

CB 3 SLA Policies Summary

The following information is excerpted from adopted CB 3 resolutions and policies. It is meant to be a quick reference guide when considering resolutions for individual applicants. See complete resolutions and policy statements for more details.

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Best Practices

- 2/2011: SLA Policy Review called for creation of Best Practices “to give nightlife establishment owners a guideline or standard to follow” in the course of operating their business.
- 9/2011: Best Practices were introduced
 - Best Practices will be given to any applicants, whether they be new or considered as part of the grandfathered policy as both will benefit from understanding community board guidelines and expectations regarding the operation of licensed businesses; and
 - Any applicant receiving the Best Practices must sign that he or she has received, read and acknowledged his or her understanding of the Best Practices as Community Board #3 expectations; and
 - Any applicant considered as part of the grandfathered policy must sign an acknowledgment that part of receiving the benefit of the grandfathering policy is agreeing to make a good faith effort to operate in accordance with these expectations

500 Foot Rule & Public Benefit

- 3/2008: Community Board 3 abides by the 500 foot rule. Applicants for full liquor licenses that are subject to the 500 foot rule of the New York State Alcohol Beverage Control Law will be denied unless they can establish that an approval of the license would be in the public interest. In considering public interest, Community Board 3 may address these same criteria, including:
 1. the number, class and character of existing licensed premises within 500 feet,
 2. whether an applicant has obtained all necessary government licenses and permits for the proposed business,
 3. the effect of an additional licensed premise on vehicular traffic and parking,
 4. the impact of an additional licensed premise on the existing noise level,
 5. the history of violations and reported criminal activity at the subject location, and
 6. any other factor specified by law or regulation that would be relevant to deciding whether public convenience and advantage, as well as the public interest, would be served by approving the application.
- 2/2011: Public Benefit further defined for CB 3's use in evaluating 500 Ft. applicants where the majority of the operation of a business:
 - provides a good or service that is needed by the local community,
 - provides unique goods or services not already in the local community,
 - provides a cultural benefit or increases in retail diversity,
 - enhances the quality of life of the residents, or
 - includes a conscientious business owner who would act as stabilizing force in the community

✳ Courts have excluded jobs or tax revenue as being a public benefit.

Sidewalk Cafés

- Generally, Community Board #3 will endeavor to require the same hours of operation for sidewalk cafes for establishments with similar methods of operation to minimize unfair competition. Applicants should be aware, however, that changing conditions in specific areas or the history of the business itself may necessitate a departure from this policy.

Transfers

- 3/2008: A transfer application should include the same method of operation as the existing business and incorporate any stipulations regarding method of operation which were signed by the transferor. However, Community Board 3 will consider requests to modify existing stipulations for transferred licenses if the revised stipulations will not substantially alter the existing method of operation
- 6/2011: Transfer policy approved by the full board on February 22, 2011 is put into effect as follows: business owners whose applications have been approved by resolution by CB 3 on or before June 28, 2011, may be considered as "transferring" their businesses to new applicants provided that the new applicant
 - Adopt the current stipulations as conditions of its license, maintain the current method of operation, and when they become available, adopt best practices recommendations for operating businesses that have been created by this community board.
 - Transfer Benefit: This transfer benefit will not apply to any business that has been inactive for two (2) or more years. Will only apply to businesses that have been previously reviewed and approved by Community Board 3 and found to be operated by responsible business owners. This review will include a review of SLA reports and actions, NYPD violations and 311 and community board and community complaints regarding their businesses.
 - This transfer benefit will also apply only where the new applicants being reviewed by Community Board 3 are found to be responsible businesses owners who are compatible with the proposed application and this community. Responsible business owners who are compatible with the operation of a business in this community have been identified in the policy statement of February 22, 2011, as "experienced and responsible for managing the business with the same method of operation, will be a good neighbor and does not have violations within the last two (2) years for any business he or she owns or manages."

Zoning Considerations

- CB3 believes that grandfathered Use Group 6 commercial establishments in residential areas that are not eating/drinking establishments should not be allowed to become eating/drinking establishments. The board made this conditional comment as part of the ULURP for the 2008 rezoning.

Zoning regulations do not allow the following:

- 1) If a grandfathered commercial establishment in a residential zone is empty for 2 years, it reverts back to compliant residential use.
- 2) Grandfathered commercial establishments in residential areas cannot expand in size and can never use backyard or have a sidewalk café.
- 3) Backyards cannot be used in any residential area. All backyards in commercial zones must have a Certificate of Occupancy or Letter of No Objection.

COMMUNITY BOARD #3 PREFERRED STIPULATIONS FOR LOCATIONS ABOVE HOUSTON STREET

Community Board 3 prefers the enumerated stipulations for businesses seeking to operate above Houston Street. Applicants appearing before Community Board 3 who agree to these stipulations are more likely to be approved by this community board without debate, provided there is no community opposition to their applications or poor applicant history. Applicants may elect to present their applications with these stipulations included as part of their method of operation.

	COMMERCIAL	RESIDENTIAL WITH COMMERCIAL OVERLAY	RESIDENTIAL (for existing licensed locations only)	RESOLUTION AREA
Method of Operation				B/W license with method of operation restricted to restaurant with primary revenue from food service only
Hours	No standardized hours	Closing no later than 12:00 A.M. weekdays and 2:00 A.M. weekends	Closing no later than 12:00 A.M.	Closing no later than 12:00 A.M.
Doors and Windows	Doors and windows closing at 10:00 P.M.	Doors and windows closing at 10:00 P.M.	Doors and windows closing at 10:00 P.M.	Doors and windows closing at 10:00 P.M. or no open doors and windows depending on area conditions
Music	Music type variable as to volume and recorded versus live or DJ (no scheduled performances permitted)	Ambient background music (except that scheduled performances may be considered for C2 commercial overlay only)	Ambient background music (no scheduled performances, promoted events or events at which a cover fee is charged permitted)	Ambient recorded background music only
Backyard, Sideyard and Rooftop	Backyard closing no later than 10:00 P.M.*	Backyard closing no later than 9:00 P.M.*	No backyard use by law	No backyard use
Sidewalk Cafe	Sidewalk café closing no later than 12:00 A.M. weekdays and 1:00 A.M. weekends**	Sidewalk café closing no later than 11:00 P.M. weekdays and 12:00 A.M. weekends**	No sidewalk café by law	No sidewalk café
Ability to Upgrade				Will not apply for an upgrade to a full on-premise liquor license

*Any backyard must have its own certificate of occupancy before it can be used commercially

**The operation of any café on a public sidewalk requires a separate permit from the Dept of Consumer Affairs