



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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**MCB4 POLICY REGARDING CONCENTRATION AND LOCATION
OF ALCOHOL-SERVING ESTABLISHMENTS**

Overview

Chelsea and Clinton/Hell’s Kitchen historically are residential neighborhoods on the west side of Manhattan and include former manufacturing areas that have been re-zoned for residential use. These neighborhoods are principally the homes of a diverse and growing residential population. The neighborhoods also have a vibrant nightlife. In an attempt to balance these interests, Manhattan Community Board 4 (MCB4) has developed the present policy regarding the concentration and location of alcohol-serving establishments.

MCB4 hears an increasing number of complaints and concerns from community residents regarding the disruptions to reasonable quality of life caused by the increasingly heavy concentration of alcohol-serving establishments, as well as their presence on predominantly residential narrow side streets. The concerns expressed by the community include increased noise and sidewalk congestion when patrons enter and leave, often in groups, and when they smoke on sidewalks outside these establishments; increased traffic as patrons drive into and out of the neighborhood and circle the streets seeking parking; and disruption to the sleep of community residents from the noise accompanying these establishments because they commonly operate until very late in the night. (These issues and concerns are set out in more detail in Attachment A to this policy.)

In implementing the policies below, MCB4 continues to consider each applicant on a case-by-case basis. When reviewing an application, MCB4 gives the concerns of immediately-affected residents strong consideration (including, among others, concerns regarding operating hours and method of operation). In particular, significant support for an applicant from such residents would be a critical factor in a determination to recommend approval of an application not conforming to a stated policy. MCB4 is also mindful of the fact that its district is composed of the neighborhoods of Chelsea and Clinton/Hell’s Kitchen, where distinct retail and commercial configurations may present specific issues and considerations.

Avoid Over-Concentration on the Avenues

To avoid the problems that accompany over-concentration of alcohol-serving establishments and taking into account the provisions of the New York Alcoholic Beverage Control Law commonly referred to as the “500 Foot Rule,” MCB4 rarely recommends approval of applications for full on-premise liquor licenses (including transfers and alterations of such licenses) on avenue locations in over-concentrated areas. MCB4 particularly discourages

applicants and property owners from seeking to open an establishment with a full on-premise license at a location in an over-concentrated area that has not been previously licensed.

MCB4 considers an avenue location over-concentrated if more than 25% of the street frontage in a three-block span is occupied by establishments with full on-premise liquor licenses. When considering a specific applicant, MCB4 examines concentration as follows. MCB4 totals the street frontage of all establishments with full on-premise liquor licenses on the avenue block containing the applicant and the blocks on either side of applicant (a total of three blocks, both sides of the block, considered in total). This three-block radius is roughly co-extensive with the distance of 500 feet that serves as the measurement standard in the provisions of the 500 Foot Rule. If such street frontage exceeds 25% of the street frontage of all lots located on those three avenue blocks, MCB4 considers those blocks over-concentrated. As an example, on an avenue block with typical 25-foot storefronts, an over-concentrated area would involve, in a three-block span, 12 or more 25-foot storefronts (or 24 or more 12-foot storefronts) occupied by establishments serving full liquor.¹

Preserve Residential Character and Quality of Life by Limiting Alcohol-Serving Establishments on Narrow Side Streets Containing Primarily Residential Uses

Much of this district is zoned as residential and consists of narrow side streets. The majority of these narrow streets have primarily residential uses and possess significant historical character. MCB4 is committed to reinforcing the residential character of these streets and to supporting only limited commercial uses on these streets that reinforce and are not in conflict with the primarily residential uses. In furtherance of those goals, MCB4, where appropriate, pursues changes to the zoning of narrow side streets and rarely recommends approval of applications for liquor licenses (including transfer and alteration applications) for establishments located on narrow side streets containing primarily residential uses, particularly establishments that seek to remain open after 11:00 p.m. MCB4 rarely recommends approval of applications for sidewalk cafes on such streets because they are especially disruptive to nearby residents.

Improve Residential Quality of Life Through Best Practices and Policies Applicable to Alcohol-Serving Establishments

Community residents regularly turn to MCB4 for help in resolving issues with the operation of alcohol-serving establishments that undermine reasonable residential quality of life. Through its history with such complaints, MCB4 has learned that certain aspects of the operation of such establishments are particularly likely to lead to complaints and concerns and has developed a series of operational best practices and policies that seek to address those concerns.

¹ For purposes of this calculation, establishments serving full liquor include any establishment licensed to serve all types of alcohol for consumption on its premises (including, without limitation, on-premise licenses, hotel licenses, catering establishment licenses, and cabaret liquor licenses, but excluding wine-and/or-beer licenses). For corner establishments, only their street frontage on the avenue is included in the concentration calculation. This policy does not apply to renewals of existing licenses that do not seek any changes to the license.

