

**THE CITY OF PORTLAND'S  
LIQUOR LICENSE RECOMMENDATION PROCESS  
A COMMUNITY GUIDE**

Authority:  
Portland City Code Chapter 14.160  
LIQUOR LICENSE RECOMMENDATIONS



Produced by:  
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## I. INTRODUCTION

The Oregon Liquor Control Commission (OLCC) licenses businesses and individuals to sell alcoholic beverages and assures compliance with liquor laws. Although the OLCC ultimately decides whether to grant or deny a liquor license, the commission solicits input from local governments regarding liquor license applications. The process allows the City of Portland an opportunity to review new and renewal applications before licenses are issued by the OLCC. This Guide is an explanation of the process and criteria used by the City to make recommendations to the OLCC and a guideline for neighbors who want to have input on OLCC liquor decisions.

The City of Portland's Liquor License Recommendation Process is designed to involve neighborhood associations, property owners and residents, liquor operators, the Office of Neighborhood Involvement (ONI), Noise Control and the Portland Police Bureau. *The purpose of the program is to ensure that all liquor outlets meet the high expectations of this community and that all such businesses are conducted in a lawful manner that does not unreasonably disturb the peace and tranquillity of this City and its neighborhoods.* Accordingly, the City's Police Bureau conducts an investigation and coordinates with the Office of Neighborhood Involvement and the City Noise Control Officer to determine the recommendation to be made to the OLCC. The Liquor License Guide is designed to bring a greater understanding and appreciation of that system.

For detailed information on the Oregon liquor laws, refer to ORS sections 471 and 472 and OAR section 845 (text can be located online at [www.state.or.us](http://www.state.or.us)). For detailed information on the City's recommendation process, refer to City Code section 14.160 (text can be located online at [www.ci.portland.or.us](http://www.ci.portland.or.us)).

## II. RESPONSIBILITIES AND CONTACTS

The following is a list of key people and agencies involved in the recommendation process with a brief description of responsibilities assigned:

### **OFFICE OF NEIGHBORHOOD INVOLVEMENT (ONI)**

ONI is responsible for public notification of license applications and collection of community opposition and/or support documentation to be considered by the Chief of Police in making a recommendation to OLCC. ONI may assist in problem resolution between neighbors and license applicants. ONI also provides public education regarding the application process and preparation for testifying at OLCC.

Kimberly Mark-Villela      Liquor Licensing Specialist      503-823-3092  
1221 SW 4th Ave., Rm. 110  
[kmarkvillela@ci.portland.or.us](mailto:kmarkvillela@ci.portland.or.us)  
Portland, Oregon 97204  
Website      <http://www.myportlandneighborhood.org>

Crime Prevention Specialists - Central Northeast      503-823-2781  
East Portland      503-823-3505  
Northeast      503-823-4763  
North Portland      503-823-4098  
Northwest      503-223-3331  
Southeast      503-232-0010  
Southwest      503-823-3131  
Information and Referral      503-823-4000

### **BUREAU OF POLICE, DRUGS & VICE DIVISION (DVD)**

The Portland Police Bureau coordinates and conducts an investigation of each application, including investigation of the applicants and the proposed premises. DVD coordinates with ONI and the Office of Noise Control in determining the recommendation but the Chief of Police is the designated authority to make liquor license application recommendations to the OLCC. For more information about the Portland Police Bureau, go to: <http://www.portlandpolicebureau.com/>

Bill Phillips      License Investigator      503-823-0429  
(Southeast and Southwest Portland)  
Bryan Steed      License Investigator      503-823-0428  
(North, Northeast, and Northwest Portland)  
Crime Mapper –Crime Statistics- <http://www.gis.ci.portland.or.us/maps/police/>

**BUREAU OF LICENSES (BOL)**

The Bureau of Licenses accepts completed liquor license applications. Upon receipt, the BOL forwards appropriate documentation to the DVD and ONI.

Mike Sanderson                      Regulatory Specialist                      503-823-5139  
Website:                                      <http://www.licenses.ci.portland.or.us/>

**NOISE CONTROL OFFICE**

The Noise Control Office is the primary enforcer of the noise regulations in Title 18 of the City Code. The Office takes complaints, issue warnings or citations, assists with design review of highways and residential developments, works on zoning issues involving noise’s impact on neighborhoods and works in other aspects relating to noise. The Noise Office also processes noise variance applications. The NCO issues/grants/dispenses which is a permits applications which when granted permit applicants to operate outside of the established decibel levels found in the City code.

