

Chapter 14B.120**TIME, PLACE AND MANNER
REGULATION OF ESTABLISHMENTS THAT
SELL AND SERVE ALCOHOLIC BEVERAGES**

(New Chapter added by Ordinance No.
178201, effective March 19, 2004.)

Sections:

- 14B.120.010 Purpose.
- 14B.120.020 Definitions.
- 14B.120.025 Authority to Adopt Rules, Procedures and Forms.
- 14B.120.030 Nuisance Activity Violations.
- 14B.120.040 Notice.
- 14B.120.050 Nuisance Abatement Plan.
- 14B.120.055 Responsible Neighbor Program.
- 14B.120.060 Enforcement.
- 14B.120.070 Hearings.
- 14B.120.080 Remedies.

14B.120.010 Purpose.

The Oregon Legislature has authorized Oregon cities and counties to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments serving alcoholic beverages, ORS 471.164. In adopting the provisions of this Chapter, the City Council's intent is to provide for reasonable time, place and manner regulations of the nuisance aspects of those establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. By requiring that the nuisance violations be brought before the Code Hearings Officer, the City Council's intent is that there will be specific findings made regarding the occurrence of adverse effects. The City Council also intends that the remedies imposed by the Code Hearings Officer under the authority of this Chapter will solely address the time, place and manner aspects of the nuisance activities. In addition, to create the most effective program, this Chapter establishes the Responsible Neighbor Program. The purpose of the Responsible Neighbor Program is to encourage the owners of establishments serving alcoholic beverages to act to ensure that the operation of their establishment does not create nuisances and thereby negatively impact neighborhood livability.

14B.120.020 Definitions.

As used in this Chapter, unless the context requires otherwise:

- A. "Alcoholic Beverage" means any liquid or solid containing more than one-half of one-percent alcohol and capable of being consumed by a human being.

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- B. "Director" means the Director of the Office of Neighborhood Involvement, or the Director's designee.
- C. "Chief of Police" means the Chief of Police of the Portland Police Bureau.
- D. "Licensee" means any person holding a license issued by the Oregon Liquor Control Commission.
- E. "Establishment" means any location licensed under ORS Chapter 471 and includes all enclosed areas at the location that are used in the business operated at the location, including offices, kitchens, rest rooms and storerooms, including all public and private areas where patrons are permitted to be present. "Establishment" also includes areas outside of a building that the Oregon Liquor Control Commission has specifically approved for serving alcoholic beverages.
- F. "Nuisance activity" means any of the following:
1. Operation of sound producing equipment, as prohibited by City Code Section 14A.30.020.
 2. Disorderly conduct as defined in ORS 166.025 (2003).
 3. Offensive littering as defined in ORS 164.805 (2003).
 4. Drinking on public rights of way, unless officially authorized, as prohibited by City Code Section 14A.50.010.
 5. Interference with vehicle ingress and egress as prohibited by City Code Section 14A.50.035.
 6. Alcoholic beverage violations in parks, as prohibited by City Code Section 20.12.040, where the violation relates to a specific licensee.
 7. Discharge of a firearm at the establishment, as prohibited by City Code Section 14.A.60.020.
 - 8. Illegal Drug activity as defined by ORS Chapter 475.840 sections (1) – (4).**
 - 9. Unlawful Prostitution Procurement Activities or loitering for the purpose of prostitution as defined in City Code Sections 14A.40.040 or 14A.40.050 or Illegal prostitution as defined in ORS 167.007.**
 - 10. Criminal homicide as defined in ORS 163.005(2) and 163.095-163.149**

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11. Assault by means of a weapon or motor vehicle as defined in ORS 163.160(1)(b), 163.165(1)(a), 163.165(1)(c), 163.175(b)-(c), 163.185(a) and 163.185(d).
12. Assault that causes serious physical injury as defined in ORS 163.165(b) and 163.175(a).
13. Recklessly endangering another person as defined in ORS 163.195.
14. Any felony sexual offense in the first degree as defined in ORS 163.375-163.427.
15. Unlawful Use of a Weapon as defined in ORS 166.220

- G. "Serve" or "serving" means to furnish, provide or supply alcoholic beverages to patrons or customers.

14B.120.025 Authority to Adopt Rules, Procedures and Forms.

The Director and Chief of Police are authorized to adopt rules, procedures and forms to implement the provisions of this Chapter.

14B.120.030 Nuisance Activity Violations.

It shall be a violation of this Chapter if:

- A. during any continuous ~~thirty (30)~~ **sixty (60)** day period, any combination of three or more nuisance activities as defined in Subsection 14B.120.020 F. 1.-9. occurs that is related to or arising out of an establishment that serves alcoholic beverages.
- B. One or more nuisance activities as defined in Subsection 14B.120.020 F. 10. -15. occur that are related to or arising out of an establishment that serves alcoholic beverages.

14B.120.040 Notice.

- A. The Director and the Chief of Police shall appoint a Liquor License Team to review and substantiate the occurrences of nuisance activities.
- B. If the Director or the Chief of Police determines that a nuisance activity has occurred at an establishment, the Director or the Chief of Police will send a written notice to the licensee. The notice shall contain a description of the nuisance activity, the date and the time of its occurrence.
- C. Upon determining that there is reasonable belief that a violation of this Chapter has occurred as provided under ~~three nuisance activities have occurred in violation of Section 14B.120.030,~~ the Director or the Chief of Police shall send written notice to the licensee. The written notice shall contain at least the following information:

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1. The street address or legal description of the establishment, as reflected in the records of the Oregon Liquor Control Commission.
 2. A concise statement setting forth the date and time of nuisance activities, and the possible remedies that may be imposed under this Chapter by the Code Hearings Officer; and,
 3. A request that the licensee provide a written response within ten (10) business days either disputing the occurrence of the nuisance activities or providing specific proposals to abate the nuisance activities and preventing such nuisance activities from reoccurring.
- D. If the licensee's response does not satisfy the Director or the Chief of Police's concerns, they may attempt to develop a nuisance abatement plan with the licensee. The Director or the Chief of Police may file a complaint with the Code Hearings Officer as provided under Section 14B.120.060 if:
1. The licensee refuses to actively and meaningfully participate in the process of developing a nuisance abatement plan; or,
 2. The effort by the Director or the Chief of Police to develop a nuisance abatement plan with the licensee fails.

14B.120.050 Nuisance Abatement Plan.

- A. If the licensee responds to the Director or the Chief of Police within ten (10) business days of the date of the notice, with a proposed course of action for abating the nuisance activities, the Director or the Chief of Police shall review the proposal. If the Director or the Chief of Police determines that the proposal will reasonably abate the nuisance activities, the Director or the Chief of Police and the licensee shall enter into an enforceable agreement, specifying the terms and conditions of the abatement plan.
- B. At a minimum, the agreement shall identify the nature of the nuisance activities, the specific steps the licensee will undertake to abate the nuisance activity and the related resources the licensee will commit to the abatement, if applicable, and a mechanism for the Director or the Chief of Police to monitor compliance with the plan.
- C. Any such agreement shall be executed by the licensee and the Director or the Chief of Police within thirty (30) days of the date of the licensee's written response to the Director or the Chief of Police's notice. The Director or the Chief of Police may, upon request, extend this thirty-day period if it appears that the parties are working diligently to come to agreement.

14B.120.055 Responsible Neighbor Program.

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(Amended by Ordinance No. 178898, effective November 24, 2004.) Qualified licensees may request to participate in a Responsible Neighbor Program as administered by the Director.

- A. The Director shall approve a licensee for participation in the Responsible Neighbor Program, if the licensee meets all of the following qualifications:
 1. The licensee is licensed solely for off premises sales; and
 2. The licensee is currently certified for participation in the Responsible Vendor Program provided in ORS 471.344 (2003).

- B. If any licensee participating in the Responsible Neighbor Program has three (3) nuisance activities in violation of Section 14B.120.030, or fails to comply with any of the qualifications under Subsection 14B.120.030 A., the Director shall issue a written notice to the licensee and initiate a proceeding before the Code Hearings Officer as set out in Chapter 22.03 of the City Code for suspension of the licensee from participation in the Responsible Neighbor Program for a period of one year.

- C. If a licensee is removed from the Responsible Neighbor Program, any subsequent nuisance activity violations under Section 14B.120.030, the Director or the Chief of Police will follow the processes and remedies as provided in Sections 14B.120.040 through 14B.120.080

14B.120.060 Enforcement.

Upon making a determination that a violation of this Chapter has three or more nuisance activities have occurred as provided under Section 14B.120.030, the Director or the Chief of Police may file a complaint before the Code Hearings Officer to initiate a code enforcement proceeding only if any of the following have first occurred:

- A. The licensee has failed to submit a timely written response to the Director or the Chief of Police's notice; or
- B. The licensee fails to propose or enter into an abatement plan that is acceptable to the Director or the Chief of Police; or
- C. The licensee does not operate the establishment in compliance with the written abatement plan.
- D. The licensee has been found to be in violation of this Chapter within the preceding 12 months.**

14B.120.070 Hearings.

