it is needed.

Under this licensing regime, holistic practitioners and centres would be able to continue to operate their business without a City licence. Workers and businesses providing body rub services would be required to obtain a body rub licence.

### *Consultation Feedback*

Holistic practitioners provided mixed feedback on the deletion of the holistic licence. While some holistic practitioners and PHAs were in favour of the proposal to remove the licensing requirement for holistic centres and practitioners, others including practitioners affiliated with sex work advocacy groups strongly opposed this proposal.

Holistic practitioners and centres that were in favour of the proposal felt that self-regulation was a more appropriate model for their specific modality and that regulation by the City provided little to no value. They also noted other jurisdictions where holistic practitioners are able to operate successfully without a licence.

Some PHAs also noted that they were national organizations that issued accreditations in jurisdictions that did not have licensing regimes, and they would not be impacted by the removal of the licence. These PHAs advised that they had robust accreditation and membership practices in place, their members would continue to practice, and there would still be a need for their services. Other PHAs were opposed to removing the requirement for accreditation, noting that it lent the industry credibility and legitimacy.

Other holistic practitioners were opposed to deletion because they felt that removing the licence could result in regulation by provincial bodies, which might be more onerous than the City's regulatory regime. Many also stated that having the holistic licence offers a certain legitimacy to their business and the work that they provide.

Other holistic practitioners including some of whom are affiliated with an organization self-identifying as advocating for "Asian and migrant sex workers" voiced concerns that deleting the holistic licence would result in more police enforcement. Another concern raised by the advocacy group was that removal of this licensing category could result in placing people facing immigration issues in more precarious situations if they had to operate under a body rub licence.

There were holistic practitioners who voiced concerns that the reputation of their holistic modalities had been "tainted" as a result of conflation between the holistic licence and the body rub licences. Some cited unwanted requests by customers looking for body rub services.

It should be noted that holistic operators and practitioners who offer only holistic services would be able to continue to operate under this proposed approach. Holistic operators providing services that fall under the body rub services definition, however, would require a body rub licence to continue to operate.

Body rubbers stated that it was unfair that many holistic practitioners were offering similar services, but at half the cost given that the licensing requirements of body rub services is much more restrictive than the licensing requirements of holistic services. Some supported allowing more BRPs so that those holistic centres that offer body rub

services can operate under the same rules as them. Others want the City to increase its enforcement efforts to shut down holistic centres that offer body rub services.

## **2. Proposed Approaches to the BRP and Body Rub Licence**

### **Removing restriction on number of BRP licences**

#### *Approach Under Consideration*

Staff are considering a proposal to remove the limit on the number of BRP licences that may be issued by the City.

A central purpose for regulating the body rub industry has been to mitigate the heightened safety risk of these businesses, including the risk to persons working in the industry while also taking into account community impact.

Today, BRP services exceed the number of establishments currently allowed to operate with a body rub licence, and the per capita number of BRPs in Toronto is generally lower than the number permitted in other municipalities. The cap on the number of BRPs also seems to have resulted in significant numbers of licensed holistic centres providing body rub services to meet demand.

Removing the restriction on the number of BRP licences would modernize the By-law and help address licence misalignment in the holistic industry. Addressing this misalignment would assist in more effective regulation of the adult services industry, which is an industry that can carry a heightened risk of safety.

It should be noted that the zoning restrictions would still limit the number of BRPs. Staff estimate that there are approximately 500 available lots of land in industrial zones that meet the zoning and separation distance requirements for a body rub service. While there are 500 lots, the number of lots available for BRPs would be much lower since there are separation requirements between BRPs and other adult entertainment establishments, including other BRPs.

This approach will introduce new opportunities for BRPs. Holistic centres that currently provide services that are better captured under the BRP licence would have an avenue to obtain BRP licences and come into compliance to be appropriately regulated. In addition, they would be required to operate only in areas where the activity is permitted, and follow provisions such as restrictions on hours of operation.

#### *Consultation Feedback*

BRP owners, body rubbers, members of the public, and sex worker advocacy groups were generally supportive of removing the cap on licences, as it would provide a way for individuals who want to provide body rub services, to do so in accordance with the licensing By-law.

However, those holistic practitioners who offer services that would be better suited to a body rubber licence noted that the barriers would continue to be too high in the BRP licensing category, as the zoning restrictions, higher licensing fees, and additional By-law provisions would be onerous. They recommended addressing these barriers in addition to removing the cap.

