

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

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**EXECUTIVE SUMMARY**

This report responds to Council's Notice of Motion that Administration bring forward an amendment to the Land Use Bylaw (LUB) to allow the Development Authority to relax (i.e. reduce) the minimum required separation distance between Liquor Stores in order to allow an existing Liquor Store to move to a new location that is less than the minimum separation distance from the original location, but not less than the minimum separation distance from other different Liquor Stores.

The report also proposes an amendment to the existing Liquor Store Separation Distance Guidelines to reflect the proposed change to the rules. The amendment adds a new guideline, number six, to the original five guidelines.

**PREVIOUS COUNCIL DIRECTION**

On 2016 February 22, Council approved NM2016-06 (APPENDIX IV) that requested Administration bring forward amendments to the LUB that would allow the Development Authority to relax the minimum separation distance between Liquor Stores for sole purpose of allowing an existing Liquor Store to be relocated less than 300 metres from its original location, provided that it does not move within the minimum separation distance of a different liquor store.

On 2015 May 13, Council approved amendments to the LUB that require the Development Authority to refuse a Development Permit (DP) application for a Liquor Store when within 90 per cent of the minimum separation distance to an existing Liquor Store or parcel boundary of a public or private school.

On 2003 November 20, Council approved amendments to the LUB that instituted a 300 metre separation distance between liquor stores and a 150 separation distance between liquor stores and schools, but did not apply the separation distances to the downtown and regional commercial districts.

**ADMINISTRATION RECOMMENDATIONS**

2016 April 21

1. That Calgary Planning Commission recommends **APPROVAL** of the proposed amendments to the Land Use Bylaw (1P2007).
2. That Calgary Planning Commission recommends **APPROVAL** of the proposed amended Liquor Store Separation Distance Guidelines.

That Council hold a Public Hearing on Bylaw 27P2016; and

1. **ADOPT** the proposed amendments to the Land Use Bylaw (1P2007), in accordance with Administration's recommendation; and

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

---

2. Give three readings to the proposed Bylaw 27P2016.
3. **ADOPT**, by Resolution, the proposed amendments to the Liquor Store Separation Distance Guidelines, in accordance with Administration's recommendation.

**REASONS FOR RECOMMENDATIONS:**

When a DP application for a use in an existing building is approved, it is usually for a specific space within a building and on a specific parcel. The 'right' to operate the use is not owned by the business or the owner of the business (i.e. the tenant), but rather it resides with the parcel. Unless a DP for a use is approved for a limited time period, when a business closes or moves, the DP approval remains valid in the empty space for an unlimited period of time unless replaced by a new DP for different use(s). This means that when a Liquor Store closes, the empty space it leaves behind is still considered a Liquor Store for the purposes of the minimum separation distance in the LUB, because that empty space can be used by a different Liquor Store tenant without need for a new DP.

Municipalities across North America use separation distances to manage the impacts of clustering and proliferation. The City of Calgary uses separation distances to manage various types of signs, Liquor Stores, Pawnshops and Payday Loans. However, because DP approvals usually vest with the land for an indefinite time period and not with a business, it means that DP's issued for uses that have separation distances sometimes give 'value' to the land where the DP approval is vested. This occurs because another identical use cannot open within the minimum separation distance, sometimes meaning, less business competition. This can be disadvantageous when an existing business wants to relocate to a nearby location, because the owner of the land where the original DP is located may be reluctant to agree to allow the original DP to be cancelled in order to allow the business to relocate nearby. Not cancelling the original DP means the separation distance from the original location remains in place.

Notwithstanding the consequences, outlined above, of using separation distances to manage proliferation and clustering, they are effective when used to manage the combined social, economic, aesthetic and development impacts of some uses on communities. Previous reports have outlined the social and aesthetic impacts on clustering of Liquor Stores.

The amendments to the LUB are shown in APPENDIX I and are intended to allow the Development Authority to relax any amount of the minimum 300 metre separation distance when it is between a Liquor Store's new and previous locations. The Liquor Store Separation Distance Guidelines are shown in APPENDIX II and facilitate guidance of the proposed rules.

Liquor Stores may need to relocate for a variety of valid reasons, including a desire to expand, to move to newer and more modern premises, or perhaps to obtain better exposure or more vehicle parking. These are reasonable objectives for most businesses.

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

---

Administration recommends adopting the proposed amendments to the LUB and the amended Liquor Store Separation Distance Guidelines, as they strike a reasonable balance between separation distances that are used to manage clustering and proliferation, while still allowing an existing Liquor Store to relocate.

**ATTACHMENTS**

1. Proposed Bylaw 27P2016
2. Proposed Amendments to the Liquor Store Separation Distance Guidelines

MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016

---

**ADMINISTRATIONS RECOMMENDATION TO CALGARY PLANNING COMMISSION**

1. Recommend that Council **ADOPT**, by bylaw, the proposed amendments to Land Use Bylaw 1P2007 (APPENDIX I).

**Moved by: M. Foht**

**Carried: 7 – 2**

Opposed: G. Morrow and  
J. Gondek

2. Recommend that Council **ADOPT**, by resolution, the amended Liquor Store Separation Distance Guidelines (APPENDIX II).