The initiation and procedures of any code enforcement proceeding to determine whether nuisance activities have occurred as provided in Section 14B.120.030 and to impose remedies under Section 14B.120.080 shall follow the provisions of Chapter 22.03 of the City Code.

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14B.120.080 Remedies.

If the Code Hearings Officer determines that **a violation has occurred** ~~three or more nuisance activities have occurred at an establishment~~, as provided in Section 14B.120.030, the Code Hearings Officer shall make findings regarding the occurrence of the nuisance activities and any related adverse effects. Time, place and manner abatement remedies imposed by the Code Hearings Officer to address the occurrence of the nuisance activities may include any of the following:

- A. Limiting the hours or days during which the establishment may operate.
- B. Requiring the establishment to provide resources to monitor, control and respond to patron behavior at and around the establishment, including but not limited to, hiring adequate security personnel to patrol the establishment.
- C. Restricting the activities at the establishment to prevent the reoccurrence of nuisance activities, including but not limited to restrictions upon the time and manner in which entertainment is offered.
- D. Ordering the licensee to undertake other actions reasonably necessary to abate the nuisance activities or mitigate the effects thereof, including but not limited to, modifying the establishment to include noise insulation to prevent and abate nuisance activities related to noise.

I. PURPOSE

The purpose of the Time, Place and Manner (TPM) Ordinance is to provide for reasonable time, place and manner regulation of the nuisance aspects of establishments that serve alcoholic beverages where adverse effects occur with regard to the surrounding community. The Time, Place and Manner Ordinance is specifically authorized by ORS 471.164(1).

PCC 14B.120.25 authorizes the ONI Director and Chief of Police to adopt rules and procedures to implement the provisions of Chapter 14B.120.

II. DEFINITIONS

For purposes of these administrative procedures, the following terms shall be defined as set forth below:

- A. "Alcoholic Beverage" as defined in Portland City Code (PCC) 14B.120.020;
- B. "Captain of the Drugs and Vice Division (Captain)" means the Captain of the Drugs and Vice Division for the Portland Police;
- C. "Chief of Police" as defined in Portland City Code, Chapter 14B.120.020;
- D. "Crime Prevention Program Coordinator (CPC)" means the Crime Prevention Program Coordinators for the Office of Neighborhood Involvement;
- E. "Crime Prevention Program Manager" means the Manager of the Crime Prevention Program for the Office of Neighborhood Involvement;
- F. "Director" as defined in Portland City Code, Chapter 14B.120.020;
- G. "Drugs and Vice Division (DVD) Investigators" means the two Drugs and Vice Division investigators for the Portland Police Bureau;
- H. "Establishment" as defined in Portland City Code, Chapter 14B.120.020;
- I. "Full On-Premises Sales License" means the sale and service of distilled spirits, malt beverages, cider, and wine for consumption on the licensed premises. Also allows licensees who are pre-approved to cater events off the licensed premises;
- J. "Licensee" as defined in Portland City Code, Chapter 14B.120.020;
- K. "Liquor License Program Specialist (LLS)" means the Liquor License Specialist for the Office of Neighborhood Involvement;
- L. "Liquor License Team (LLT)" means the multidisciplinary team that consists of the LLS, DVD, Crime Prevention Program, and Noise Control Officer;
- M. "Livability Control Program" means a program that proactively addresses nuisance activities;
- N. "Neighbor" means a resident residing within the City of Portland;

- O. "Neighborhood Association" means a neighborhood association recognized by the Office of Neighborhood Involvement;
- P. "Neighborhood Services Manager" means the Neighborhood Services Manager for the Office of Neighborhood Involvement;
- Q. "Noise Control Officer" means the Noise Control Officer for the Office of Neighborhood Involvement;
- R. "Nuisance Abatement Plan (AP)" means an enforceable agreement between the ONI Director or the Chief of Police and the Licensee that specifies terms, conditions, resources and steps that the licensee to abate nuisance activities;
- S. "Nuisance Activity" as defined in Portland City Code, Chapter 14B.120.020;
- T. "Off-Premises Sales License" means the sale of malt beverages, wine and cider in factory-sealed containers for consumption off the licensed premises, and allows approved licensees to offer sample tasting of malt beverages, wine and cider on premises;
- U. "Oregon Liquor Control Commission (OLCC)" means the Oregon Liquor Control Commission of the State of Oregon;
- V. "Responsible Neighbor Program (RNP)" means the voluntary program that off premises licensees participate in to address livability concerns;
- W. "Responsible Neighbor Plan" means the plan that addresses criteria of the Responsible Neighbor Program and approved by the ONI Director;
- X. "Senior Neighborhood Officer (SNO)" means the Senior Neighborhood Officer for the Portland Police Bureau;
- Y. "Serve" as defined in Portland City Code, Chapter 14B.120.020; and,
- Z. "Signatory Authority" means what agency will have the lead responsibility to develop the abatement plan and petition the Code Hearing Office.

III. ROLES AND RESPONSIBILITIES

The Office of Neighborhood Involvement ("ONI") and Portland Police Bureau ("Police") will use a multi-disciplinary team approach to implement the TPM ordinance. The roles and the responsibilities of the stakeholder agencies and program staff are as follows:

A. Director and Chief of Police

The ONI Director and the Chief of Police have authority to enforce the Time, Place and Manner Ordinance. Criteria and a mechanism has been developed by the Office of Neighborhood Involvement and the Portland Police Bureau to determine which agency will take the lead in sending notices, approving abatement plans, and filing complaints to the Code Hearings Office.

Source of Complaints	Authority
Three or more complaints in a 60-day period that originate from the noise officer, neighbors or impacted business or neighborhood associations that do not result in a police report.	ONI Director
Three or more complaints in a 60-day period that result in a filed police report; or one serious incident.	Chief of Police
A combination of complaints filed by neighbors to ONI and complaints resulting in a police report.	ONI Director and/or Chief of Police ¹

B. Liquor License Team (LLT)

The ONI Director and Chief of Police will form a Liquor License Team. As authorized in 14B.120.040, the LLT will:

1. Use a team case management and problem solving approach;
2. Facilitate the TPM process and ensure timely communication between stakeholders to:
 - a. Review and substantiate complaints to determine if the nature of the complaint requires further investigation. The review will consist of interviewing the complainant, potential witnesses, and the licensee before any formal notice letter may be sent to the licensee (see 'Substantiating Complaints' section for further detail);
 - b. Decide which agencies will be included in the investigative process.
 - i. At a minimum, these agencies shall include: The Portland Police Bureau- DVD and SNO and The Office of Neighborhood Involvement- LLS, CPC, and Noise Control Officer.
 - ii. Additional agencies or organizations may include the OLCC inspection unit, Portland Patrol, and Neighborhood or Business Associations.
3. Make recommendations to the Director and Chief of Police when there is a combination of complaints filed by neighbors to ONI and complaints resulting in a police report.

C. Liquor License Specialist (LLS)

The LLS will:

1. Convene and facilitate the Liquor License Team meetings;
2. Coordinate meeting dates/times and distribute meeting notices and complaint lists;
3. Serve as the central repository for TPM files;
4. Coordinate and participate in review process with DVD Investigators and Crime Prevention Coordinators prior to presentation of case file to the Neighborhood Services Manager and/or Crime Prevention Manager; and
5. Serve as the lead person in the preparation of case file for submission to the Neighborhood Services Manager and/or Crime Prevention Manager for the Code Hearings Office.

D. Drugs and Vice Division (DVD) Investigators

¹ See B, 3 below.

The DVD Investigators will:

1. Serve as the repository for police reports;
2. Provide LLT any documentation relevant to TPM cases;
3. Present cases to Code Hearings; and
4. Review each TPM case file with appropriate case manager (CPC), to assure validity of complaints and quality of each file; and
5. Participate in review process of cases to be presented to the Neighborhood Services Manager and/or Crime Prevention Manager for submission to Code Hearings Officer.

E. Crime Prevention Program Coordinator (CPC)

The CPC will:

1. Manage each TPM case file with coordinated review from the DVD Investigator;
2. Review neighbor complaints for validity by:
 - a. Facilitating communication with the licensee and the LLT in the development of the Abatement Plan and
 - b. Implementing the Responsible Neighbor Program.
3. Assist the LLS in preparing cases to be filed with the Code Hearings Officer; and
4. Present case file for Code Hearings Officer to the Neighborhood Services Manager and/or Crime Prevention Manager.

F. Senior Neighborhood Officer (SNO)

The SNO will:

1. Assist in the review of complaints;
2. Participate in the LLT; and
3. Provide input on Abatement Plans.

G. Noise Control Officer (NCO)

The NCO will:

1. Provide information on noise complaints;
2. Participate in the LLT; and
3. Review all cases and provide input on Abatement Plans, especially those where noise is an issue.

