

From: [David S. Crawford](#)
To: [Licensing and Standards Committee](#)
Cc: president@slna.ca; [LITTLE, Marcus](#)
Subject: JC1.1. Harmonized By-law and Fees for Sidewalk Cafés, Parklets and Marketing Displays.
Date: Thursday, November 30, 2017 9:49:26 AM
Attachments: [Boulevard cafes Dec 2017 FINAL.pdf](#)

Attn: Nancy Martins:

I am pleased to attach a statement from the St Lawrence Neighbourhood Association on Item JC1.1.

In general the SLNA is very satisfied with the staff recommendations and congratulates staff for bringing forward a clear, comprehensive and harmonised by-law for our City that creates a reasonable balance between the needs of citizens and visitors and the requirements of local businesses.

Though having clear rules will make enforcement simpler, this by-law will not work properly until Municipal Licencing and Standards makes proactive inspections; the current complaint-driven system simply does not work!

David S. Crawford
Streetscape Coordinator, St Lawrence Neighbourhood Association

304-135 George Street South
TORONTO, ON
M5A 4E8
CANADA

416-504-7636
david.crawford@mcgill.ca

<http://internatlibs.mcgill.ca>

><(((o> ><(((*> ><(((-> ><(((o>



The St. Lawrence Neighbourhood Association is a registered not-for-profit organisation, founded in 1982; it represents residents of the area bounded by Yonge, Parliament, Queen and the rail berm. Our Association has been working on and following with great interest the development of the sidewalk café design manual and the associated by-law for several years and we have participated in many public and stakeholder consultations.

We have over 30 licenced Boulevard Cafés and a couple of Marketing Display permits in our area and, in general, we are very supportive of boulevard cafés as they add vibrancy and life to our streets. We are fully supportive of the major objectives identified in the Staff Report and congratulate City Staff for preparing a very comprehensive and balanced report that deals with many of the issues we have seen over the past decade. We are very pleased to support a Report which opens up further possibilities for animating our City.

One of the major concerns in our neighbourhood is narrow sidewalks and we are a member (and a strong supporter) of the **Sidewalks for All** campaign. We join them in welcoming the Staff Report's proposals regarding wide, clear, straight and passable sidewalks as we have many older, disabled and 'child-stroller parents', residents and visitors in our downtown neighbourhood. We support the separate Sidewalks for All submission on this Report without hesitation and will not comment further on these issues here.

Though the SLNA supports almost all of the recommended changes in the Staff Report, we note below our comments on some specific Paragraphs.

Paragraph 5 - Notice requirements: We strongly support the inclusion of 'resident associations' in the list of people to be informed under Paragraph 5 d.

Paragraph 16 Permit Requirements: we very strongly support the recommendation that boulevard café permits must be posted.

We strongly suggest that the posted permit should contain any conditions such as hours of operation and that these permits - with full details on any conditions and the full street address of the café (not only the address of the permit holder) should continue to be accessible on the City's website.

Paragraph 17d it might be simpler to say that it is illegal to refuse the entry of any person into a permit area on the basis of any characteristic listed as a prohibited ground for discrimination in the Human Rights Code (R.S.O. 1990, CHAPTER H.19.)

Paragraph 23 - Permit Cancellation, we suggest that the Executive Director or General Manager should have the specific right to cancel a permit if any enclosures and/or furniture are not removed as required by the By-Law and/or the permit. From our experience in St Lawrence there is great reluctance on the part of some permit holders to remove fencing and furniture in winter; we have several examples of café space being used as winter furniture storage areas.

Paragraph 38 - Separation from Residential Zone Requirements

As St Lawrence is primarily a mixed use area, we are very conscious of the needs of **VERTICAL NEIGHBOURS**. Many of our current Boulevard Cafés are on the sidewalk immediately below residential Units and our only real regret is that the Staff Report does not specifically deal with the needs of vertical neighbours. The Report recommends restrictions if there are flankage neighbours ("*A minimum separation distance of 30 metres measured from the closest part of the permit area to the nearest lot in a Residential Zone, Residential Zone Category or Residential Apartment Zone Category, as set out in the applicable zoning by-law.*"). We urge the City to look again at how vertical neighbours can be better protected from noise and, at the very least, specifically informed of new or revised applications in their immediate neighbourhood.

Paragraph 67 - Seasonal Operation: We strongly support this paragraph as it clearly defines what ‘the season’ is. We have seen far too many examples in the St Lawrence neighbourhood where boulevard cafés become furniture storage areas in winter and where MLS inspectors have to be specifically contacted to attempt enforcement. Once ‘the season’ is properly defined, we strongly suggest that MLS should proactively inspect all licenced boulevard café locations when ‘the season’ ends and immediately deal with any infractions. We suggest that the words “furniture and” be added for greater clarity.