These practitioners stated that even if they were able to apply for the correct licence, they would not do so because they felt there was too much stigma associated with providing body rub services (as opposed to holistic services).

Many anti-human trafficking advocates and survivors were opposed to removing the cap. They viewed BRPs as places where people are at risk of being trafficked. Allowing more of these establishments, they suggested, would result in an increased risk of trafficking. Many of these advocates felt that the City should close the existing BRPs and reconsider licensing them at all.

The few participants that identified as unaffiliated shared varied opinions on this proposed approach.

### **3. Requiring Alert Systems in BRP Service Rooms**

#### *Approach Under Consideration*

There is currently no requirement for an alert system in the rooms where services are provided. Staff are considering proposing that all such rooms be equipped with an alert system or signalling device, so that body rubbers can call for help. Such systems should be in good working order and must be monitored by an owner, or an operator, or an employee at all times. This requirement is designed to reduce the risk of harm and enhance safety of the attendants, and to ensure that assistance is rendered as soon as possible following the distress signal.

Any proposed By-law amendments would have to take into account any potential for misuse to impede investigations by enforcement.

#### *Consultation Feedback*

There was minimal opposition among all the stakeholder groups consulted on this measure – including BRPs, body rubbers, the general public, and sex advocacy groups. Anti-human trafficking advocates, survivors of human trafficking, and body rubbers noted that the measures may have minimal impact on health and safety of workers; and that it may not prevent coercion or violence. It was noted that in some cases, such systems are already in place and that employees or managers receiving the alert may not respond with support, or it may feel it is too risky to respond.

### **4. Permitting Cameras in Designated Areas of BRPs**

#### *Approach Under Consideration*

The current By-law prohibits the use of cameras or other photographic or recording devices. As a measure to enhance safety, staff are considering proposing amendments to permit the installation of cameras to be used for security purposes, as they are permitted in other adult entertainment establishments. Cameras would not be permitted in service rooms, washrooms, and change rooms. Where cameras are installed, signs would need to be posted in the areas under surveillance to notify patrons and entertainers. The cameras could offer improved monitoring of premises for security purposes, and would be optional.

### *Consultation Feedback*

BRP owners and body rubbers were supportive of the approach to permit cameras on-site, and noted it would be used to protect parlours from robbery and theft. Some sex worker advocacy groups were also supportive of the approach, and noted that it would allow workers and operators to visually identify disruptive or violent behaviour by new or repeat clients, but also stated that this measure would work best when paired with the capacity to lock entry ways to allow them to screen clients.

## **5. Increasing Permitted Hours of Operation of BRPs**

### *Approach Under Consideration*

Current By-law provisions permit BRPs to operate from 9:00 a.m. to 9:00 p.m. on Monday to Saturday, and from 12:00 p.m. to 5:00 p.m. on Sundays and holidays. In an effort to modernize the industry norms in present day and balance community impact, staff propose that the By-law be amended to permit BRPs to extend hours of operation from 9:00 a.m. to 1:00 a.m. for body rub parlours operating within E zones.

Generally speaking, the limits on the hours are in place to minimize impacts of late night activity on local communities. The amended hours mirror the permitted hours of operation of adult entertainment clubs that do not have a liquor licence. Given that BRPs fall under the category of adult entertainment businesses under COTA, the same treatment under the By-law is appropriate.

### *Consultation Feedback*

BRPs were supportive of this proposed approach, and recommended that the City should update its By-law to allow for them to open later to meet demand. They told staff that BRPs should be treated similar to bars and other adult entertainment services.

This approach was not put forward by City staff as part of the consultations, but BRP owners and body rubbers pro-actively requested that it be considered as part of the review. Members of the public and other stakeholders did not mention specific concerns with hours of operation, though the issue was not raised for discussion.

## **6. Removing Medical Requirements**

### *Approach Under Consideration*

The By-law currently states that every person applying for a body rubber licence must deliver to the Medical Officer of Health, prior to his or her licence being issued, a medical certificate certifying that they are free from communicable diseases and medically fit to perform or receive body rubs.