H. Neighborhood Service Manager (NSM)

The NSM will:

1. Provide quality assurance by reviewing the case files of TPM;
2. Assist in the case preparation for the Code Hearings Officer; and
3. Present cases to Code Hearings.

I. Crime Prevention Program Manager (CPM)

The CPM will:

1. Provide quality assurance by reviewing the case files of TPM;
2. Assist in the case preparation for the Code Hearings Officer; and
3. Present cases to Code Hearings.

IV. CASE DEVELOPMENT PROCESS

Complaints will be reviewed by the LLT prior to a recommendation being given to the Director and the Chief of Police regarding notice being sent to the licensee. These procedures provide detail to the authority given to the LLT to substantiate complaints as stated in 14B.120.040.

A. Receiving Complaints

Complaints against liquor licenses are received by multiple sources, including:

1. Portland Police District Officers (PDO);
2. Senior Neighborhood Officers (SNO);
3. Neighborhood Liaison Officers (NLO);
4. Drugs and Vice Division License Investigators (DVD);
5. Oregon Liquor Control Commission (OLCC) License Inspectors and Investigators;
6. ONI Liquor License Specialist (LLS);
7. ONI Crime Prevention Coordinators (CPC);
8. ONI Noise Control Office;
9. Neighborhood Coalition Offices;
10. Bureau of Emergency Communication (BOEC) or '911'; or
11. The Police Non-Emergency number.

B. Documenting Complaints

The Office of Neighborhood Involvement and Portland Police Bureau will collaborate with agencies and programs that receive complaints to develop a coordinated and centralized tracking system to accurately document all complaints received relevant to the TPM. The following information will be collected in this process:

1. Name of business involved;
2. Address of business;
3. Date of the incident;
4. Name of complainant;
5. Address of complainant;
6. Type, time and duration of the nuisance activity;
7. Location where nuisance activity occurred;
8. Action taken by complainant or business;
9. Description of violator(s);
10. Number of people involved in nuisance activity;
11. Observations by complainant or other witnesses; and,
12. Willingness of complainant to testify.

C. Substantiating Complaints

In developing their recommendation to the Chief of Police and/or Director, the LLT will:

1. Evaluate each complaint to determine whether the complaint can be substantiated:
 - a. Demonstrate through factual documentation that the activities surrounding the licensed premises impact neighborhood livability;
 - b. Demonstrate that the nuisance activities are ongoing;
 - c. Demonstrate that there have been previous attempts to address the nuisance activities and they have been unsuccessful; and,
 - d. The complainant is available to offer testimony and evidence to the Code Hearings Office to substantiate these facts.

2. Consider the following criteria to evaluate the nature of the complaints:
 - a. The length of time the licensee has maintained the license (new/old, multiple licenses);
 - b. Willingness and ability of the licensee to manage the identified nuisance activities;
 - c. The character of the neighborhood and population (crime around licensee);
 - d. The significance of a history or pattern of repeated citations for the same violation or a combination activities with violations meeting TPM criteria;
 - e. Whether the incidents (fights, noise, drug activity, etc.) occurred in the establishment or began in the establishment and continued outside the establishment;
 - f. Whether the incidents occurred when the establishment was open for business;
 - g. Whether the incidents involved the licensee, its employees, or patrons;
 - h. Whether the licensee or its employees have contacted the impacted neighbor, neighborhood association, Crime Prevention Coordinator, Police and cooperated with the investigation;
 - i. Whether the licensee knew or should have known of the illegal activity;
 - j. Whether documentation exists; which may include:
 - i. Neighbor Logs;
 - ii. Calls for services received by the City, where the caller clearly identifies the nuisance activity and its association to the establishment;
 - iii. Police Reports;
 - iv. Noise citation or violations of Portland City Code Title 18 at the establishment or related to or associated with the establishment;
 - v. Crime Prevention Staff observations;
 - vi. Pictures depicting the type of nuisance activity with a written or recorded time, date, and type of nuisance activity and identity of the complainant providing the picture;
 - vii. Video taken in a public place depicting the type of nuisance activity with a written or recorded time, date, and type of nuisance activity and identity of the complainant providing the video; and,
 - viii. OLCC records of nuisance violations provided by OLCC investigators or inspectors.
3. Review any existing Good Neighbor Agreement (GNA) between the specific establishment and the neighborhood. If no GNA exists, the LLT shall recommend the development of a GNA to address the issue(s).

V. RESPONSIBLE NEIGHBOR PROGRAM

The City of Portland has created a Responsible Neighbor Program (RNP) solely for off-premises licensees to promote livability in neighborhoods. The purpose of the following administrative procedures is to provide detailed information about how to participate in this program.

A. Program Qualifications

Any solely off-premises licensee can petition the Director for approval and participate in this program. The off-premises licensee shall develop a "Responsible Neighbor Plan", containing:

1. Verification from the Oregon Liquor Control Commission (OLCC) that the licensee is limited to solely off-premises sales, and is a participant in the OLCC Responsible Vendor Program, as specified in OAR 845-009-0135;
2. Development of a Responsible Neighbor Program: The CPC will meet with the licensee or their designee to develop a plan that includes the following elements:
 - a. Nuisance control: The CPC will provide contact information to the owner, operator, manager, or a local representative of the parent company of the appropriate authority regarding nuisance activity contained in the TPM ordinance;
 - b. Litter control: The CPC will assess the surrounding area and make recommendations to prevent litter complaints that are related to the location of the establishment. At least two trash receptacles must be provided on site for customer use next to the on-site pedestrian circulation system for off-premises licensees; and,
 - c. Loitering control: The CPC will make recommendations to prevent loitering that are related to the location of the licensee's premises.

B. Program Approval Process

The off-premises licensee and Crime Prevention Coordinator shall sign the Responsible Neighbor Plan and forward the executed agreement to the TPM file.

C. Removal from the Program

If the off-premises licensee fails to meet the provisions outlined in 14B.120.055, the Director and/or Chief of Police shall remove the licensee from the RNP. Thereafter, the licensee will be subject to the full provisions of the TPM ordinance. Upon removal, the off-premises licensee will:

1. Be able to reapply for the program after one year; and,
2. If the licensee received a sanction set forth by the Code Hearings Officer, they may be able to reapply to the RNP after two years upon completion of their sanction.

D. Change of Ownership

If there is a Change of Ownership on an off-premises licensee, the new licensee must petition the Director and meet the criteria for acceptance into the Responsible Neighbor Program.

E. Change of License

If there is a change of license from off-premises to an on-premises license, the licensee will automatically be removed from the Responsible Neighbor Program.

EXHIBIT C

Public Meetings and Feedback Received

- Minutes from Public Meeting June 28th, 2011
- Minutes from Public Meeting July 19th, 2011
- Feedback Received

**TPM Proposed Language Changes
June 28, 2011, Portland Building, Room C**

In attendance:

Theresa Marchetti, Liquor Licensing Specialist
Amy Archer, Livability and Operations Supervisor
Stephanie Reynolds, Crime Prevention Manager
Michael Boyer, Crime Prevention Program Coordinator
Dennis LoGiudice, Graffiti Abatement Volunteer Coordinator
Wes and Maya Brewer, NW Portland
Susan Pierce, HAND

Amy Bruner-Dehnert, Central NRT
Mike Alderman, Portland Fire & Rescue
Jack Hornstein, PPB Downtown
Jack Haagen, PPB
Joanne Stainbrook, HAND
Rich Steinbronn, PPB

PowerPoint presentation by Theresa Marchetti:

Background of the Time, Place and Manner Code came out of the 2004 Legislative Session, giving state and local governments the ability to regulate. Randy Leonard and the Office of Neighborhood Involvement proposed this code and it passed Council in 2004.

Purpose is to address livability/public safety concerns tied to a specific license location. It also set in motion to consolidate complaints and evaluate their validity through a collaborative team. Also provides a legal recourse where nuisance activities related to a liquor license were substantiated.

One nuisance activity amounts to a warning letter, response not mandatory, informal problem solving, control plans or plans of action are voluntary

Three nuisance activities equals a violation – develop an abatement plan within 30 days of violation
If it cannot be abated, city will petition code hearings to restrict operations.

Nuisance activity:

- Noise from amp music
- Disorderly conduct
- Assaults
- Offensive littering, vomiting, urination, anything that causes a degradation of property
- Public drinking
- Blocking vehicle traffic
- Alcohol in parks

Source can come from police reports, OLCC complaints, TrackIt forms submitted to the Liquor License Specialist, neighbor logs with date/time, complainant contact – allows neighborhood groups to document, and this is valid before code hearings.

Liquor License Team Members - several different partners: Liquor License Specialist, Crime Prevention, Neighborhood Response Team Officers, Drugs & Vice Division, Fire Bureau, Bureau of Development Services Noise Control and Compliance Services, District Officers depending upon involvement of establishments,

Documentation, criteria needed, depending on severity of incidents

It's important to have neighbors willing to testify, how is this related and connected – did it involve patrons, employees?
 Informal problem solving - 85% of the actual work: Good Neighbor Agreements, partnership agreements, control plans – these are all considered voluntary measures and strategies in which the City will work with the licensed establishment to address these issues.