*“67. City Council direct that all sidewalk café permit holders, except those with a permit for temporary year-round café enclosures, remove all sidewalk café elements including **furniture and** fencing from the permit area, at the sole expense of the permit holder, from November 15 to April 14, inclusive.”*

Hours of Operation - Paragraphs 68 and 69:

“68. City Council direct that if the permit area is located on a local road, a permit holder must ensure that the sidewalk café is closed and cleared of customers by 11:00pm or, in accordance with the alternative hours of operation adopted by Community Council for the permit area.”

For clarity, in Section 68 and elsewhere when hours are defined we suggest that it may be better to clearly state the **permitted operating hours**. If only closing hours are stated it would appear that, for at least for cafés on local roads, a café could close at 11pm and legally re-open at midnight.

Paragraph 69 reads *“City Council authorize Community Councils to impose temporary or permanent alternative operating hours on sidewalk café permit holders, where a request by a permit holder has been made.”*

We are puzzled as to why a Community Council can only (?) impose alternative operating hours on a sidewalk café “where a request by a permit holder has been made.” It is true that a permit holder would be the person to request extended hours but we would argue strongly that Community Council should be able to restrict hours or impose conditions based on a request from anyone. We suggest this paragraph should be clarified.

While we understand that it will be convenient to use the City's Road Classification System as a guideline, we note that few streets which currently have boulevard cafés in St Lawrence are "Local Roads". (Our main concentrations of cafés are currently on Church Street, Front Street East, King Street East, Market Street, Princess Street, The Esplanade and Toronto Street. Of these only Market Street and Princess Street are classified as "Local".)

While having a boulevard café operating after 11pm is probably appropriate in a non-residential area, it is generally not appropriate when there are immediately adjacent residential neighbours. Most of the current boulevard cafés in St Lawrence - a mixed-use area - have 11pm closing times which were imposed by Community Council. We assume that Community Councils will retain the power to set operating hours to suit the local environment.

Paragraph 71. We strongly support the proposal that the final decision making authority concerning boulevard café licences should be the Community Councils since local Councillors understand local conditions.

Paragraph 93: We strongly support the prohibition on licencees of small frontage cafés or small marketing displays being granted A-Frame sign licences and hope that MLS will in future strictly enforce the pedestrian clearway and other regulations on ALL signage and that they will do so in a proactive manner.

Transition of Existing Permit Holders

Though we would prefer a shorter transition period, we accept that current permit holders need some time to adjust. That said, we think that there are probably some existing cafés that cause major problems for pedestrians or neighbours and a Community Council should have the right to insist that, after a proper study and maybe with some financial help, an existing permit must be brought into conformity with the new by-law before the general 2025 'final date'. If the City uses the provisions set down in Paragraph 104 this can be achieved. (Note: The sub-section marker "a" in paragraph 104 seems unnecessary as there are no other sub-sections.)

Fees

As noted earlier, the St Lawrence Neighbourhood Association is generally very supportive of boulevard cafés in our neighbourhood as they give vibrancy to our streets. The recommended fees seem to strike a reasonable balance between the needs of the City to be properly compensated for the use of public space with the permit holders' need to operate commercial enterprises.

Table 4 now reads:

	Recommended annual permit fees, except where noted			
Recommended Fee Zone	Sidewalk Café (\$/m ²)	Marketing Display (\$/m ²)	Year-round Enclosed Café (\$/m ²)	Parklet Café (\$/month)
Central Zone	\$88.31	\$62.65	\$133.00	\$931
Outer Zone	\$44.14	\$38.12	\$66.50	\$596

To remove any ambiguity and provide clarity, we suggest that the wording in the table should be changed as follows.

'Recommended annual permit fees, except where noted.' Should be amended to read "**Recommended permit fees.**"

"Sidewalk Café (\$/m²)" should be amended to read "**Sidewalk Café (\$/m²) – April 14 to November 15.**"

"Marketing Display (\$/m²)" should be amended to read "**Marketing Display (\$/m²) annual fee.**"

"Year-round Enclosed Café (\$/m²)" should be amended to read "**Year-round Enclosed Café (\$/m²) – annual fee.**"

We are unclear if the Parklet Café fee is for a parklet café of any size and assume that the Sidewalk Café fee schedule also applies to Curbside Cafes, Small Curbside

Cafes and Small Frontage Cafes. (And that the Marketing Display fee schedule also applies to Small Marketing Displays.)

We agree that the new fees should be phased in and think that the staff proposal to do this over a 10 year period is acceptable, if generous.

In conclusion we wish to thank City Staff in both Transportation and Municipal Licencing for working so diligently over so many years and for producing an excellent and balanced Report. We urge the Joint Committee and Council to approve it as soon as possible.

David S. Crawford (Streetscape Coordinator) and

Marcus Little (Director)

December 1, 2017