To voice concerns, suggest changes or to get on the mailing list (fax, mail or email only):  
Noise Control Office                      503-823-7350  
Office of Planning and Development Review                      503-823-7915fax  
1900 SW Fourth Ave, Suite 5000                      [noisetaskforce@ci.portland.or.us](mailto:noisetaskforce@ci.portland.or.us)  
Portland, Oregon 97201  
Website:                                      <http://www.opdr.ci.portland.or.us/enforce/en-noise.htm>

**OREGON LIQUOR CONTROL COMMISSION (OLCC)**

The OLCC licenses businesses and individuals to sell alcoholic beverages and assures compliance with liquor laws. The OLCC assigns a license investigator for each application received.

General Information                      OLCC                      503-872-5000  
    9079 SE McLoughlin                      503-872-5070 (24 HR)  
    Portland, Oregon 97222                      800-452-6522  
Website                                      <http://www.olcc.state.or.us/welcome.html>  
  
Commission Meeting Schedule and Agenda                      503-872-5006  
Community Relations                      503-872-5044  
Annual Renewals                      503-872-5121

## **NEIGHBORHOOD ASSOCIATIONS**

A neighborhood association is the officially designated, recognized organization for a specific geographic location. Neighborhood associations are the heart of neighborhood activities. Each association is self-governed by neighborhood -written bylaws that determine boundaries, the election and function of officers, and the frequency of meetings. Neighborhood associations work to reflect the issues and needs of their members. Some associations have committees, which may discuss liquor-licensing issues or these issues may be addressed at general meetings.

Referral to Neighborhood Association Chairs/Information      503-823-4519  
Website:      <http://www.myportlandneighborhood.org/myneighborhood.html>

## **NEIGHBORHOOD MEDIATION CENTER (NMC)**

The NMC provides mediation and conciliation services for the following types of neighbor to neighbor disputes: noise, pets, property maintenance, boundary disputes, interpersonal conflict, and landlord-tenant issues. The Center also offers consultation, facilitation and conflict resolution training.

Neighborhood Mediation Center      503-823-3152  
4815 NE 7th Ave.  
Portland, Oregon 97211  
Website:      <http://www.myportlandneighborhood.org/Mediation.html>

## **BUREAU OF PARKS AND RECREATION**

Portland's parks can be reserved for special events through the Parks and Recreation Reservation Center. Any events with alcohol use or sales will require a special use permit in addition to OLCC requirements.

Cary Coker      Reservations      503-823-2514  
Reservations Center      [Pkcocker@ci.portland.or.us](mailto:Pkcocker@ci.portland.or.us)  
1120 SW 5<sup>th</sup> Ave  
Portland, OR 97204

### **III. STEPS IN THE LICENSING PROCESS**

#### **STEP ONE – Applying for a liquor license**

Anyone who sells or serves alcoholic beverages in Oregon must be licensed by the OLCC. Anyone can apply for a liquor license, but approval is granted only after the OLCC has conducted a thorough investigation. Applicants must provide detailed information about their background and the type of business that they intend to operate. If the application and the applicant meet each of the licensing criteria, the liquor license is granted.

Anyone applying for a retail liquor license within the City Of Portland limits must submit the completed license application forms to the Bureau of Licenses (BOL). The applicant must have a valid City business license and pay the processing fee before the application is accepted. The BOL forwards application information to the Bureau of Police and the Office of Neighborhood Involvement (ONI).

#### **STEP TWO – Notifying the Public**

OLCC - Except for ordinary change of ownership without a significant change in operation, provides written notice including the applicant name, address of proposed premises, type of license and description of the privileges the license allows, legal hours of operation and how to contact the commission within 14 to provide written comments.

The Commission will provide the written notice as follows:

- 1) Conspicuous notice posted on the premises proposed to be licensed;
- 2) Notice to licensed child care facilities, elementary or secondary schools, places of worship, hospitals, nursing facilities, convalescent homes, parks, children-oriented recreational facilities and alcohol and other drug rehabilitation facilities within 500 feet of the premises in urban or suburban areas and 1,500 feet in rural areas;
- 3) Notice to the neighborhood organization(s) for the area in which the proposed premises are located if the city or county recognizes the organization. If there is no recognized organization, the Commission will notify any organization registered with the Commission that represents at least 25 households in the area.