Formal abatement plan is specific to the nuisance violation – an abatement plan is temporary for 90 days – if the issues are resolved, then it expires after that 90-day period

Formal abatement plans - resources are offered through Crime Prevention, Police Bureau partnerships depending upon issues – this is enforceable and could potentially go to the Code Hearings Officer if abatement plan is not followed

Code Hearings remedies – eliminating the impact, operational functions and consideration, specifying the hours or days the licensed premises may operate, restricting activities that cause the nuisance.

2009 – 2010: 65 licensed premises that were evaluated for TPM in which 23 resulted in violations, 16 abatement plans were successful, 4 went to Code Hearings, 2 changed owners.

2010 – 2011: 60 licensed premises that were evaluated for TPM in which 14 were issued violations. Of the 14 premises, 8 were successfully abated through 90-day abatement plan, 4 went to code hearings, and 2 closed.

In the past 6 – 7 years since this code has been enacted, there has been a 26% increase in overall retail license, wholesale locations, diversified operation of liquor licenses through hair salons, tanning salons, record stores, all through the ease of obtaining liquor licenses in Oregon, economy as factors

3 reasons for changes:

Addresses illegal activity that's not currently covered by code which allows for earlier intervention, recover some cost that goes to Code Hearings

Additional nuisance activity – unsafe structural conditions which is primarily through overcrowding and exiting, illegal drug activity drug use, possession, as well as drug dealing, unlawful prostitution, any criminal incident that results serious injury or death

When LLT evaluated for violation, some nuisance activities that would have allowed licensees to come to the table a lot earlier are happening, but they cannot be addressed because the City doesn't have jurisdiction.

Serious incident directly tied to bar patrons:

Out of 8 of the 60 licensed locations with issues - drug activity

Out of 3 of the 60 licensed locations – Prostitution

Out of 4 of the 60 licensed locations – Overcrowding

As of now, there have been 6 gang-affiliated shootings at licensed locations since January 2011

What is not considered nuisance activity – Behavior that is not illegal:

- Noise from patron voices
- Concerns related to parking
- Music from car stereos
- Smoking

Change timeline of violation

3 violations in 30 days would become 3 violations in 60 days – 70% of time with the informal process, the issue is taken care of. Loss of life should compel licensee to come to the table to remedy this serious issue.

Additional remedy in which Code Hearings would impose fines to reimburse the city for staff time and resources in problem solving with the establishment not to exceed \$5,000 per violation

\$10,800 total cost in process for abatement

Questions:

Susan Pierce: for cars parked illegally?

Theresa Marchetti: This is a parking enforcement issue. This will not come under the heading of TPM.

Joanne: Who is responsibility for the imposition of fines?

Theresa Marchetti: Fines are imposed by the Code Hearings Office.

Susan Pierce: who's responsible for these changes to TPM?

Theresa Marchetti: Liquor License Team has come up with this list through case by case basis, which has been proven effective in dealing with problem locations; Commissioner Fritz, the Commissioner-in-Charge of the Office of Neighborhood Involvement.

Notice for written comment open from June 29 till July 22. July 19, 2011, additional public meeting in North Portland, still solidifying location. Hope to meet before Council last week of July, early August.

Minutes submitted by: Dennis LoGiudice

**TPM Proposed Language Changes
July 19, 2011, Kenton Firehouse**

In attendance:

Theresa Marchetti, Liquor Licensing Specialist
Amy Archer, Livability and Operations Supervisor
Judith Mowry, Effective Engagement Solutions Coordinator
Angela Wagnon, Crime Prevention Program Coordinator
Dennis LoGiudice, Graffiti Abatement Volunteer Coordinator
Donna Vandall, Oregon Liquor Control Commission
Amanda Fritz, Commissioner, City of Portland

Amanda Waldrope, Neighborhood Notes
Deborah Heckhausen, Hayden Island
Tom Dana, Hayden Island
Tamara Fowler, Resident
Doug Posey, Represents clients
Dan Lenzen, Concept Entertainment
Officer David Jackson, PPB, North Portland

Judith Mowry facilitates meeting

PowerPoint presentation by Theresa Marchetti:

In 1999, the Oregon State Legislature cut out a small portion for local government control. OLCC exercises all authority over actual license, but it was decided that local government would have some control over the time, place and manner.

Purpose is to address chronic livability/public safety concerns tied to a specific license location. It also set in motion to consolidate complaints and evaluate their validity through a collaborative team called the Liquor License Team, members including several different partners: Liquor License Specialist, Crime Prevention, Neighborhood Response Team Officers, Drugs & Vice Division, Fire Bureau, Noise Control and Compliance Services. Also provides a legal recourse where nuisance activities related to the sale of alcohol were substantiated.

One nuisance activity equals a warning letter, response not mandatory, informal problem solving, Good Neighbor Agreement, control plans or plans of action are voluntary

Three nuisance activities equals a violation – licensee is required to respond within 10 days, develop an abatement plan working with Liquor Licensing Specialist and Drugs & Vice Division Investigator within 30 days of violation – 90-day abatement plan

If it cannot be abated, city will petition code hearings to restrict operations.

7 Illegal nuisance behaviors:

- Noise from amplified music
- Disorderly conduct
- Assaults
- Offensive littering, vomiting, urination, anything that causes a degradation of property
- Public drinking
- Blocking vehicle traffic
- Alcohol in parks

Documentation source can come from police reports, OLCC complaints, TrackIt forms submitted to the Liquor License Specialist, neighbor logs with date/time, complainant contact – this allows neighborhood groups to gather incidences,

and this is valid before code hearings. City Council wanted to give an avenue for neighbors to be able to address concerns, even when the complaints were low level issues, i.e., public urination, amplified music, etc.

Documentation, criteria needed, depending on severity of incidents, history, proximity to licensed premises, i.e., off-premise sales, etc., which is heavily reviewed by the Liquor License Team – it's important to have neighbors willing to testify, how is this related and connected – did it involve patrons, employees?

Informal problem solving – 50 - 65% of complaints are solved through this avenue: regulatory process takes time, if there are negative impacts, it extends those impacts. Good Neighbor Agreements, partnership agreements, control plans – these are all considered voluntary measures and strategies in which the City will work with the licensed establishment to address these issues.

Once a violation is issued, formal abatement plan is specific to the nuisance violation – an abatement plan is temporary for 90 days – if the issues are resolved, then the violation expires after that 90-day period.

Formal abatement plans – resources are offered through Crime Prevention as case managers, Police Bureau partnerships depending upon issues – this is enforceable and could potentially go to the Code Hearings Officer if abatement plan is not followed.

Code Hearings remedies – eliminating the impact, operational restrictions and consideration, specifying the hours or days the licensed premises may operate, requiring the licensee to hire security personnel, restricting activities that cause the nuisance, cleanup of excessive litter or urination.

2009 – 2010: 65 licensed premises that were evaluated for TPM in which 23 resulted in violations, 16 abatement plans were successful, 4 went to Code Hearings, 2 changed owners.

2010 – 2011: 60 licensed premises that were evaluated for TPM in which 14 were issued violations. Of the 14 premises, 8 were successfully abated through 90-day abatement plan, 4 went to code hearings, and 2 closed.

In the past 6 – 7 years since this code has been enacted, there has been a 26% increase in overall retail license, wholesale locations, diversified operation of liquor licenses through hair salons, tanning salons, record stores, all through the ease of obtaining liquor licenses in Oregon, economy as factors. There are currently 2,700 liquor license establishments in the City of Portland. In 2003, there were 2,400 liquor license establishments.

3 reasons for changes:

Addresses illegal activity that's not currently covered by code which allows for earlier intervention, recover some cost that goes to Code Hearings

Additional nuisance activity – unsafe structural conditions which is primarily through overcrowding and exiting, issues where things have been placed in front of doors – liquor licenses make the location welcoming to the public. If there are structural issues, that needs to be handled as a public safety issue. Also included are Illegal drug activity drug use, possession, as well as drug dealing, unlawful prostitution, any criminal incident that results serious injury or death

When LLT evaluated for violation, some nuisance activities that would have allowed licensees to come to the table a lot earlier are happening, but they cannot be addressed because the City doesn't have jurisdiction.

Serious incident directly tied to bar patrons:

Out of 8 of the 60 licensed locations with issues – drug activity

Out of 3 of the 60 licensed locations – Prostitution

Out of 4 of the 60 licensed locations – Overcrowding

As of now, there have been 6 gang-affiliated shootings at licensed locations since January 2011. In 2010, there were 2 shootings. That's a substantial increase.

What is not considered nuisance activity – Behavior that is not illegal:

- Noise from patron voices
- Concerns related to parking
- Music from car stereos
- Smoking

Change timeline of violation

3 violations in 30 days would become 3 violations in 60 days, as well as one serious incident which would equate to a violation. 70% of time with the informal process, the issue is taken care of. Loss of life should compel licensee to come to the table to remedy this serious issue.