In an effort to modernize the By-law, staff are considering recommending removal of this requirement. The test may be based on outdated and ineffective public health practices that do not reflect most recent provincial regulation. The Medical Officer of Health has advised that it is not a practical requirement for a medical practitioner to comprehensively certify a patient in this regard, given the scope and number of communicable diseases. In addition, TPH receives all positive laboratory results for reportable Sexually Transmitted Infections in Toronto, and in so doing would continue to manage and monitor all reported cases as per public health standards.

Staff are considering recommending removal of the requirement. Instead, MLS is considering working with TPH to provide information on healthcare resources to applicants, and TPH will explore opportunities to work with community-based organizations to provide healthcare education and resources to licensees.

#### *Consultation Feedback*

Advocacy groups have stated that this requirement is not practical and is not an evidence-based public health practice. They also objected to the examination on the grounds that they believed it is a violation and a form of employment-related discrimination, particularly when there is no public health evidence in support of this prohibition.

BRP owners were generally supportive of this proposed approach, but there were mixed opinions from body rubbers. One body rubber recommended more frequent examinations, while others noted the medical examinations stigmatized people and there was no way that a doctor could clear someone of all communicable diseases. Some members of the public supported keeping the requirement.

## **7. Amending Requirement for Written Contract of Service**

#### *Approach Under Consideration*

The Office of the Information and Privacy Commissioner of Ontario (IPC) opened a Commissioner-initiated investigation regarding the collection of information belonging to licensed body rubbers by the City of Toronto.

Under the, section 545-337 of the Municipal Code, MLS requires a copy of every written contract of service between the owner and body rubber, and also requires that the original of any such document be made available for inspection at any time to MLS, upon request. MLS also requires that it should be retained by the owner or operator for a period of six months after its termination.

The IPC recommended that the City amend section 545-337 to reflect the City's practice of only collecting the written contracts of service when there is a specific By-law investigation. The City is considering recommending such an amendment.

#### *Consultation Feedback*

Although staff did not consult on this broadly, advocacy groups raised this concern and expressed being in favour of the proposed change.

## **Additional Safety measures**

The following proposed changes are meant to identify points of intervention that may be helpful in enhancing the health and safety of workers. These measures may help prevent exploitative situations and provide vulnerable persons with resources and support.

## **8. Requiring BRP Managers to be Licensed**

### *Approach Under Consideration*

BRP operators are required to be licensed by the City, but often the supervision and control of daily shift activities is delegated to shift managers. Currently managers are not required to be licensed.

Staff are considering proposing the licensing of shift managers as Designated Managers. By licensing managers, they would be held accountable for By-law provisions that relate to the daily operations of the establishment (e.g. hours of operation).

As with all other licence applicants, managers would be required to undergo a background check, which will allow MLS to screen applicants who have a criminal history, including offences that may present concerns relating to consumer protection or health and safety issues, and including human trafficking-related offences. On application for a licence, MLS staff review the criminal records as well as past By-law violations of the applicant to determine whether or not a licence should be denied.

This new licensing requirement would aim to enhance the safety of the BRP workers and clients by ensuring that a person in control of daily operations of the establishment is screened and licensed by the City.

### *Consultation Feedback*

BRP owners and body rubbers were generally supportive of this approach, or had no objections. Body rubbers did note that in cases where an individual is both the manager and a body rubber, they may incur significant fees in the licensing process. Anti-human trafficking advocates were also supportive of this proposed approach, and recommended that managers undergo more rigorous checks.

Some sex worker advocates expressed concern that this would result in additional burdens for licensees and prevent body rubbers from moving into management roles; and they also noted that the By-law already requires a licensed owner or operator to be on-site when the premises are open.

## **9. Requiring Posting of Information at BRPs**

### *Approach Under Consideration*

Staff are considering recommending that BRPs be required to provide educational information which may help an individual at risk seek help from the appropriate social service agencies and community-based organizations. Information such as brochures and posters would be provided by MLS, and could include resources for victims of human trafficking, and information for employees on sexual health and labour and employment rights. The information would be required to be posted in visible areas in the establishment, and could be included on the body rubber licence as well.

City staff are also considering proposing that SDFA and MLS, in collaboration with the Medical Officer of Health and in consultation with community stakeholders, develop an outreach model and determine an appropriate pilot strategy for reaching workers in workplaces in which people may be at risk of human trafficking or other vulnerabilities

for the purpose of building trusting relationships, providing support and referrals to relevant services, and informing workers of their rights.