**Moved by: M. Foht**

**Carried: 7 – 2**

Opposed: G. Morrow and  
J. Gondek

Reasons for Approval from Ms. Wade:

- I supported this with caution as it seems we are using a band-aid method to manage liquor store locations.
- It would seem that utilizing business licenses with use and development permits that have liquor stores as a conditional use regulated by business license might be considered.

Reasons for Opposition from Mr. Morrow:

- This is creating a policy to allow discretion on a policy we just created to limit this exact discretion. Instead of creating a simple straightforward process for dealing with “controversial uses”, we are creating end-runs around our own policies. Other cities use a “Conditional Use Permit” (CUP) process instead of tying to a land use. CUPs are discretionary business permit with specific conditions (eg. hours of operation, etc.) and are time-limited. This encourages owners to be good neighbours (essentially formalizing a “Good Neighbour Agreement”). This, in turn, could be handled (as in other cities) by having a simple “uses requiring permits” in our Land Use Bylaw, which would take this entire process out of land use and put it in its proper place, which is as a business licensing process. This would greatly simplify land use because applicants would not have to apply for a land use redesignation to get a change of use, but rather apply for a Conditional Use Permit. This would take care of a host of controversial uses – liquor stores, medical marijuana, vape stores, pawn shops, payday loans, etc. I would encourage Council to direct Administration to explore the potential of a “Conditional Use Permit” (CUP) process. (As an aside, this could also be a solution to simplifying secondary suites – which could be approved by conditional uses permits, thus with conditions and time-limited.)

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

---

Reasons for Opposition from Ms. Gondek:

- This holds the potential for the type of proliferation that the original separation distances tried to address. The site from which the liquor store has moved could once again become a liquor store with a new tenant/owner.

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

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**REGULATORY DISCUSSION**

**BACKGROUND**

Council adopted a minimum 300 metre separation distance between Liquor Stores in 2003 November 20. The purpose of the separation distance was to manage proliferation and clustering of liquor stores, which was significant in Calgary post-privatisation when the number of Liquor Stores in Calgary rose from 29 in 1993 to 227 in 2003 the year the separation distance was implemented, and later to 346 in 2014.

Between 2003 and 2011 the total number of relaxation requests, which is a request to the Development Authority to reduce the separation distance, increased from 2 to 13. The number of requests approved by the Development Authority each year also increased in this time period. The analysis in report M-2015-001 showed the average reduction in the minimum required distance between Liquor Stores, approved by the Development Authority between 2003 and 2014, was 96 metres. The analysis also showed that some communities had a significant higher concentration of Liquor Stores than the city average.

In response to these issues, in 2013 May 13, Council approved amendments to the LUB to limit the amount of relaxation the Development Authority could approve to a Liquor Store separation distance to 10 per cent of the minimum, which meant that the minimum separation distance between Liquor Stores could only be reduced from 300 metres to 270 metres.

**ISSUE**

The nature of a DP approval for a change of use is that the approval remains with the land, not with the applicant or the business owner. This means when a business closes and vacates a premise, the right to operate the same type of business, but with a different tenant in the same space, remains. This right remains with the land even if the landowner changes and it continues until the space is converted to a different use with a new DP.

This enduring nature of a DP generally means that the 'right' to operate a Liquor Store in a building, once a DP for one is approved and it commences, remains until replaced by a DP for a different land use. This means that for the purposes of the LUB separation distances, a Liquor Store continues to exist even if the space is vacant because the Liquor Store has moved. It exists because the potential or 'right' to operate a Liquor Store remains.

The circumstances described above make it challenging for an existing Liquor Store to move a short distance, because any distance an existing Liquor Store proposes to move that is less than 270 metres from the original location must be refused pursuant to section 40(h) of the LUB, unless the current owner of the land where the DP is vested requests that the original DP be cancelled.

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

---

There may be circumstances when the owner of the land where the original DP was approved will not agree to cancel the original DP, because that landowner would like to rent the space to a different Liquor Store tenant.

An existing Liquor Store may wish to move a short distance for a variety of reasons, which may include:

- Expanding the floor area;
- Moving into a newer building;
- Moving to a location that has improved visibility, pedestrian or vehicle access or vehicle parking;
- To own building; or
- To take advantage of an opportunity to reduce rent.

It is reasonable and customary for a business to need to move. This becomes challenging when separation distances are involved and the Development Authority cannot relax them to allow the relocation of the business.

**THE PROPOSED LAND USE BYLAW AMENDMENT & GUIDELINES**

Administration thinks that it is reasonable to allow an existing Liquor Store to relocate a short distance as long as it does not relocate within the separation distance of different Liquor Store, other than the separation distance from the original location.

There are several methods that could be used to allow a Liquor Store to relocate, including the deletion of the limit on the relaxation power of the Development Authority found in section 40(h) of the LUB. However, Administration thinks that the original reasons Council implemented the separation distances in 2003 and the limits on the use of discretion in 2015 remain valid – to manage the cumulative social, aesthetic, and development impacts on Liquor Stores when they cluster.