Accordingly, MCB4 requests that alcohol-serving establishments in the district adhere to the following best practices and policies and rarely recommends approval of an application for a liquor license unless the applicant so agrees:

- **Operational Best Practices.** These practices are listed in the MCB4 Liquor License Stipulations Application that an applicant signs and submits and are updated from time-to-time to reflect the most current information that MCB4 has collected. The current Liquor License Stipulations Application can be found at: [http://www.nyc.gov/html/mancb4/downloads/pdf/BLP/New%202013%20-%20BLP%20Liquor%20License%20Stipulation%20Application\[1\].pdf](http://www.nyc.gov/html/mancb4/downloads/pdf/BLP/New%202013%20-%20BLP%20Liquor%20License%20Stipulation%20Application[1].pdf),
- **Outdoor Space.** MCB4 applies its Rear Yard/Rooftop Policy for Liquor Licenses to all outdoor space, including front yards, rear yards, rooftops, and sidewalk cafes. This policy, which applies to all liquor licenses and all alcohol-serving establishments, can be found at: http://www.nyc.gov/html/mancb4/downloads/pdf/agendas/2007_11/6_blp_exec_mcb4_rear_yard_policy_for_liquor_licenses.pdf.
- **Sidewalk Cafes.** MCB4 applies its Sidewalk Café Policy and its Additional Guidelines for Sidewalk Cafes when considering any sidewalk café application. These policies can be found at: http://www.nyc.gov/html/mancb4/downloads/pdf/april_2010_draft_reso/22_trans_sidewalk_cafe_policy.pdf and http://www.nyc.gov/html/mancb4/downloads/pdf/april_2010_draft_reso/additional%20sidewalk_cafe_policy.pdf.
- **Closing Hours.** MCB4 views positively applicants that agree to close by 2:00 a.m. or earlier.
- **Prior History with Licensed Establishments.** MCB4 has learned that the history of operations and complaints at other establishments owned or operated by an applicant for a liquor license are often highly predictive of issues and problems at a new establishment. Accordingly, MCB4 gives serious weight to an applicant's prior history with licensed establishments, including the relationship between those establishments and the community, when determining whether to recommend the approval of a liquor license application.
- **Mixed-Use Buildings.** The presence of bars and restaurants in buildings that also contain residential units presents a particular set of concerns for the residents of such buildings because noise (both amplified sound and patron noise) and odors frequently escape from those establishments into the residential units and patrons frequently congregate in front of such buildings, beneath residential windows, disrupting residential quality of life with late-night noise and smoking. Accordingly, MCB4 expects applicants in buildings that contain residential units to take steps to deal with such concerns and the overall protection of residential quality of life and to be prepared to discuss their responses to these concerns with MCB4. These steps may

include the installation of adequate sound-proofing and kitchen ventilation, earlier closing hours, monitoring the adjacent sidewalk to prevent excessive noise and intrusive smoking by patrons, and arranging for garbage to be collected in the manner least noisy and intrusive for nearby residents.

ATTACHMENT A

Issues and Concerns

- MCB4 hears an increasing number of complaints and concerns from community residents regarding the disruptions to reasonable quality of life caused by the increasingly heavy concentration of alcohol-serving establishments, as well as their presence on predominantly residential small side streets. The concerns expressed by the community include increased noise and sidewalk congestion when patrons enter and leave, often in groups, and when they smoke on sidewalks outside these establishments; increased traffic as patrons drive into and out of the neighborhood and circle the streets seeking parking; and disruption to the sleep of community residents from the noise accompanying these establishments because they commonly operate until very late in the night. Although it recognizes that alcohol-serving establishments are an important component of the commercial make-up of the district, MCB4 has observed that problems increase significantly when such establishments are heavily concentrated on commercial and mixed-use streets or located on predominantly residential blocks.
- MCB4 has surveyed the types of businesses located on the most commercial avenue blocks in the district and has found that many avenue blocks have a high concentration of alcohol-serving establishments. On 14 blocks, these establishments exceed 50% of the street frontage of all lots on the block.
- As the concentration alcohol-serving establishments has increased, the number and variety of retail stores and service businesses that support a residential community has correspondingly decreased. Conveniently-located, readily-accessible retail and service businesses are particularly important to the growing proportion of senior citizens (+16% in 10 years) who make up a significant proportion of this district's population in certain parts of the district. For example between 42nd and 46th Street in Clinton/Hell's Kitchen, 1,396 residents or 17% of the population is 62 years old and over.
- Many of the side streets in this district -- which includes the Special Clinton District, created to preserve and strengthen the residential character of that area -- are primarily residential in nature. Often, these blocks consist of low-rise residential building stock, including century-old structures poorly insulated from street noise. MCB4 has found that the quality of life for residents on such streets is inevitably disrupted by the increased noise, congestion, and traffic that accompany alcohol-serving establishments located on such streets.
- Issues of increased pedestrian and vehicular traffic are of particular concern because of the already-crowded conditions in many areas of the district. For example, the sidewalks along Ninth Avenue in Clinton/Hell's Kitchen are narrower than the typical avenue sidewalks because of the additional traffic lane for access to the Lincoln Tunnel. The presence of the Lincoln Tunnel in the center of the district itself creates a notable amount of vehicular traffic passing through the district.

- Statistics in a recent New York City Department of Health community health survey found that, in 2012, the percentages of residents in the Clinton/Hell's Kitchen neighborhood -- a major part of MCB4 -- who engaged in heavy drinking (10.50%) and binge drinking (34%) were almost double the city-wide percentages (5.90% and 19.70%, respectively). (NYC Department of Health and Mental Hygiene, Environmental Public Health Tracking and Sustainability Portal, available at <http://nyc.gov/health/tracking>, accessed February 16, 2014.) This survey found that both heavy drinking and binge drinking had increased significantly in Clinton/Hell's Kitchen from 2010 to 2012 and had increased at a much higher rate than the city-wide averages.