City of Portland – Except for railroads, public passenger carriers or boats, health care facilities, or wholesale type licenses, the Office of Neighborhood Involvement (ONI) shall provide the following notification on new outlet applications:

- 1) Notify the following persons by mail that an application has been filed:
  - a) Property owners and property occupants within 300 feet of the proposed licensed premises;
  - b) The neighborhood and/or business association within whose boundaries the licensed premises will be located.
- 2) Post a notice indicating the process for public comment on the premises proposed to be licensed.

- 3) Request a response in writing from the neighborhood association, property owners and property occupants and allow at least 10 days after the mailing or posting of notification to provide a response in writing to ONI.

Notice requirements vary for licensed premises applying for a change in ownership, tradename or privilege. If ONI is aware of a serious history of problems or of plans to significantly change the type of operation, notice will be sent to the appropriate neighborhood organization.

### **STEP THREE – Local Government Recommendation Process**

OLCC requires that an applicant give notice to the City of Portland when an application is made for issuance of a liquor license. In accordance with state law, the commission allows the City **30 days** to conduct an investigation, involve neighbors in the process and submit a written recommendation to the OLCC on the license application. If the City may submit a request for an additional 45 days to conduct further investigation if considering an unfavorable recommendation. The OLCC ultimately decides to grant or deny a liquor license and the City's recommendation is one of several factors taken into consideration.

#### **A. INVESTIGATION OF LIQUOR OUTLETS**

City investigation of an application for a new outlet includes:

**Community input** solicited from neighborhood associations and owners of nearby property on all new outlet applications. Residents and other concerned community members are encouraged to provide input. ONI will review letters of support and opposition and attempt to resolve issues raised or request that neighbor testimony be heard at an OLCC commission meeting. ONI will notify respondents of the city recommendation and any OLCC meeting. **Neighborhood input is also solicited on applications for a change of ownership or privilege when the outlets have a documented history of neighborhood problems.**

**Police input** from uniformed officers, drug and vice-officers, precinct command personnel, and police reports and crime statistics for the immediate area. Criminal Background Checks are conducted and personal history forms completed by each applicant are reviewed.

**Noise Control input** from the City Noise Control Officer regarding evidence that noise is, or will be a significant and persistent problem at the licensed premise.

**Review of the Application**, regarding personal and business history.

**Applicant interview**, regarding past experience, proposed operating plans, and willingness to consider appropriate restrictions, conditions or good neighbor agreement.



## B. CITY RECOMMENDATION

The Chief of Police is the designated City of Portland authority to make liquor license application recommendations to the OLCC. The Portland Police Bureau's DVD coordinates with ONI and the Office of Noise Control to determine the recommendation. The following recommendations may be made:

**Favorable** – The Chief of Police finds no basis for an unfavorable recommendation as provided by Oregon liquor laws, there is no substantial neighborhood concern or opposition or evidence that noise is or will be a significant and persistent problem at the proposed premises.

**Favorable with Conditions or Restrictions** - The Chief of Police may attach conditions or restrictions to a favorable recommendation such as allowing sales only during limited hours, restricting the sale of alcoholic beverages associated with street drinkers, or other conditions or restrictions consistent with the Oregon liquor laws.

**No Endorsement** – There is substantial neighborhood concern or opposition to the application, or there is evidence that noise is or will be a significant and persistent problem at the licensed premises but the Chief of Police, because of time constraints or other factors, does not find sufficient basis for an unfavorable recommendation as provided by the Oregon liquor laws. The recommendation shall also include a request that the OLCC hear testimony from the public.

**Unfavorable** – The Chief of Police finds that there are valid grounds to make an unfavorable recommendation to OLCC as provided by Oregon liquor laws (ORS 471.313). If there is public opposition the recommendation shall also include a request that the OLCC hear testimony from the neighborhood.

## STEP FOUR – OLCC Recommendation/Decision Process

### A. LICENSE INVESTIGATOR RECOMMENDATION

The OLCC assigns a license investigator to review the application and conduct an investigation of the applicant and local concerns. Based on law, case history and commission policy, the investigator will forward a recommendation to the regional manager on whether or not to grant the license. The investigator will typically consider:

- Information submitted by the applicant – application documents and interviews
- Factual information of support or opposition submitted by the public
- City of Portland recommendation and supporting documentation

### B. REGIONAL MANAGER RECOMMENDATION

The regional manager reviews the complete application including the investigator report and supporting documentation such as letters from the public or the City of Portland. The regional manager then makes an independent recommendation on the license application. Regional managers may approve some licenses where there is no public opposition and no conflicts with the licensing criteria.

