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## EC2.3 Harmonized Bylaw and Fees for Sidewalk Cafés, Parklets and Marketing Displays

**Support:** The SLNA supports boulevard cafés and marketing areas; both these activities give life and vibrancy to our streets. However, a balance needs to be maintained between the needs of merchants and restaurateurs and the needs of residents, pedestrians and others who use our public streets and sidewalks.

In general, we support the Staff Report and commend the many City staff involved for their efforts during the long process that is, we hope, coming to an end. As noted in our conclusion, we have a couple of concerns and hope the Report can be amended to take them into account.

We have the following specific comments:

**A. Standardisation.** The SLNA strongly supports the concept of one unified by-law covering the whole City. The Staff proposals will achieve this.

**B. Posting of permits.** So that residents can help monitor adherence, we are very pleased to see Paragraph 16 e

*“All permit holders, other than holders of a public parklet permit, display a permit notice issued by the Executive Director on the street door or in the lower front window of the associated establishment in a way that is visible at all times from the public sidewalk.”*

We also hope that the full permit information (plan of the area licenced etc) plus any conditions or infractions will be available on-line. This is particularly important as it became clear during the consultation process that there are a large number of boulevard cafés in Toronto that have operated with NO permits at all and a high percentage of licenced cafés that had exceed their permitted areas.

- C. Variety.** The SLNA strongly supports a variety of café options as ‘one size does not fit all’. The Staff proposal for new kinds of boulevard cafés (parklet cafés, standing cafés and small store-front café and marketing areas) should go some way to achieve this. However, we strongly suggest (see H below) that a ‘seasonal café licence should also be offered.
- D. Permit transfer.** In Paragraph 21 of the Staff Report it is noted that permit transfers are generally permitted but that if a permit holder has received an authorisation for extended hours of operation this extension will be cancelled. There are, however, cases where a Community Council has imposed restricted hours and we suggest that any restrictions should be continued on a transferred permit. There is, of course no reason why the permit holder cannot subsequently request that a (new) extension of hours be permitted or that restricted hours be extended.
- E. Pedestrian clearways.** For many years, one of our main concerns has been the width of pedestrian clearways; during the public discussions we have also become more aware of the need of the disabled community, particularly, for cane-detectability and the avoidance of sharp turns and ‘jut-outs’. The Staff proposal makes some progress in this area, but we regret it is not more assertive and that there is no longer a final date by which all licencees must conform. It is also very regrettable that the proposals do not follow the City’s recently adopted Complete Street Guidelines. (<https://www.toronto.ca/wp-content/uploads/2017/11/98b5-Chapter-4.pdf>)

We reluctantly accept this aspect of the Report, but it will be very important to know which licencees have been ‘grandfathered’: we thus urge that this fact be noted on the (posted) permits. We also strongly suggest that, when new or revised permits are being studied, City staff take account of ‘local geography’ so that ‘jut-outs’ are avoided and that the top priority will be to maintain, or create, clear and straight pedestrian pathways and conform to the City’s Complete Streets Guidelines.

- F. Noise.** One of our major concerns has always been the noise that can be associated with boulevard cafés; this is particularly important in our mixed-use area of the City where many residents live in condos or apartments immediately above bars and restaurants.

We had hoped that wording could be found to take the needs of ‘vertical neighbours’ into account - just as the needs of ‘flankage neighbours’ have been. This did not happen but, while we remain concerned, we take some comfort from a response from City Staff (Hamish Goodwin) to one of our residents *“If there is an issue with noise, then the noise would be addressed, as opposed to – for example – taking action that results in reducing the size of the patio. That being said, we are exploring a mechanism that will encourage full compliance whereby if a permit holder is charged and subsequently convicted under the bylaw, the 10-year phase-in of permit fees would be cancelled, and the new permit fees would be required in full.”*

**G. Enforcement.** One of the major problems with the current by-law is that it is not easy to enforce as it (and the associated application forms) are poorly written and contradictory. We welcome the assurances from Staff that enforcement of the revised by-law will be a high priority.

Though the current rules are poorly written, we were horrified, if not surprised, to hear that, in 2018, there were many boulevard cafés operating with no permits at all and at the January 2019 public consultations we heard that 60% of the 339 (licenced) cafés surveyed in summer 2018 had exceeded their paid-for permit area. This should be a matter of concern to the City (and great embarrassment at MLS) as it reduces City revenue and results in a poor pedestrian environment. The new by-law must be clear and be both enforceable and enforced; the proposals made in the Report are certainly a good step in this direction, but the final text of the by-law should be carefully edited to ensure clarity and remove any ambiguity.

**H. What is missing?** The 2017 Report contained a proposal to create an option for winter (enclosed) cafés. Though these might be suitable in some areas of the City, we saw them as problematic and are pleased that this option has now been discarded. We are, however not happy that the suggestion for seasonal permits was completely discarded because most boulevard café permit areas are empty and totally unused during the winter months. (The Staff Report recommends that, as now, the permit area cannot be used for for furniture or snow storage.) In winter, many public sidewalks are unnecessarily narrowed by empty, and generally unattractive, enclosures.

Some café permit holders continue to offer service and/or animate their permit areas 12 months a year, so we do not suggest that all enclosures be removed in

winter. However, to encourage permit holders to remove enclosures when they are not in use, we strongly recommend that the City offer a further option: **seasonal (summer-only) boulevard café permits**. These would, as with Parklet and some other permits, require all enclosures etc to be removed from November 15 to April 14, inclusive.

Though one could argue that the fees being proposed for boulevard cafés should apply to seasonal permits and that annual permits should cost more, we do not want to discourage boulevard cafés. We therefore suggest that the annual fee for a seasonal (summer) boulevard café permit should be set at a reduced rate - possibly 75% - 80% of the annual permit fee. (The one-time fees - application, trees etc. - should remain the same.) All boulevard café permit holders should be able to easily switch between seasonal and annual permits (and *vice-versa*) if their circumstances, business models (or the climate!) change.

In our opinion, if seasonal boulevard café permits (at a lower fee) were an option, many existing and future permit holders would be interested, and our sidewalks would be much clearer in winter, when mobility problems are probably the most severe. This would be similar to a proposal in the 2017 Report which read: *“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 fencing from the permit area, at the sole expense of the permit holder, from November 15 to April 14, inclusive.”*

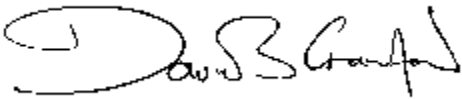
**I. Fees.** We have no specific concerns with the proposed fees and note that most are subject to annual inflationary increases. However, fees charged should surely have a relationship to the City’s costs and the revenue the cafés generate so we suggest that they be subject to a complete review every 3-5 years. As the permits being proposed are either annual or seasonal, we suggest that the listed fees for Parklet Cafés be adjusted from per month to per season.

## **J. Conclusion.**

- 1. *As noted in H above, we feel most strongly that the Staff Report needs to be amended to create an option of seasonal boulevard cafés (at a lower fee). We hope that the Committee will either amend the Report to achieve this or***

***instruct Staff to return to the Committee at the May meeting with a proposal that can be implemented with the other options on September 1, 2019.***

- 2. As noted in D above, we also suggest that the Report be amended to ensure that when a permit is transferred any permit restrictions continue. The recommendations about any authorisations for extensions to the norms being removed should remain***

A handwritten signature in black ink, appearing to read "David S. Crawford". The signature is stylized with a large initial "D" and a long horizontal stroke at the end.

David S. Crawford  
Streetscape Coordinator  
St Lawrence Neighbourhood Assn

2 March 2019