

CITY OF PORTLAND
INTER-OFFICE CORRESPONDENCE
(NOT FOR MAILING)

May 1, 1962

From Dept. of Bureau of Police
To Dept. of Commission of Public Safety
Addressed to Mayor Terry D. Schruck
Subject Control of liquor consumption in restaurants

RECEIVED
MAY 3 1962

MAYOR'S OFFICE

WATER	
EXCL. ASST.	
ADM. ASST.	
ADM. ANLST.	

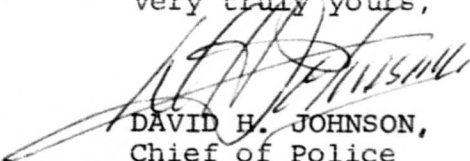
Dear Sir:

Following the receipt at this office of the suggested amendments to the control of liquor consumption in restaurants, we realized that a misunderstanding existed. Deputy City Attorney Braman was contacted. It was explained that what we were seeking was a prohibition of the drinking of liquor in restaurants licensed by the city as such and at the same time not possessing any license from the O.L.C.C.

At Mr. Braman's request the file was returned to him. He will draft the necessary ordinance to meet this particular situation and submit it to your office for approval.

Very truly yours,

DIMc:b


DAVID H. JOHNSON,
Chief of Police

CITY OF PORTLAND
INTER-OFFICE CORRESPONDENCE
(NOT FOR MAILING)

115256
RECEIVED
APR 26 1962

MAYOR'S OFFICE

From Dept. of City Attorney

April 25, 1962

To Dept. of Public Safety

Addressed to Mayor Terry D. Schrunk

Subject Request for new ordinances to control liquor consumption
in restaurants, and entertainment hours in restaurants

Attention: Howard Traver

Dear Mayor Schrunk:

You have referred to this office for comment a request from David H. Johnson, Chief of Police, for ordinances (1) prohibiting the consumption of an alcoholic beverage in an OLCC-licensed restaurant after hours; (2) prohibiting the operator of an OLCC-licensed restaurant from allowing any person therein to consume alcoholic beverages after hours; and, (3) prohibiting any entertainment in an OLCC-licensed restaurant after hours.

For your consideration, we have prepared the attached ordinance, containing the first of the three prohibitions suggested by Chief Johnson.

The second suggestion is a prohibition now found in Regulation 1 of the Regulations of the Oregon Liquor Control Commission, which are incorporated by reference in the Police Code, Section 16-2604. A minor amendment of Section 16-2604 is also included in the attached ordinance, since that code section refers to the 1958 regulations. The most recently published regulations are those dated 1962.

Our remaining comment will be directed to the third suggestion:

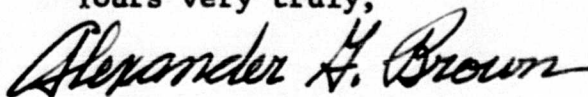
Under its police power, the city may place limitations upon the use of private property in order to protect the public welfare, provided such limitations are reasonable. This is a basic concept of constitutional law. In this case Chief Johnson proposes that all entertainment in OLCC-licensed restaurants be prohibited after 2:30 a.m. It has not been suggested that the entertainment, itself, promotes any misconduct. Its principal evil appears to be that it increases the popularity of these establishments. The request assumes that such popularity should be curtailed although, Chief

Two
Mayor Schrunk
25th April, 1962

Johnson states, "the majority of customers are legally on the premises and are obeying the law."

The proposed prohibition upon the use of private property, designed solely to discourage the lawful use of that property, does not appear reasonable. This conclusion assumes, however, that there is no direct causal relation between the after-hours entertainment to be provided by the restaurant and the anticipated misconduct of a minority of its patrons.

Yours very truly,

A handwritten signature in cursive script, reading "Alexander G. Brown".

ALEXANDER G. BROWN
City Attorney

RAB/fg
Encl

CITY OF PORTLAND
INTER-OFFICE CORRESPONDENCE
(NOT FOR MAILING)

January 9, 1961

RECEIVED
JAN 11 1962**MAYOR'S OFFICE**

MAYOR	<i>[Signature]</i>
EXEC. ASST.	
ADM. ASST.	<i>[Signature]</i>
CLERK	

From Dept. of Bureau of Police

To Dept. of Commission of Public Safety

Addressed to Mayor Terry D. Schruck

Subject Request for new ordinances to control liquor consumption in restaurants, and entertainment hours in restaurants.