### C. REGULATORY STAFF COMMITTEE AND ADMINISTRATOR

OLCC's Regulatory Staff Committee meet regularly to review and make recommendations to the administrator on whether to grant or deny liquor license applications. The Committee and Administrator will typically review applications that:

- Involve selling of hard liquor and there are questions about compliance with food service rules
- Have received a negative local government endorsement
- Have significant public opposition
- Have an applicant with a record or habit of alcohol abuse, liquor law violations, or certain felony convictions
- Propose a business location with a history of disturbances or illegal activities.

The Committee will make a recommendation and the administrator decides to grant, deny or restrict the license or forwards the license to the commissioners.

### **STEP FIVE – OLCC Commissioners Decide**

There are five Liquor Control Commissioners appointed by the Governor to represent each of the five congressional districts in Oregon. The Commissioners provide policy direction and appoint the administrator for the OLCC. Although the Commissioners have delegated to staff the authority to grant or deny most liquor licenses, some applications may go before the Commissioners at one of the monthly meetings. Applications must go before the commissioners if the Regulatory Staff Committee or administrator recommend granting a license when there is a (n):

- Negative local government recommendation (Unfavorable by City of Portland)
- Significant public opposition
- Recent history of serious and persistent problems at the location
- Applicant with a record or habit of alcohol abuse, multiple liquor law violations or a felony conviction and the staff concludes there is a potential for future liquor law violations.
- Application for a Full On Premises license
- Application that has been challenged in an administrative hearing (Step Seven)

### A. ATTENDING THE MEETING

Objecting community members and organizations will receive notification only if they have submitted their objections in writing and provided a return address to ONI. For information on the agenda, date and time of the commission meeting, call 503-872-5006. If you plan to attend an OLCC meeting, a call should be made to the OLCC to confirm the meeting date and time, in case it has been rescheduled. Refer to Section X for information on preparing to testify.

The OLCC meeting will usually begin with a staff presentation. The applicant will then be given an opportunity to address the Commission. Next, those persons or organizations that have signed up to testify will be offered an opportunity to address the Commission. This may be followed by a response from the licensee or representative. At the conclusion of the meeting, the Commissioners will vote whether to grant, deny or restrict the liquor license.

## B. DECISION TO GRANT OR DENY

The Commissioners consider the application materials, the local government recommendation, staff reports and recommendations, and public testimony of support or opposition. If the Commissioners decide to grant the license, the process ends. If the Commissioners proposed to restrict or deny the application and there is new information that was not considered, the applicant may request reconsideration by the Commissioners. If granted, this step would be repeated.

## **STEP SIX – Administrative Law Hearing**

If the Commissioners propose to deny or restrict a license, the applicant may request an administrative/contested case hearing. A date for the hearing is set by the OLCC. This hearing is conducted by an administrative law judge employed by the state's Central Hearings Panel and resembles a court proceeding rather than a public meeting. The purpose of an administrative hearing is to have an impartial review and make a record of the facts and arguments surrounding a case.

### A. GIVING TESTIMONY AS A WITNESS

If the OLCC believes you have information pertaining to a case, you will be asked to testify. Contact OLCC Regulatory Process Division or the Administrative Process Division and request to testify if you have relevant information that should be considered. The administrative law judge will decide if you may express your concerns as part of the hearing record.

The administrative law judge will help everyone present relevant information and may ask questions of the witnesses. Present evidence such as written documents, photographs and testimony that relate to your concerns about the owner, customers or employees of the business. If you are going to participate in an administrative hearing, request to see "Hearing You: The Liquor Commission's Hearing Process" a 20 minute video available at the commission's regional offices.

### B. GAINING PARTY STATUS

If you have an interest in the matter that will not adequately be represented by the OLCC staff, you may file a formal request for party status with the Oregon Hearing Officer Panel at least 21 days prior to the hearing. Party status gives you equal status with the license applicant and allow you to call witnesses ask questions and present evidence. This is a more complicated role in the hearing and involves more time than just being a witness. Individuals may represent themselves but an attorney must represent organizations.

### C. PROPOSED ORDER

The administrative law judge issues a proposed order to the commissioners. If you participate as a party at the hearing, you may be notified by the OLCC when the Commissioners will consider the proposed order.

