

BYLAW 20367 - OMNIBUS AMENDMENT TO BUSINESS LICENCE BYLAW 20002

RECOMMENDATION

That Urban Planning Committee recommend to City Council:

That Bylaw 20367 be given the appropriate readings.

Purpose

The purpose of the bylaw is to amend Bylaw 20002- Business Licence Bylaw, incorporating continuous improvement identified by Administration and stakeholders through the normal course of business and amendments to address outstanding privacy concerns that were raised by workers in the adult services industry when Bylaw 20002 was passed.

Readings

Bylaw 20367 is ready for three readings.

Position of Administration

Administration supports this Bylaw.

Report Summary

This report proposes a series of continuous improvement amendments to Bylaw 20002- Business Licence Bylaw in five key areas:

1. Personal information requirements for adult services;
2. Business licence categories;
3. Operating requirements for second hand dealers;
4. Compliance tools; and
5. Additional administrative amendments.

REPORT

The Business Licence Bylaw establishes the rules and regulations for granting licences to businesses that meet the City's criteria for doing business in Edmonton. Bylaw 20002- Business Licence Bylaw was adopted in 2021, with an implementation date in 2022, with objectives to:

1. Provide clear, consistent and reasonable regulations that are easier for businesses to understand and meet.
2. Adjust licensing requirements to help reduce barriers for businesses and enhance service delivery.
3. Enable the City to respond quickly and decisively to new and emerging business types.
4. Improve enforceability of the regulations and alignment with regulatory and enforcement partners to facilitate a more timely and effective response to compliance-related issues.

The purpose of Bylaw 20367 (Attachment 1), which amends Bylaw 20002- Business Licence Bylaw, is to propose a series of continuous improvement amendments identified by Administration which will further achieve the above mentioned objectives, as well as respond to questions raised by Urban Planning Committee and workers in the adult services industry in the August 10, 2021 Urban Planning Committee report UPE00381. Specific amendments are outlined in detail in Attachment 2.

Personal Information Requirements for Adult Services

When Bylaw 20002 was proposed at the August 10, 2021 Urban Planning Committee, speakers from the adult services industry expressed concern with the requirement for adult service businesses to collect and retain workers' personal information. This requirement was carried forward from the previous Bylaw 13138 to the proposed Bylaw. Bylaw 20002 was subsequently passed by City Council on August 16, 2021, however, Administration committed to engaging with workers in the adult services industry and returning to Committee with the corresponding bylaw amendments.

Based on the engagement discussed in Attachment 3, Administration is now proposing an amendment to Bylaw 20002 that would remove the requirement for body rub centres, escort agencies and exotic entertainment venues and agencies to collect and maintain each worker's full name, date of birth and telephone number in their employee lists. The requirement for businesses to collect and retain workers' business licence numbers and pseudonyms would remain in place to ensure the employee list can be cross-referenced with licensing records. The proposed amendment minimizes the risk of workers' privacy being breached by businesses, while still providing a path for authorized City staff to access workers' contact information in accordance with the harm reduction model for adult services.

Business Licence Categories

Administration is proposing minor amendments to the following business category descriptions:

- Commercial School

- Vehicle Repair, Maintenance, and Modification
- Tobacco and Vaping Product Sales

The intent of these amendments is to more accurately categorize examination and skill assessment services (e.g., proctors) and vehicle inspection services and align with recent amendments to provincial legislation that prohibit tobacco retailers from selling tobacco from a mobile unit.

Operating Requirements for Second Hand Dealers

Administration is proposing an amendment to allow some operating requirements for second hand dealers to be waived individually. Currently, Administration holds the authority to waive the requirements that a second hand dealer hold goods for a minimum of 45 days, obtain identification from sellers and maintain a record of each transaction. However, Administration can only waive all three of these requirements together.

The proposed amendment is in direct response to feedback from second hand dealers who have found that the holding requirement is unreasonable for goods that are sold on consignment. Since consignors sell goods on behalf of an owner rather than purchasing and reselling goods, it is not practical for consignment goods to be held for 45 days. The proposed amendment would enable Administration to address the inequity of the holding requirement for goods sold on consignment, while still maintaining other regulations that deter stolen goods from being sold to, or sold by second hand stores.

Compliance Tools

Administration is proposing several amendments to enhance and clarify compliance tools in Bylaw 20002.