#### *Consultation Feedback*

BRP owners and body rubbers were generally supportive of the proposed approach, but noted that the City should be prepared to provide adequate support when an individual reaches out for help.

Anti-human trafficking advocates and survivors of human trafficking were supportive of this proposal; however, they said it would only minimally help individuals. Some recommended that the licensees should be provided information on human rights, labour and employment rights, human trafficking, and available social service supports at the time of licence applications for both holistic practitioners and body rubbers; and that this information should be included in the licence.

Sex worker advocacy groups proposed that City mandate the posting of information on employment and human rights and of agencies to contact if workers require support or assistance. They recommended that the City not emphasize human trafficking-specific information.

## **10. Removing Restriction on Place of Employment**

#### *Approach Under Consideration*

Under the By-law, body rubbers are currently prohibited from working at more than one licensed establishment with their licence. This requirement restricts the freedom of movement of body rubbers. Staff are considering deleting this requirement and allowing body rubbers to work at any licensed establishment.

The By-law also requires that owners retain the official copy of the body rubbers licence, and post it in a conspicuous place in the establishment. The licence contains personal information, such as the full name of the attendant and their home address. Customers are available to view the information, and this may compromise the health and safety of body rubbers. Staff are considering a recommendation of deleting this requirement, allowing body rubbers to keep their licence, and requiring that managers keep copies of the licence on-site and not in a conspicuous place be considered.

#### *Consultation Feedback*

BRPs, body rubbers, sex worker advocacy groups, anti-human trafficking advocacy groups were all supportive of this approach, as it would allow body rubbers freedom of movement. Some survivors of human trafficking stated it was their view that this measure would not do much to prevent trafficking.

## **Human Trafficking**

In [December 2013](#) and [April 2018](#), City Council directed staff, including MLS, to undertake a number of measures to address human trafficking.

MLS has worked closely with SDFa to respond to the directive to report back on current insights on human trafficking, and collaborated with SDFa throughout their review. The

SDFA staff report, Update on Supporting Survivors of Human Trafficking, includes further details, and will be before the Economic and Community Development Committee meeting on May 27, 2019.

MLS has also heard from survivors with lived experience that there were instances in the past where they were trafficked through licensed establishments. See the SDFA report for more information.

### **City-wide Efforts on Anti Human Trafficking**

The City's work related to human trafficking falls into the four main categories, as defined by SDFA: identifying people being or at-risk of being trafficked; supporting survivors of human trafficking; preventing human trafficking; and avoiding increasing the vulnerability of people engaged in consensual sex work.

Since 2013, SDFA division has led the City's Steering Committee to Address Human Trafficking. The inter-divisional committee focusses on: sharing information and resources related to human trafficking, increasing services for human trafficking survivors, increasing City staff understanding of human trafficking, and coordinating the City's work related to human trafficking. The outcomes of this work are reported on the SDFA's forthcoming report.

Since 2013, the Toronto Police Service has also established a dedicated Human Trafficking Enforcement Team.

### **Efforts to Enhance Safety of Workers in BRPs and Holistic Centres**

MLS is working with SDFA and other City Divisions to address the issue collaboratively and to also better inform and prepare MLS staff in the event that they encounter someone who may be vulnerable.

MLS staff are in the process of reviewing business licensing procedures to determine what interventions would be helpful in potentially preventing or intervening on exploitative situations. The aim is to leverage points of contact when vulnerable persons may be provided information on supports available to them when interfacing with licensing administration and enforcement processes.

Front line staff have received tailored human trafficking training to better identify indicators of trafficking and steps to take when an individual is suspected of being trafficked.

### **Next Steps**

The information gathered through research and consultations demonstrate that there are many competing narratives and complex issues when considering regulations for these industries. The health and safety of vulnerable individuals may be affected, and there are divergent opinions on how to best address this.

Any approach that the City undertakes should be balanced, to minimize harm or risk to the wellbeing or safety of individuals while addressing community concerns.

With direction from City Council, staff will form final recommendations to Council and report to the General Government and Licensing Committee in the fourth quarter of 2019.

## **CONTACT**

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## **SIGNATURE**

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Carleton Grant  
Executive Director

## **ATTACHMENTS**

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Attachment 1: Consultation Report