Additional remedy in which Code Hearings would impose fines to reimburse the city for staff time and resources in problem solving with the establishment not to exceed \$5,000 per violation

\$10,800 total cost in process for abatement

Commissioner Fritz speaks, thanking the participants for their continued partnerships with the Office of Neighborhood Involvement.

Questions:

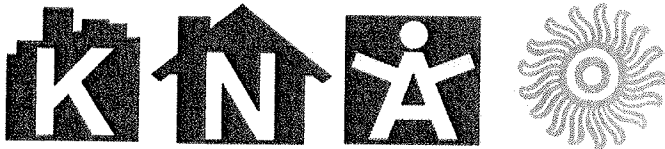
Q: Hayden Island has an issue with a section of bars that creates a problem. There are too many bars in the area with drugs in parking lot. Does this fall under TPM?

A: This is a separate matter. Saturation is not something that's regulated by the State of Oregon or the City of Portland. The Oregon Lottery is taking a look of the situation on Hayden Island, so there may be some follow-up there. However, it is important to note that there are tools to address problems; documentation of the problem is still very helpful to address issues with these liquor license establishments.

Next steps: comments period has been left open until Friday, July 22. This will go in front of City Council in the near future. Any questions, please feel free to contact Theresa with the information provided.

Minutes submitted by: Dennis LoGiudice

184870



Kerns Neighborhood Association

c/o Southeast Uplift | 3534 SE Main St. | Portland, OR 97214

July 31, 2011

Re: Support of Proposed amendments to Time, Place and Manner Regulations, 14B.120

To whom it my concern:

On behalf of Kerns Neighborhood Association, as the Board Chair for Public Safety, I am writing in support of the proposed amendments to the current time, place and manner regulations to the city code. Our neighborhood has had an influx of alcohol establishments over the past few years. When there is a problem establishment, we are frequently frustrated by the current Portland City Code's lack of teeth and the length of time it takes to get anything done. We are grateful that ONI is seeking to redress this problem with amendments that will allow greater enforcement power, and will pull the real problems that we see every day, the drug and prostitution activity, into the code. The Portland police force and ONI have tried to work closely with us but they have been hampered by, and frequently mention to us, the lack of authority they have to regulate problem establishments. We particularly support the provisions of the bill that give ONI the ability to work with problem establishments sooner so that we do not have to wait so long as the problems just get worse and worse.

Many of these new bars and taverns are in our residential neighborhoods. Safety for our children and not having to sell our homes in order to be able to enjoy a basic quality of life is a prime concern for our neighborhood association. The officials responsible for ensuring our safety and our neighborhood livability need the tools that only greater regulation and enforcement can provide.

Please do not hesitate to inform me if there is any additional testimony we can provide.



Northwest District Association

July 19, 2011

Theresa Marchetti
Liquor Licensing Specialist
Office of Neighborhood Involvement
1221 SW 4th Ave Ste 110
Portland OR 97204

Subject: Proposed changes to the Time, Place and Manner Regulations for Alcohol Licensees

Dear Ms. Marchetti,

The Northwest District Association is in favor of the proposed changes to the Time, Place and Manner Regulations for alcohol licensed establishments (PCC 14B.120). Our densely populated neighborhood is a vibrant mix of multi-family dwellings, single family homes, retail outlets, restaurants and bars. This mix makes northwest Portland a fun and desirable place to live. However, this proximity can also magnify nuisances and crimes associated with problem establishments and alcohol abuse. The proposed changes will help address these issues. We also would like to thank the City of Portland for forwarding this initiative.

Sincerely,

Tanya March
Co-Chair, NWDA Safety and Livability Committee

2011-2012

President
Ron Walters

1st Vice President
Tavo Cruz

2nd Vice President
Greg Aldrich

Secretary
Mary Ann Pastene

Treasurer
Tony Cadena

Board Members
Frank Bird
Karl Doppelfeld
Juliet Hyams
Chris Jones
Chris Nutwell
Josh Olsen
Steve Pinger
Scott Seibert
Phil Selinger
Caroline Skinner

Hoyt Street Home Owners Association
1704 NW Hoyt Street, Portland, OR 97209
(Mary Ann Pastene • 503-841-6482 • mpastene@comcast.net)

July 27, 2011

Theresa Marchetti
Liquor Licensing Specialist
Office of Neighborhood Involvement
1221 SW 4th Ave Ste. 110
Portland, OR 97204

Subject: Proposed changes to the Time, Place and Manner Regulations for Alcohol Licensees

Dear Ms. Marchetti,

Thank you for giving us the opportunity to comment on the proposed changes to the Time, Place and Manner Regulations for alcohol licensed establishments. Our seven homes, on the eastern edge of the Alphabet District, are located close to a number of bars, entertainment venues and alcohol retail outlets. We are in favor of these proposed changes, which we feel are practical and reasonable. They would help protect our historic district and make Portland neighborhoods safer.

Sincerely,



Mary Ann Pastene
President

Representing:

Mary Ann & Jim Pastene, 1704 NW Hoyt St.
Pamela Lloyd & Renny Gleeson, 1710 NW Hoyt St.
Will McKamey, 1716 NW Hoyt St.
June Thanasophon & Carl Marshall, 1720 NW Hoyt St.
Vicki Skryha & Allen Buller, 1728 NW Hoyt St.
Mary Vinton Folberg, 1734 NW Hoyt Street
Matthew Brischetto, 534 NW 18th St.

Marchetti, Theresa

From: Lauren Heald [lauren0936@comcast.net]
Sent: Friday, July 22, 2011 3:52 PM
To: Marchetti, Theresa
Subject: Comment regarding code changes related to liquor establishments & nuisance activities

Thank you accepting comments on proposed changes to Portland's city code regarding nuisance activities that arise out of liquor licensed establishments.

We absolutely agree that drug activity, fire code violation, weapons offenses and prostitution should be on the list of nuisance activities. In addition, we strongly urge that the timeline remain with the current threshold of **3 activities in 30 days**.

There is a very high concentration of liquor licensed establishments on Hayden Island. It is paramount to the safety and livability of Hayden Island's residents that each of these liquor licensed establishments maintains a legal environment to the best of their ability. A reasonably low threshold of tolerance for illegal behaviors associated with their businesses will encourage owners and managers to remain vigilant and responsible because it will be in their best interest to do so. It is certainly in the community's best interest.

Sincerely,

John & Lauren Heald

2045 N. Jantzen Avenue

Portland, OR 97217

Marchetti, Theresa

From: indyshepps@comcast.net
Sent: Friday, July 22, 2011 10:54 AM
To: Marchetti, Theresa
Subject: Time, Place and Manner Ordinance

Ms. Kotek,

We are residents of Hayen Island and have to deal daily with the poor decisions the OLCC has made so far - a large amount of bars (lottery parlors) in a small geographic area that produce a huge amount of crime, obnoxious behavior and offensive issues for our neighborhood. We have only lived here 4 years and it has gotten worse each year. Our community has had to hire security guards to protect our homes. Regardless of community input, the city and the OLCC evidently seem to not care. We applaud your efforts to try and change that.

As to the TPM Ordinance:

*Needless to say, we **strongly support** the proposed additions of drug activity, fire code violation, weapons offense and prostitution to the list of nuisance activities.*

*We **strongly oppose** the changing of the timeline from 3 nuisance activities in 30 days to 3 in 60 days.*

We were unable to attend the July 19th meeting, but will make this priority going forward.

Hayden Island is the first place that people visiting Oregon from the North come in contact with - and the comments about the atmosphere with all the "line of bars" are extremely unflattering to Portland and Oregon. Hopefully, some of our "leaders in the city" will wake up and take action.

Thanks again for your efforts,

Bob and Sher Shepps

Marchetti, Theresa

From: Luanna [luannag@hevanet.com]
Sent: Tuesday, July 19, 2011 10:37 PM
To: Marchetti, Theresa
Subject: Objection to OLCC rule change proposal

Dear Ms. Marchetti,

I want to formally **object** to the proposed change in this provision

The City of Portland is proposing changes to the current city code that regulates nuisance activities that arise out of liquor licensed establishments. The proposal includes:

Adding drug activity, fire code violations, weapon offenses, and prostitution to the list of nuisance activities.

Changing the timeline for a violation to occur to 3 nuisance activities in 60 days rather than the current threshold of 3 activities in 30 days

Please note, I have a real vested interest in this issue.

I live on Hayden Island and this small community is home to many lottery game sites and liquor serving establishments.

This has proved a draw for people who do not share the values of the community. Crime and personal property complaints are very high.

I would like to see **STRONGER** regulations of activity and a **MORATORIUM ON ANY FUTURE LIQUOR LICENSES ON HAYDEN ISLAND.**

Thank you for your consideration.