Dear Sir:

In the past two years the Vice and Uniform Divisions have been faced with the problem of stopping the consumption of liquor on the premises of late hour coffee houses. These establishments usually operate between midnight and approximately 6 A. M. These places are licensed by the city as restaurants, and technically are restaurants. However, they cater primarily to the night club crowd after the regular night clubs have closed.

Their patrons are for the most part, night club customers who wish to continue their "night on the town" after the regular clubs have closed; and night club employees and entertainers who feel in the mood for partying after their night's work has been completed.

In order to attract this type of customer, these coffee houses have to satisfy the needs of these customers. This is done by providing dancing, jam sessions, and liquor.

Last spring when this type of establishment was at its peak, the City Council passed an Ordinance restricting the dancing hours. This new dancing ordinance has made some impression in curtailing the operations of these places. An ordinance restricting the time that entertainment is allowed was discussed.

However, the big police problem emanating from these places, and the one that causes the most disturbance, is the permitting of the consumption of liquor on the premises. This allowing of drinking on the premises promotes bootlegging by the operators and bootlegging by cab drivers.

Our laws against the illegal sale of liquor are ample, and when arrests have been made by police officers, we have generally received convictions in court. When the violator has been an operator of a coffee house, the City Council has always given us backing in taking the operator's restaurant license.

These arrests have made the operators more cautious in their operations, and bootlegging arrests have been much harder to make. For that reason, we feel that an ordinance more vigorously controlling the drinking of alcoholic beverages on the premises should be enacted. At the present time, the customer keeps his bottle on his person, whether he has purchased it from the restaurant operator, a cab driver, or just brought his own bottle with him. The customer then orders coffee or a soft drink and then surreptitiously pours the liquor into his coffee cup or soft drink glass.

Mayor Schrunk

- 2 -

1-9-62

We have discussed this matter many times with our City Attorneys and have learned that our present city ordinances do not adequately cover this type of violation.

Section 16-626 of the Police Code lists certain public places in which drinking is prohibited; but does not include restaurants. Hence, a customer is not in violation if he drinks in a restaurant.

Section 16-2609 of the Police Code Forbids the Mixing, Storing or Serving Liquor Without a License. However, according to the City Attorneys, the operator or his employee cannot be charged with this violation unless he directly profits from such consumption on his premises by club dues, admission charges or increased charges for glasses, soft drinks and coffee when the customer intends to use such service for the consumption of alcoholic beverages. As many operators just allow the consumption of such liquor as a customer attraction, and do not profit from the liquor consumption directly, they are not in violation of this section.

Also, if the operator should be arrested, the police must seize the bottle of liquor or its container for evidence from the customer. This is difficult without arresting the customer. As stated earlier, the customer can not be arrested under Section 16-626. He might be arrested under Section 16-2610 of the Police Code, but that has problems which will be listed in the following paragraph.

Section 16-2610 Forbids the Frequenting, Entering or Visiting an Unlicensed Establishment. However, this ordinance pertains primarily to bootlegging joints, when the customer is clearly wrong in even entering such a place. Under such conditions, all the customers are usually arrested. In the conditions under discussion the operator does have a restaurant license, and the majority of customers are legally on the premises and are obeying the law. It would then be unfair to arrest all of them just to get the customer who was drinking liquor on the premises. On the other hand, the Courts would probably hold that the drinking customer was discriminated against when he alone was arrested, when the police are claiming that the operator of the place is conducting an unlicensed establishment for the sale of liquor..

This new ordinance should forbid the consumption of alcoholic beverages on the premises of any restaurant that is not licensed by OLCC to serve alcoholic beverages. The operator of such restaurant or his employees would be in violation of this ordinance if they permitted the consumption of alcoholic beverages on the premises.

This same ordinance would also apply at times when the restaurant is forbidden by OLCC regulations to serve liquor if such restaurant does have an OLCC permit to serve alcoholic beverages.

