

# Impact of Bylaw 17836

## Exemption to the 500 metre Separation Distance between Liquor Stores in Suburban Contexts

### Recommendation

That the October 2, 2018, Urban Form and Corporate Strategic Development report CR\_4335, be received for information.

### Previous Council/Committee Action

At the December 12, 2016, City Council Public Hearing, the following motion was passed:

“That Administration provide a report on the impact of the changes outlined in Bylaw 17836.”

### Executive Summary

This report provides information on the impact of the changes implemented through Bylaw 17836, that provided exemptions to the 500 metre separation distance between liquor stores for large sites in suburban contexts. Bylaw 17836 has enabled 11 new liquor stores, in the suburban exemption area, since December 12, 2016.

### Report

In 2016, Bylaw 17836 established an exemption to the 500 metre separation distance between liquor stores for sites in suburban contexts, while maintaining the current regulations in mature neighbourhoods.

The 2016 amendments enabled liquor stores to be located less than 500 metres from other liquor stores provided that all the following criteria are met:

- the liquor stores are located on separate sites;
- the liquor stores are located outside of the non-exemption area boundary; and
- at least one of the liquor stores is located on a site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3.

The boundary of mature neighbourhoods where the change to separation distance does not apply, is identified in Section 85 of Zoning Bylaw 12800, under Appendix 1: Major Alcohol Sales and Minor Alcohol Sales Non-exemption Area to 500 m Separation Distance.

Since the passage of Bylaw 17836, there have been 26 development permits issued for the development of a liquor store (Major or Minor Alcohol Sales use). Eleven of these permits were enabled by the changes brought by Bylaw 17836. One of the development permits issued included an application that was refused by the Development Officer prior to December 12, 2016. The refusal was subsequently overturned by the Subdivision and Development Appeal Board after the amendments were passed.

In 2017, the Alberta Court of Appeal interpreted the text of the 2016 amendments. In *Liquor Stores Limited Partnership v. Edmonton (City)*, 2017 ABCA 435, the Court of Appeal upheld Administration's interpretation that the word 'may' in subsection 85.2 does not provide the Development Officer or the Subdivision and Development Appeal Board discretion to refuse a development permit application for a liquor store that is a permitted use and meets the criteria set out in subsection 85.2:

*"2. Notwithstanding subsection 85(1), a Major Alcohol Sales or Minor Alcohol Sales **may** be located less than 500 m from any other Major Alcohol Sales or Minor Alcohol Sales if all the following regulations are met:*

- a. the Major Alcohol Sales or Minor Alcohol Sales are located on separate Sites;*
- b. the Major Alcohol Sales or Minor Alcohol Sales are located outside the boundary shown in Appendix 1 to Section 85; and*
- c. at least one of the Major Alcohol Sales or Minor Alcohol Sales is located on a Site greater than 2.5 ha in size that is zoned CSCa, UVCa, GVC, TC-C, DC1, DC2, CSC, CB1, CB2, CHY, CO or CB3."*

The table below provides a breakdown of the development permits issued for Major and Minor Alcohol Sales since the 2016 amendments:

Applications for a new Liquor store	D.O. Refused	D.O. Approved	Decision Appealed	SDAB Approved	Permits Issued	Exemption Area	Non-Exemption Area	Permits Enabled by Bylaw 17836
26	6	20	7	6	25	21	5	11

Notes:

- One development permit refused was upheld by the SDAB
- One development permit approved was upheld by the SDAB

Of the development permit applications refused by the Development Officer, three were within the Non-Exemption Area. All of the applications refused, and one

application approved by the Development Officer, were appealed to the Subdivision and Development Appeal Board. All appeals since the amendment was passed have been initiated by the applicant or a competitor. Only one appeal related to a permit enabled by this bylaw change. For further information on the location of the liquor stores impacted by the changes, please refer to Attachment 1 - Location of Approved Liquor Stores (Dec 12, 2016 - July 11, 2018).

### **Conclusion**

Based on this analysis, Bylaw 17836 has enabled 11 new liquor stores in the suburban exemption area, since December 12, 2016.

### **Public Engagement**

Administration circulated a draft version of this report to external stakeholders on July 13, 2018, for 2 weeks. These stakeholders included:

- Edmonton Federation of Community Leagues
- All Community Leagues
- Alberta Liquor Store Association
- Alberta Gaming and Liquor Commission
- Alberta Health Services
- Urban Development Institute
- National Association for Industrial and Office Parks (NAIOP)
- Edmonton Economic Development Corporation
- Industry Stakeholders
- 13 Business Improvement Area Associations

Administration received three comments on an earlier version of this report. Of the comments received:

- One liquor store operator felt that the zoning regulations for liquor stores should remain, and that communities and the Subdivision and Development Appeal Board should decide how many liquor stores they want.
- Another industry representative supported the Bylaw amendments, noting that the change has struck a balance between the interests of liquor retailers and new market entrants.
- One community league representative stated that it is important to retain the 500 metre separation distance in communities with a proliferation of liquor stores and a high population of vulnerable individuals that suffer from addictions, because these conditions contribute to an unsafe environment.

### **Corporate Outcomes and Performance Management**

**Corporate Outcome(s):** Edmonton has a globally competitive and entrepreneurial business climate

## Impact of Bylaw 17836 - Exemption to the 500 metre Separation Distance between Liquor Stores in Suburban Contexts

Outcome(s)	Measure(s)	Result(s)	Target(s)
Effective and efficient service delivery: City of Edmonton Services do not increase barriers to economic growth.	Number of development permits issued for suburban liquor stores	7 (Dec 12, 2015 - Dec 12, 2016) 6 (Dec 12, 2016 - December 12, 2017)	n/a

### Attachment

1. Location of Approved Liquor Stores (Dec 12, 2016 - July 11, 2018)

### Others Reviewing this Report

- R. Kits / S. Padbury, Acting Deputy City Managers, Financial and Corporate Services
- C. Owen, Deputy City Manager, Communications and Engagement