Luanna Grow
707 N Hayden Island Dr. #317
Portland, OR 97217
503 452 4554
503 806 7005 (cell)

Marchetti, Theresa

From: michael g steinbach [delmik@msn.com]
Sent: Tuesday, July 19, 2011 8:51 PM
To: Marchetti, Theresa
Subject: Changes to Time Place and Manner Ordinance

Ms. Marchetti,

As a resident of Hayden Island (Waterside Condominiums), I have enjoyed the beauty and serenity of this island since I became a resident in Aug of 2007. This hidden jewel can be so much more to not only Hayden Island residents but also to the greater population of Portland. However, with the proliferation of video poker/bar & grill establishments that have taken over certain sections of the island, we are quickly losing the livability that this island community relishes. The OLCC has seen fit to allow an inordinate amount of liquor licenses in a condensed area of Hayden Island, their inability to see beyond the fees generated by these licenses has resulted in increased crime in and around these gambling dens, which is what they really are. The traffic generated by these establishments is not generated by the island residents but rather by Washingtonians seeking to gamble and avoid paying taxes on liquor purchases. It also has seen an increase in transients who frequent the area and actively participate in various crimes. These types of businesses are not the type favored by a family oriented community which is what Hayden Island seeks to attract. Why is it that decent family values have to be continually overlooked in favor of profits generated by vice. I for one am in favor of toughening up the Nuisance Activities Violation ordinance if it will aid us in controlling these businesses and hopefully aid in shutting them down. I ask you to help us in this effort. Family values should never have to take a back seat to profits generated by vice.

Michael G. Steinbach
Unit 212
707 N. Hayden Island Dr.
Portland, OR 97217

Marchetti, Theresa

From: Shawn Baird [bairdsk@yahoo.com]
Sent: Tuesday, July 12, 2011 9:23 AM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: PCC 14B.120

Dear Ms. Marchetti,

Portland should adopt the proposed changes to PCC 14B.120. As a Portland resident for over twenty years I have often been perplexed by the limitations of the current rule that have the effect of deteriorating our neighborhoods liveability. Unfortunately I am unable to attend the public meeting on July 19th at Kenton Fire Station but I would like to go on record as a property owner and resident of the City of Portland strongly in support of the proposed changes.

Thank you,

Shawn Baird
1346 SE Tenino St
Portland, OR 97202

cc: Eric Miller - SMILE

Marchetti, Theresa

From: laurabilyeu@comcast.net
Sent: Tuesday, July 12, 2011 7:32 AM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: PCC 14B.120

Dear Theresa Marchetti,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Best,

Laura Bilyeu
Sellwood Resident

Marchetti, Theresa

From: heatherk100@aol.com
Sent: Monday, July 11, 2011 10:21 PM
To: Marchetti, Theresa
Subject: changes to City Code

Dear Ms. Marchetti,

I cannot attend the upcoming meeting, but want to submit my comment to you in writing. As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland. I feel this change can benefit communities throughout Portland from unintended consequences of certain commercial activities. I want to encourage commerce in Portland that is beneficial to our people and our environment, not injurious.

Thank you,

Heather Koch
 1326 SE Tenino Street
 Sellwood 97202

=====
 For Immediate Release
 June 30, 2011

CONTACT: Theresa Marchetti, Liquor Program Specialist
 Office of Neighborhood Involvement
 503-823-3092 (ph), 503-823-3050 (fx)
Theresa.Marchetti@portlandoregon.gov

PUBLIC MEETING:

Proposed Changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120)

What: Community members are invited to a public meeting to learn about the proposed changes to local regulations of liquor licensed establishments, ask questions and submit testimony or comments.

When: July 19th, 2011 at 6pm

Where: Kenton Fire Station
 8105 N Brandon Ave

Why:

The City of Portland will be proposing changes to the city code that allows local regulation of liquor licensed establishments and is seeking comments from community members. Enacted as an avenue for neighbors and local enforcement agencies to address problem establishments, the Time Place and Manner code has been effective in addressing many livability and public safety issues that arise out of the sale of alcohol. The goal is to work with the licensee to address the issues before they become egregious. However, there are several areas that the City's authority is insufficient to address problems. The proposed changes will expand the authority

slightly to allow:

184870

- Drug activity, prostitution, overcrowding, and serious incidents involving death or the risk of death to be considered nuisance activities for the purpose of this code.
- A violation and abatement process if three nuisance incidents occur in 60 days (rather than 30 days currently allowed).
- A violation and abatement process in the event that a serious incident occurs at an establishment.

The proposed changes have been reviewed and supported by the Time Place and Manner Oversight Committee, which includes community and industry representation. Time Place and Manner is a reasonable process to a responsive licensee and has been effective in mitigating harm. These changes will help to better serve the communities of Portland, and ensure that licensed establishments do not act irresponsibly or negligently at the cost of the community. It will also allow the City of Portland to take intervening steps with a premise earlier and avoid more serious problems from occurring. This is the only avenue to address problems at licensed establishments at the local level. All other regulatory authority is held by the state Oregon Liquor Control Commission.

The proposed changes are viewable online at www.portlandonline.com/oni.

Comments may also be submitted in writing to the contact above. Written comment will be accepted until July 22nd, 2011, at 5pm.

Marchetti, Theresa

From: Pat & Cathy Stinson [patcats1@msn.com]
Sent: Monday, July 11, 2011 3:01 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: PCC 14B.120

Hello Theresa,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC14b>120) as submitted the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland. The changes are an important first step toward taking back control of a local issue and maintaining the livability of our neighborhoods.

Cathy Stinson

Marchetti, Theresa

From: cschwamb@comcast.net
Sent: Monday, July 11, 2011 1:45 PM
To: Marchetti, Theresa
Cc: Eric Miller
Subject: Changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments

Dear Theresa,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

I feel these changes are important in order to keep Portland's neighborhoods safe and livable.

Sincerely,

Christine Schwamb
3530 SE Lambert Street
Portland, OR 97202

Marchetti, Theresa

From: Katie Jones [hellokatiej@gmail.com]
Sent: Sunday, July 10, 2011 4:11 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: pcc 14b.120

Hi Theresa,

I am glad to hear that there is an effort to improve local control over licensed liquor establishments and hold them accountable for the nuisance and crime activities that often accompany their presence.

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thanks for listening to the residents of Sellwood-Westmoreland!
Katie Jones (Westmoreland resident)

Marchetti, Theresa

From: matthicks@comcast.net
Sent: Saturday, July 09, 2011 10:26 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: proposed changes to city code...

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

thank you-
matt hicks
3530 se lambert st 97202

Marchetti, Theresa

From: Jen Soares [jensoares@gmail.com]
Sent: Thursday, July 07, 2011 6:58 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Changes regarding Alcohol Licensed Establishments

Dear Ms. Marchetti,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thank you,
Jennifer Soares

Marchetti, Theresa

From: Kaufmann, Micah [Micah.Kaufmann@acs-inc.com]
Sent: Thursday, July 07, 2011 10:10 AM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: local control of alcohol licensed establishments

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Micah Kaufmann

6626 SE 41st Ave

Portland, OR 97202

Cell: (503) 545-6298

Marchetti, Theresa

From: Tim [steeldrumentertainment@comcast.net]
Sent: Wednesday, July 06, 2011 7:46 PM
To: Marchetti, Theresa; chasingmoose@gmail.com
Subject: PCC 14B.120

As someone who is currently experiencing first hand, the relentless, hellish nightmare of living next to a strip club,
and as a voter and tax-paying resident, I am **strongly** in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Tim Seil 503 226 1650

Marchetti, Theresa

From: Anya Holcomb [anya.mosaic@gmail.com]
Sent: Wednesday, July 06, 2011 10:13 AM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: regulations of alcohol licensed establishments

To whom it may concern,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thank you,
Anya Holcomb

Marchetti, Theresa

From: Jim Powell [ackijim@gmail.com]
Sent: Wednesday, July 06, 2011 9:13 AM
To: Marchetti, Theresa
Subject: TimePlaceManner code

Hello ,

I am a resident in the Sellwood neighborhood. I am writing to let you know that I am in favor of the changes in the Time Place and Manner Code which addresses issues with Licensed Establishments in the city of Portland.

Thank you

Renate Powell

Marchetti, Theresa

From: Gael Foord [gaelfoord@mindspring.com]
Sent: Monday, July 04, 2011 8:59 AM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Time, Place, Manner Regulations

Dear Ms. Marchetti,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Sincerely,
Gael Foord
gaelfoord@mindspring.com

Marchetti, Theresa

From: Paul Notti [paul.notti@sellwood.org]
Sent: Sunday, July 03, 2011 6:00 PM
To: Marchetti, Theresa
Subject: Proposed changes on alcohol licensed establishments

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thanks Theresa

Paul Notti
Board Member
Sellwood Moreland Improvement League
paul.notti@sellwood.org

Marchetti, Theresa

From: Anne Kean [annekean@gmail.com]
Sent: Friday, July 01, 2011 2:08 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Sellwood Westmoreland neighborhood

Dear Ms. Marchetti,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Sincerely,

Anne Kean

Marchetti, Theresa

From: Melissa Soots [woehrrmm@yahoo.com]
Sent: Friday, July 01, 2011 12:00 PM
To: Marchetti, Theresa
Subject: Time Place and Manner PCC 14B.120

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland

Marchetti, Theresa

From: Sam Brier [sam.brier@gmail.com]
Sent: Friday, July 01, 2011 11:17 AM
To: Marchetti, Theresa
Subject: I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120)

Hi Theresa:

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thank you,

Sam Brier

Marchetti, Theresa

From: Robyn Crummer-Olson [the.evii.genius@comcast.net]
Sent: Friday, July 01, 2011 8:59 AM
To: Marchetti, Theresa
Subject: message in support of proposed changes to PCC 14B.120

Dear, Ms. Marchetti.