Mayor Schrunk

- 3 -

1-9-62

This ordinance should, also, make it a violation for any person, i.e., customers, to consume alcoholic beverages on the premises of any restaurant not licensed by OLCC to serve alcoholic beverages; also a violation for any person, i.e., customers, to consume alcoholic beverages on the premises at hours when the OLCC forbids liquor sale if the place is licensed by OLCC to serve liquor.

It has recently come to the attention of the Vice Division that at least one night club, the Desert Room, is planning to continue its floor show after 2:30 AM. They will discontinue serving liquor at that time per OLCC regulations, and will discontinue public dancing at that time per the City's dance ordinances.

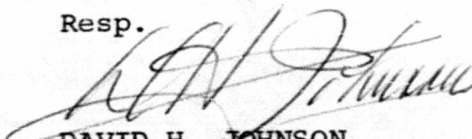
We feel that if this practice is allowed to start and spread to other night clubs and late hour coffee houses, the police will be faced with a new and difficult enforcement problem. This type of late hour operation has and will lend itself to bootlegging, congregation of underworld patrons, and general disturbance of the public by greatly increased street noise from milling drunks and roaring autos.

At present there is no City, State, or OLCC restriction on such late late shows or entertainment. For that reason, we recommend that the City Council enact a new ordinance setting a 2:30 AM curfew on entertainment in any establishment licensed by the City as a restaurant or night club.

Such an ordinance restricting the entertainment hours in clubs and restaurants was discussed with the City Attorney's Office last Spring when the late hour coffee houses were at their numerical peak. However, when Council action against licenses of these places, and the passing of a new ordinance restricting dancing hours curtailed their operation for a time; the ordinance setting a curfew on entertainment was not pressed. Now, with the Desert Room's new plan of operation, we believe there is a need for such an ordinance.

The police problem of maintaining control of the late hour coffee houses and late operating night clubs would be greatly simplified and be more effective if the City Council enacted the suggested ordinances controlling the drinking of alcoholic beverages on the premises of licensed restaurants and night clubs, and setting a curfew on the entertainment in such places.

Resp.



DAVID H. JOHNSON,
Chief of Police

JFF:b

ORDINANCE NO. 115256

An Ordinance amending Sections 16-2604, 16-2609 and 16-2610 of Ordinance No. 76339, the Police Code, relating to the dispensing and consumption of alcoholic liquor, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. The Council finds that Section 16-2604 of Ordinance No. 76339, the Police Code, incorporating by reference the 1958 Regulations of the Oregon Liquor Control Commission, should be amended to incorporate the 1962 Regulations; that the provision contained in Section 16-2610 of said Code, prohibiting the visiting of an unlicensed establishment should be added by amendment to Section 16-2609 of said Code, prohibiting the operation of such establishments; and that said Section 16-2610 should be amended to prohibit the consumption of alcoholic liquor at any time in an unlicensed restaurant, and to prohibit the consumption of alcoholic liquor in a licensed establishment during hours in which the dispensing of alcoholic liquor is prohibited by Oregon Liquor Control Commission regulation; now, therefore, Section 16-2604 of Ordinance No. 76339, the Police Code, passed by the Council December 4, 1941, hereby is amended to read as follows:

Section 16-2604. REGULATIONS OF OREGON LIQUOR CONTROL COMMISSION ADOPTED AND INCORPORATED BY REFERENCE IN THIS ARTICLE.

Pursuant to the authority vested in the Oregon Liquor Control Commission by the Oregon Liquor Control Act and the Oregon Distilled Liquor Control Act, the said Commission has promulgated and put into force and effect certain regulations, which regulations are pertinent to the city, and said regulations as they appear in a booklet entitled "Liquor Control Laws and Regulations, State of Oregon," dated 1962, compiled by the Oregon Liquor Control Commission, are adopted and made a part of this article, and are incorporated herein by reference. A copy of the aforesaid booklet shall be filed in the office of the City Auditor. Any person who violates, fails to obey, conform to, or comply with any of said regulations shall be guilty of violating this section and upon conviction therefor shall be punished as provided for in Section 16-2613 (b) of this article.