**CONCLUSION**

Administration recommends the amendment to the LUB shown in APPENDIX I, where the limits on the discretion of the Development Authority to relax the Liquor Store separation distance are broadened, so that in addition to the 10 per cent relaxation authority, it can also allow approved a greater relaxation for an existing Liquor Store to move to a new location, but only when the relaxation is from the original location.

Although it is possible that two Liquor Stores could be located close to each other as a result of this amendment, Administration thinks that it is a balanced approach to solving the issue because it only allows the Development Authority to relax the separation distance from the

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

---

original location, not from other Liquor Stores. For all other circumstances, the rules in the LUB continue to maintain the separation distances and limits on the discretion of the Development Authority in order to manage the impacts of clustering and proliferation for new Liquor Stores.



MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016

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APPENDIX I

PROPOSED AMENDMENTS TO LAND USE BYLAW 1P2007

- (a) Delete subsection 40(h) and insert the following:
- “h) is for a **Liquor Store** in any district, other than the C-R2, C-R3 and CR20-C20/R20 Districts, that requires more than a 10 per cent relaxation of a minimum separation distance specified in subsections 225(d) or 225(e), except where the ***development permit*** is for:
- (i) the expansion or alteration of an existing approved **Liquor Store** or renewal of approval of a previously approved ***development permit*** for a **Liquor Store**; or
  - (ii) an existing approved **Liquor Store** that proposes to move to a new location not within a minimum separation distance specified in subsections 225(d) or 225(e), excluding the distance from the original location of the existing approved **Liquor Store**.”

**MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016**

---

**APPENDIX II**

**LIQUOR STORE SEPARATION DISTANCE GUIDELINES**

**Objectives**

To ensure opportunities for liquor stores are balanced with the cumulative impacts of traffic, parking, noise and aesthetics they may have on communities.

The separation distance helps manage over concentration of liquor stores along corridors and in communities.

**Guidelines**

A request to reduce either the 300 metre minimum separation distance between a proposed liquor store and an existing liquor store, or the 150 metre minimum separation distance between a proposed liquor store and a school, up to 10 per cent of the minimum distance, may be approved by the development authority when:

1. The proposed liquor store is less than 300 metres from an existing liquor store, but located in and serving a different community or neighbourhood;
2. Only one liquor store or school is within the minimum separation distance;
3. A major road or expressway separates the proposed liquor store from the other liquor store or school within the separation distance;
4. The proposed liquor store, or the existing liquor store that is within the minimum separation distance, is located in an enclosed shopping centre; or
5. The existing liquor store located within the minimum separation distance is in a land use district where the separation distances do not apply (e.g. a direct control district, regional commercial district or a downtown district).
6. An existing approved Liquor Store proposes to relocate to a new location within 300 metres of its original location, provided that it does not move within the minimum separation distance of a different liquor store.

MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016

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**APPENDIX III**

**MINUTES OF COUNCIL – FEBRUARY 22, 2016**

8.1.1 [RELOCATION OF EXISTING LIQUOR STORE BUSINESSES \(COUNCILLOR DEMONG\), NM2016-06](#)

ADOPT, Moved by Councillor Demong, Seconded by Councillor Pincott, that Councillor Demong's Motion, NM2016-06 be adopted, as follows:

NOW THEREFORE BE IT RESOLVED that Council direct Administration to bring forward amendments to the Land Use Bylaw to allow the Development Authority to relax the minimum separation distance for the sole purpose of allowing an existing liquor store business to relocate to within 300 metres of its original location, provided it does not move within the minimum separation distance of a different liquor store;

AND FURTHER BE IT RESOLVED that the Calgary Planning Commission receive the report and amendments by May 2016.


Opposed: R. Pootmans

CARRIED

MISCELLANEOUS – RELOCATION OF EXISTING LIQUOR STORES  
CITYWIDE  
BYLAW 27P2016

APPENDIX IV

NOTICE OF MOTION 2016-06

 THE CITY OF  
**CALGARY**  
CITY CLERK'S OFFICE

NM 2016-06

**NOTICE OF MOTION**  
CC 661 (R2009-05)

NM2016 – February 22

RE: RELOCATION OF EXISTING LIQUOR STORE BUSINESSES  
COUNCILLOR DEMONG

WHEREAS liquor store proliferation may include cumulative impacts on a neighbourhood, including aesthetics, traffic, loading, parking and noise, requiring a separation distance between liquor stores to manage clustering;

AND WHEREAS existing liquor store businesses may need to move small distances into larger spaces or newer buildings;

AND WHEREAS a space that an existing liquor business vacates is still considered to be a liquor store for the purposes of the 300 metre separation distance;

NOW THEREFORE BE IT RESOLVED that Council direct Administration to bring forward amendments to the Land Use Bylaw to allow the Development Authority to relax the minimum separation distance for the sole purpose of allowing an existing liquor store business to relocate to within 300 metres of its original location, provided it does not move within the minimum separation distance of a different liquor store;

AND FURTHER BE IT RESOLVED that the Calgary Planning Commission receive the report and amendments by May 2016.

Signature of Member(s) of Council

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Page 1 of 1

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