I am unable to attend the public meeting this coming July 19. However, I wish to state my support for the proposed changes.

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thank you for your time.

Regards,

Robyn Crummer-Olson
1823 SE Tenino Street
Portland Oregon
503 381 5502

Marchetti, Theresa

From: Patrick Hainley [pat@castools.com]
Sent: Friday, July 01, 2011 8:34 AM
To: Marchetti, Theresa
Subject: Time, place and manner changes

Ms. Marchetti,

I have reviewed the proposed changes in the "Time, place and manner" policies as they relate to alcohol licensed establishments and I totally support these changes. As the treasurer of the Sellwood Moreland Improvement League I have heard many horror stories over the years in connection with these businesses particularly those that are engaged in adult entertainment. It's nice to see some additional tools being brought forward to try and mitigate the negative impacts that these operations bring to residential neighborhoods.

--

Pat Hainley

Hainley & Lavey, PC
1400 SW 5th Avenue, Suite 770
Portland, OR 97201
503-226-2441 fax 503-226-2489

Marchetti, Theresa

From: Tanya Baikow-Smith [tanya.baikowsmith@gmail.com]
Sent: Friday, July 01, 2011 8:11 AM
To: Marchetti, Theresa
Cc: Eric Miller
Subject: Changes to the City Code Time Place and Manner Regs

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Tanya Baikow-Smith

Marchetti, Theresa

From: Bradley Heintz [bheintz@znet.com]
Sent: Thursday, June 30, 2011 11:24 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Supporting changes related to Alcohol Licensed Establishments (PCC 14B.120)

Dear Ms. Marchetti,

Thank you for your time and attention. I am writing you as an active community member, parent, voter and tax-paying resident. I am strongly in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland. I think it is a very helpful change for our community. Please call me if I can be of assistance in helping make this change happen.

Sincerely,

Bradley Heintz
Savvy Minds LLC
www.savvyminds.com
503 442-8899
<http://www.math-success.org/>

Marchetti, Theresa

From: Julie Endress [julie.endress@gmail.com]
Sent: Thursday, June 30, 2011 8:55 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: in favor PCC 14B.120

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Marchetti, Theresa

From: amanda knapp [amandak1169@yahoo.com]
Sent: Thursday, June 30, 2011 8:37 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: PCC 14B.120

Hello Theresa,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thank you so much for your attention to this very important matter.

Sincerely,

Amanda Real

Marchetti, Theresa

From: ehrenmyers [ehrenmyers@mac.com]
Sent: Thursday, June 30, 2011 7:14 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: PCC 14B.120

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Ehren Myers
503-724-9235

Marchetti, Theresa

From: Kay Bridge [kaycbridge@gmail.com]
Sent: Thursday, June 30, 2011 5:15 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Regulating liquor/sex establishments by code

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

--
Kay Bridge, 3370, 3372, 3376 NE Sandy Blvd. Portland, OR 97232-1927 503-234-5587

Marchetti, Theresa

From: Brandi Myers [brandisue2001@yahoo.com]
Sent: Thursday, June 30, 2011 4:46 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com; brandi myers
Subject: City Code PCC 14B.120

To Whom it may concern,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

In addition, I am a business owner in Sellwood and am an active member of the Sellwood Westmoreland business alliance. As a tax-paying business owner, I am in favor of the proposed changes to the City Code.

Please don't hesitate to contact me with any questions.

Sincerely,

Brandi Myers, DPM
Sellwood Podiatry
503-235-8594

Marchetti, Theresa

From: laymanstan@gmail.com on behalf of Stan Hoffman [stanhoffman@mindspring.com]
Sent: Thursday, June 30, 2011 4:35 PM
To: Marchetti, Theresa
Cc: Eric Miller
Subject: Time Place and Manner Regulations of Alcohol Licensed Establishments

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Stan Hoffman
1415 SE Harney St.
Portland OR 97202

Marchetti, Theresa

From: kvoiles@gci.net on behalf of Karl & Elayne [kvoiles@gci.net]
Sent: Thursday, June 30, 2011 4:24 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: PCC14B.120

Dear Ms. Marchetti:

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Thank you.

Elayne Janiak and Karl Voiles

1014 SE Spokane Street

Portland, OR 97202

Tel:503-206-7873

Marchetti, Theresa

From: Amanda Valley [abrewgal@gmail.com]
Sent: Thursday, June 30, 2011 4:02 PM
To: Marchetti, Theresa
Cc: chasingmoose
Subject: PCC 14B.120

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Yours,
Amanda Valley
2032 SE Tenino Street
Portland, OR 97202
503.880.9959

Marchetti, Theresa

From: Richard Pierce [RPierce@corsource.net]
Sent: Thursday, June 30, 2011 3:31 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com

Dear Ms. Marchetti,

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

During this last year, as President of the Eastmoreland Neighborhood Association, I supported SMILE's effort to forestall the expansion of adult entertainment clubs along the McLoughlin corridor adjacent to the Sellwood-Moreland neighborhood. I believe the City needs a better vetting process in its attempt to regulate these types of business.

Sincerely,

Richard Pierce

Richard A. Pierce

CEO

CorSource Technology Group, Inc.

(Business Units: Agilis Solutions & ProDX)

14795 SW Murray Scholls Drive

Suite 201

Beaverton, OR 97007

rpierce@corsource.net

184870

direct: 503-726-4550

cell: 503-381-3337

fax: 503-726-4546

www.corsource.net

Marchetti, Theresa

184870

From: Patricia Brady-Gallagher [patigallagher@comcast.net]
Sent: Thursday, June 30, 2011 3:29 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Liquor Licenses and Control

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Sincerely,

Pati and Dan Gallagher

Marchetti, Theresa

184870

From: Brian Davis [bdavis@gmail.com]
Sent: Thursday, June 30, 2011 3:29 PM
To: Marchetti, Theresa
Cc: chasingmoose@gmail.com
Subject: Support for PCC 14B.120

Ms. Marchetti-

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Brian Davis
6021 SE 20th Avenue
Portland, OR 97202

Marchetti, Theresa

From: Marychris Mass [xmass@comcast.net]
Sent: Thursday, June 30, 2011 3:24 PM
To: Marchetti, Theresa
Cc: Eric Miller
Subject: Changes to City Code

As a voter and tax-paying resident, I am in favor of the proposed changes to City Code Time Place and Manner Regulations of Alcohol Licensed Establishments (PCC 14B.120) as submitted by the Office of Neighborhood Involvement headed by Commissioner Amanda Fritz of the City of Portland.

Marychris Mass
Sellwood

July 22, 2011

Time, Place and Manner Regulation
 Attn: Theresa Marchetti
 Liquor Licensing Program
 City Hall, 1221 SW 4th Ave., Rm. 110
 Portland, OR 97204

Email: Theresa.Marchetti@portlandoregon.gov
 Fax: 503-823-3050

Re: Proposed Amendments to Chapter 14B.120; Time, Place and Manner ("TPM") Regulation of Establishment That Sell and Serve Alcoholic Beverages

COMMENTS RELATED TO PROPOSED AMENDMENTS TO CHAPTER 14B.120

Dear Ms. Marchetti:

I oppose the proposed amendments to the following Time, Place and Manner Regulations ("TPM Regulations") for the following reasons:

1. **14B.120.010** – The proposed amendments give Code Hearings Officers ("Officers") broad discretion to order licensees to reimburse the city's costs, but TPM does not provide any guidance to such Officers in exercising that discretion. This will result in arbitrary and unfair application, and does not give licensees an understanding of what types of conduct will allow Officers to order reimbursement. Nor does it afford licensees a mechanism to recover their costs when they successfully defend TPM hearings. Furthermore, the imposition of civil penalties fails to accord with the stated purpose of the TPM Regulations and does not address the time, place and manner aspects of nuisance activities. Hearings Officers have previously found that the imposition of civil penalties in TPM cases is inappropriate and does not adequately relate to the stated purpose of the TPM Regulations. See *City of Portland vs. Michael Scruggs*, Case No. 2080030, October 27, 2008.
2. **14B.120.020** – Structural conditions, and general drug activity, prostitution and criminal activity involving serious injury or death are often not related to licensee activity in any meaningful way. The applicable city departments should enforce code requirements, such as the international fire code referenced in the proposed amendments. In addition, inclusion of this broad range of activities that will now constitute "nuisance activities" will impose broad new obligations on licensees, many of which may not be intended. For example, the addition of certain drug offenses will require licensees to perform very intrusive searches of each individual seeking entry into their establishment to ensure that no patron possesses illegal drugs. Specifically, ORS 475.864 makes it unlawful for a person to possess marijuana. In order to prevent such a "nuisance activity" from occurring on their premises, the licensee would have to search every individual for possession of marijuana. Even with a thorough search, a patron may hide such illegal drugs in a way that the licensee fails to discover them despite their best efforts. Such possession would nonetheless be a "nuisance activity" under the proposed changes. Furthermore, because the City may allege that, for example, the possession of marijuana by an individual waiting in line to enter the establishment is "related to or arising out of an establishment," licensees would find themselves in a position in which compliance is virtually impossible (unless the licensee searches individuals before even letting individuals stand in line to enter the establishment). Imposing such broad new obligations on licensees is simply unfair.
3. **14B.120.030** – The 3-in-30 nuisance activity rule is already burdensome for licensees. In conjunction with the broad expansion of the what constitutes "nuisance activity" proposed in the amendments, reducing the threshold of the number of nuisance activities required to constitute a violation of the TPM Regulations *by half* dramatically increases the reach of the ordinance in a way that will impact even the best operators. In effect, the City will have virtually unfettered discretion to impose time, place and manner restrictions on nearly any establishment that is open in the evening under this new standard.

Also, "one or more incidents involving serious injury or death" is an unclear, poorly drafted standard. Licensees need to know what constitutes a violation and how they can manage their premises to avoid violations. For example, it is unclear what constitutes a serious injury.

4. **14b.120.060** – Enabling the City to initiate a code enforcement proceeding on the basis that the licensee has received a previous *notice* of violation within the preceding 12 months is unfair. Mere *notice* of a violation is just that, a notice. It does not indicate that a violation actually occurred. Under this proposed language, the City could send out a notice, soon thereafter dismiss the hearing requested by the notice, and then proceed to file a complaint to initiate a code enforcement proceeding because the licensee had received a notice of violation with the preceding 12 months. Mere receipt of a notice alone should not be a sufficient basis for the City to initiate a code enforcement proceeding.

5. **14B.120.080** – Adding reimbursement as a remedy for Officers without guidelines for when that remedy will be employed is unfair and burdensome for licensees, as discussed above. Other TPM remedies may relate to the goals of TPM, but reimbursement is punitive. Punitive remedies should have clear guidelines as to when they apply.

Sincerely,



Jeff Plew

Concept Entertainment Group LTD
V.P. Operations
829 SE 9th Suite 202
Portland, Oregon 97214
Office 503-222-4174 X-204
Fax 503-221-2152

HOLMAN'S
Since 1933
RESTAURANT & LOUNGE, INC.
Where Good Food & Friends Meet!

184870

Theresa Marchetti
Liquor Licensing Program
1221 SW 4th Avenue, Room 110
Portland, OR 97204

July 22, 2011

Dear Theresa,

Geetings! I hope you are doing well and enjoying our "pseudo summer". Frankly I would rather be applying sun block than moss killer, but what choice do we have?

Anyway, I am writing today to express my dissatisfaction with the proposed changes to the Time, Place and Manner regulations. You know that I support any reasonable tool which can be used to rein in irresponsible operators, but I am wary of new regulations which will place an unfair burden on responsible members of my industry.

Specifically, after reading the proposals I am concerned about the addition of nuisance activities over which we could have little or no control. Like any citizen, I lament the increase in drug activity, but holding us responsible for detecting the "possession" of drugs is laughable. Even trained police professionals cannot do this, so how can we hope to do so?

I find the proposed cost reimbursement troubling as well. Pardon my cynicism, but it appears far too arbitrary in application and has a great potential for abuse.

I also object to the introduction of issues, such as structural condition, which have no relation to liquor service. If there is a public safety issue, then refer it to the Building Department. If my gutters are dripping on pedestrians I don't deserve a TPM violation notice! The two do not relate. I agree that public safety should be everyone's priority. Dangerous activities and hazardous conditions are a legitimate concern for both Industry and the public but let's not cloud the issue.

Due to the concerns I have expressed, as well as others, I hope Industry gets an opportunity to discuss these proposed changes before they are implemented. I think that through discussion and consensus we could fine tune TPM into a useful tool and not an arbitrary weapon.

Again, I hope you are having a good summer. See you soon!

Sincerely,



Judy Craine

96 Copies of the following letter were received from Individuals and Businesses.

July 22, 2011

Time, Place and Manner Regulation
 Attn: Theresa Marchetti
 Liquor Licensing Program
 City Hall, 1221 SW 4th Ave., Rm. 110
 Portland, OR 97204

Email: Theresa.Marchetti@portlandoregon.gov
 Fax: 503-823-3050

Re: **Proposed Amendments to Chapter 14B.120; Time, Place and Manner ("TPM") Regulation of Establishment That Sell and Serve Alcoholic Beverages**

COMMENTS RELATED TO PROPOSED AMENDMENTS TO CHAPTER 14B.120

Dear Ms. Marchetti:

I oppose the proposed amendments to the following Time, Place and Manner Regulations ("TPM Regulations") for the following reasons:

1. **14B.120.010** – The proposed amendments give Code Hearings Officers ("Officers") broad discretion to order licensees to reimburse the city's costs, but TPM does not provide any guidance to such Officers in exercising that discretion. This will result in arbitrary and unfair application, and does not give licensees an understanding of what types of conduct will allow Officers to order reimbursement. Nor does it afford licensees a mechanism to recover their costs when they successfully defend TPM hearings. Furthermore, the imposition of civil penalties fails to accord with the stated purpose of the TPM Regulations and does not address the time, place and manner aspects of nuisance activities. Hearings Officers have previously found that the imposition of civil penalties in TPM cases is inappropriate and does not adequately relate to the stated purpose of the TPM Regulations. See *City of Portland vs. Michael Scruggs*, Case No. 2080030, October 27, 2008.
 2. **14B.120.020** – Structural conditions, and general drug activity, prostitution and criminal activity involving serious injury or death are often not related to licensee activity in any meaningful way. The applicable city departments should enforce code requirements, such as the international fire code referenced in the proposed amendments. In addition, inclusion of this broad range of activities that will now constitute "nuisance activities" will impose broad new obligations on licensees, many of which may not be intended. For example, the addition of certain drug offenses will require licensees to perform very intrusive searches of each individual seeking entry into their establishment to ensure that no patron possesses illegal drugs. Specifically, ORS 475.864 makes it unlawful for a person to possess marijuana. In order to prevent such a "nuisance activity" from occurring on their premises, the licensee would have to search every individual for possession of marijuana. Even with a thorough search, a patron may hide such illegal drugs in a way that the licensee fails to discover them despite their best efforts. Such possession would nonetheless be a "nuisance activity" under the proposed changes. Furthermore, because the City may allege that, for example, the possession of marijuana by an individual waiting in line to enter the establishment is "related to or arising out of an establishment," licensees would find themselves in a position in which compliance is virtually impossible (unless the licensee searches individuals before even letting individuals stand in line to enter the establishment). Imposing such broad new obligations on licensees is simply unfair.
 3. **14B.120.030** – The 3-in-30 nuisance activity rule is already burdensome for licensees. In conjunction with the broad expansion of the what constitutes "nuisance activity" proposed in the amendments, reducing the threshold of the number of nuisance activities required to constitute a violation of the TPM Regulations by half dramatically increases the reach of the ordinance in a way that will impact even the best operators. In effect, the City will have virtually unfettered discretion to impose time, place and manner restrictions on nearly any establishment that is open in the evening under this new standard.
- Also, "one or more incidents involving serious injury or death" is an unclear, poorly drafted standard. Licensees need to know what constitutes a violation and how they can manage their premises to avoid violations. For example, it is unclear what constitutes a serious injury.
4. **14b.120.060** – Enabling the City to initiate a code enforcement proceeding on the basis that the licensee has received a previous notice of violation within the preceding 12 months is unfair. Mere notice of a violation is just that, a notice. It does not indicate that a violation actually occurred. Under this proposed language, the City could send out a notice, soon thereafter dismiss the hearing requested by the notice, and then proceed to file a complaint to initiate a code enforcement proceeding because the licensee had received a notice of violation with the preceding 12 months. Mere receipt of a notice alone should not be a sufficient basis for the City to initiate a code enforcement proceeding.
 5. **14B.120.080** – Adding reimbursement as a remedy for Officers without guidelines for when that remedy will be employed is unfair and burdensome for licensees, as discussed above. Other TPM remedies may relate to the goals of TPM, but reimbursement is punitive. Punitive remedies should have clear guidelines as to when they apply.

Sincerely,

[Add Business Name]

[Signature]

[Add Name & Title]