Section 2. Section 16-2609 of Ordinance No. 76339, the Police Code, passed by the Council december 4, 1941, hereby is amended to be entitled and to read as follows:

Section 16-2609. OPERATING OR VISITING UNLICENSED PLACES.

- (a) No person who owns, operates or conducts a private or public club or place and who is not in possession of a license issued by the Oregon Liquor Control Commission permitting the mixing, storing and serving of alcoholic liquor at said premises, and no agent, servant or employe of such person, for a financial consideration by way of a charge for service, membership fee, admission fee, initiation fee, club dues, contributions, or other fee or charge, shall serve or permit to be served any alcoholic liquor, or use or permit to be used, any room, place, bar, glasses, mixers, locker, storage place, chairs, tables, cash registers, music devices, furniture, furnishings, equipment or facilities for the mixing, storing, serving or drinking of alcoholic liquor.
- (b) It shall be unlawful for any person to frequent, enter or visit any private or public club or place operated or conducted in violation of subsection (a) of this section.

Section 3. Section 16-2610 of Ordinance No. 76339, the Police Code, passed by the Council December 4, 1941, hereby is amended to be entitled and to read as follows:

Section 16-2610. UNLAWFUL CONSUMPTION OF LIQUOR.

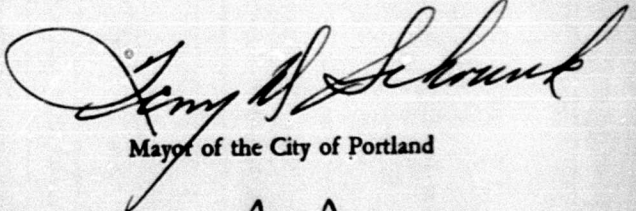
- (a) It shall be unlawful for any person to consume alcoholic liquor in an establishment operating under a City restaurant license unless the establishment is also licensed by the Oregon Liquor Control Commission to serve alcoholic liquor.
- (b) It shall be unlawful for any person who owns, operates or conducts an establishment operating under a City restaurant license, or any agent, servant or employe of such person, to permit the consumption of alcoholic liquor at any time in said establishment unless it is also licensed by the Oregon Liquor Control Commission to serve alcoholic liquor.
- (c) It shall be unlawful for any person to consume alcoholic liquor in any establishment,

ORDINANCE No.

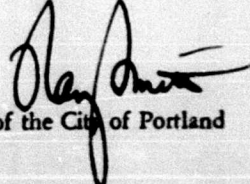
licensed by the Oregon Liquor Control Commission to serve alcoholic liquor, between the hours of 1 A.M. and 7 A.M. or between the hours of 2:30 A.M. and 7 A.M., whichever hours are applicable to the license of such establishment under Regulations of the Oregon Liquor Control Commission.

Section 4. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that prohibitions relating to the dispensing and consumption of alcoholic liquor contained in the foregoing sections of this ordinance may be effective without delay; therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, MAY 24 1962


Mayor of the City of Portland

Attest:


Auditor of the City of Portland

Calendar No.

1947

INTRODUCED BY
Mayor Schrunck

DRAWN BY

RAB/fg

Date May 9, 1962

THE COMMISSIONERS VOTED
AS FOLLOWS:

	Yeas	Nays
Bean	/	
Bowes	/	
Earl	-	
Grayson	/	
Schrunk	/	

ORDINANCE No. 115256

Title

An Ordinance amending Sections 16-2604, 16-2609 and 16-2610 of Ordinance No. 76339, the Police Code, relating to the dispensing and consumption of alcoholic liquor, and declaring an emergency.

THURSDAY

FOUR-FIFTHS CALENDAR

Bean	
Bowes	
Earl	
Grayson	
Schrunk	

Filed MAY 16 1962

RAY SMITH

Auditor of the CITY OF PORTLAND

By *[Signature]* Deputy

NOTED BY THE COMMISSIONER

Affairs

Finance

Safety

Utilities

Works

City Attorney

NOTED FOR CITY AUDITOR

[Signature]

APPROVED

Date

By

City Engineer

Date

By