Automatic Suspension Provisions

The automatic suspension provision currently grants Administration the authority to immediately suspend a business licence in specific circumstances where a business does not meet an objective and verifiable requirement for the business licence (e.g., when a corporation is struck from the corporate registry or when a business does not have a required provincial licence). Administration is proposing an amendment that would further allow a licence to be suspended automatically if a payment for a business licence fee is dishonoured. Administration would continue to attempt to resolve the dishonoured payment by contacting the business; however, if the business does not voluntarily pay the outstanding fee, Administration could impose a suspension that would remain in effect until the fee is paid or until the licence expires. Administration currently has no formal mechanism to address dishonoured business licence payments, so the proposed amendment would provide an efficient means of resolution by incentivizing payment of the outstanding fee and by withholding the licence from those who have not paid for the service.

Business Licence Review Provisions

Business licence review provisions outline the grounds and formal process through which Administration can refuse, cancel, suspend or impose conditions on a business licence in response to compliance or public interest concerns. Proposed amendments include:

- Clarifying the mail delivery standards for licence review correspondence. This amendment would not change the current standard, but rather would make the delivery standard more explicit for all types of correspondence.
- Extending the grounds for a licence review to circumstances where a licence is issued by the City in error or based on incorrect, misleading, or missing information in the application.
- Allowing a licence review decision and the corresponding fines to be applied for either an entire business licence or an individual business category on a licence. The current language requires that the entire business licence be subject to a review, rather than only those individual categories (i.e., business activities) that are of concern.
- Bringing the fine for operating a business after a licence has been refused in line with the fine for operating with a suspended or cancelled licence. The amendment will improve the consistency of enforcement action in all circumstances where a business is found to be operating after the licence has been formally reviewed and permission to operate was not granted due to serious public interest or compliance concerns.
- Amending the provisions that outline how conditions on a business licence may be removed. When Bylaw 20002 passed, Administration's intention was to provide options for conditions to be reassessed prior to being removed automatically upon expiry. However, when applied in practice, it was determined that the language in the bylaw does not reflect the intended approach and rather requires the conditions to be removed automatically after the specified date. The proposed amendment clarifies this language with the intent that where long term conditions are imposed on a business, these conditions may be removed as and when the business has demonstrated that safe and responsible operations can be maintained without conditions.

These compliance-based amendments would provide additional clarity on the licence review process, enable Administration to take equitable approaches by applying remedial action only to the specific activities of concern, to ensure the fair and objective process is also followed when Administration must reverse licence decisions, and to ensure further clarity regarding how conditions on a business licence may be removed.

Additional Administrative Amendments

Administration is proposing minor corrections for clarity and consistency. These corrections would have no bearing on how the bylaw is interpreted or applied, but ensure the summary schedules for application requirements and penalties are aligned with the corresponding bylaw sections.

Other Ongoing Work

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Administration will be working on a number of other continuous improvement initiatives throughout 2023, including:

- A comprehensive review of police information check requirements and consultations with the Edmonton Police Service and Fire Rescue Services to assess the continued need for these requirements and explore opportunities to reduce red tape for businesses.
- Business technology enhancements that will improve online business licensing services for all businesses and enable licensing services for massage and adult services to be accessed online.
- An analysis of emerging patterns of new business types to ensure licensing requirements meet the unique needs of these businesses and other stakeholders.

Proposed bylaw amendments resulting from this, or other work will be addressed in a future report.

COMMUNITY INSIGHTS

Most of the amendments proposed in this report are operational in nature and were identified internally as continuous improvement opportunities through the normal course of business (e.g., through the practical use of the business licence review and automatic suspension provisions and while processing business licence applications).

Personal Information Requirements for Adult Services

In August of 2022, Administration conducted a survey with licensed body rub practitioners, escorts and exotic entertainers - asking them to indicate their agreement or disagreement with proposed bylaw changes that would eliminate the requirement for businesses to collect and retain each worker's full name, date of birth and telephone number. The majority of respondents either supported, or had no opinion about the proposed changes. Respondents' open-ended survey responses cited the importance of personal safety and security, fear of being outed as adult service workers, and potential for misuse of personal information as reasons for supporting the proposed bylaw changes. Engagement is discussed in detail in Attachment 3.

Operating Requirements for Second Hand Dealers

Administration's proposed amendments to operating requirements for second hand dealers were influenced by inquiries and subsequent one-on-one engagement with two operators of consignment businesses and their customers.

FINANCIAL IMPLICATIONS

Approximately 33 per cent of business licences with dishonoured payments in 2021 and 2022 were not resolved, resulting in unrecovered revenue of approximately \$2,500. Although the financial impact is not significant, the proposed amendment to automatic suspension provisions provides an efficient solution for either recovering outstanding fees, or rescinding business licences in cases where fees are not recoverable. No additional financial implications are expected.

ATTACHMENTS

1. Bylaw 20367
2. Summary of Proposed Business Licence Bylaw Amendments
3. What We Heard: Personal Information and Privacy Considerations for Adult Services Workers

OTHERS REVIEWING THIS REPORT

- M. Plouffe, City Solicitor