## **STEP SEVEN – OLCC Final Action**

The proposed order recommended by the administrative law judge is brought before the Commissioners at the monthly meeting for final action. Only parties to the case (see Step Six) may present arguments to support their positions at the meeting. No new information may be considered unless the hearing record is reopened. The commissioners may choose to adopt the order as written or may change it based on information contained in the record.

## **STEP EIGHT – Court of Appeals**

The first appearance in a public forum is only the beginning of what is often a long and tedious process. Giving testimony at the OLCC meeting may only be the first step. If the Commissioners do not issue the liquor license or agree to place restrictions on the license, the applicant may choose to request a contested case hearing, then, if the outcome is adverse, to appeal the decision to the Court of Appeals and the Oregon Supreme Court. The court then decides whether the commission's action is lawful. Throughout this time, the liquor outlet may still be operating. This is a painful, expensive process for the licensee, so it is in everyone's best interest to solve the problem before it progresses this far.

## IV. RENEWAL PROCESS

### GENERAL INFORMATION

Most liquor licenses are subject to annual renewal. In Portland, liquor licenses north of Burnside expire December 31<sup>st</sup> and those south of Burnside expire June 30<sup>th</sup>. The procedures for northside and southside renewals are identical.

PROCESS	NORTH	SOUTH
Neighborhood Associations are asked to identify problem outlets.	September	March
Problem outlets are identified.	October	April
License Expiration Date	December	June

### STEP ONE – Notifying the Public

The Office of Neighborhood Involvement (ONI) notifies neighborhood associations of the renewal process approximately 4 months prior to the license expiration dates. This allows each neighborhood association about six weeks to identify and report a liquor license problem. If an outlet has been an ongoing problem, it has probably been identified and reported earlier in the year. Often, problems can be resolved at the neighborhood level. Contact ONI or your neighborhood office for assistance with the process.

### STEP TWO – Applying for Renewal

The OLCC mails renewal applications to licensees approximately 60 days prior to expiration. Applications are submitted directly to the OLCC.

### STEP THREE – Local Government Recommendation Process

The OLCC provides the City a list of licenses that are eligible for renewal approximately 90 days before the licenses expire allowing 60 days to review the list and forward recommendations. At the end of 60 days, if the OLCC has not received a recommendation or request for an additional 45 days to investigate, the application is processed as though a favorable recommendation was received. If a problem has been identified, it may either be resolved to the satisfaction of the neighborhood and affected parties, or a no-endorsement recommendation is forwarded to OLCC requesting that neighborhood testimony be heard. The City investigation and recommendation follows the same process as step three in the new outlet applications. However, renewal investigations may also include review of OLCC records of liquor law violations, ONI records of complaints and monitoring by ONI, Police Bureau and OLCC staff.

### STEP FOUR THROUGH EIGHT

Once the City makes a recommendation or the 60 day response time has expired, the remaining OLCC process is the same as in new outlet applications. If the OLCC decides against renewing a liquor license, the applicant may request a hearing within 60 days (20 days in some cases) of the non-renewal notice. The business may continue selling alcohol throughout the hearing process and until the final decision of the commission becomes effective.

## V. DECIDING TO GRANT OR DENY

### A. MAIN LICENSING CONSIDERATIONS

The OLCC will take into consideration the following factors before granting or denying a license (specific grounds for refusal can be located in ORS 471.313):

- Local Government (City of Portland) recommendation
- Factual information from the public (includes documented personal observations of activities in or around the proposed premises as opposed to opinion, hearsay, feelings, beliefs or speculation).
- Is the applicant financially responsible with adequate and verifiable financing for the business?
- Will an employee who can communicate effectively with customers and OLCC staff be on the premises during business hours?
- Does the applicant have a record of alcohol or drug abuse or use alcohol excessively?
- Does the applicant have a criminal record or history of liquor law violations?
- Has the applicant made any false statements on the application?
- Are the applicant and manager physically competent and able to manage the business?
- Has the applicant had repeated problems (alcohol related) at another licensed location?
- Are there already sufficient licensed premises in the area or is the license not demanded by public interest or convenience?
- Is the business likely to have an adverse impact on the neighborhood or nearby facilities such as an elementary/secondary school, church, hospital, park/child-oriented recreational facility or alcohol and other drug treatment or rehabilitation facility?
- Are the proposed premises in a Problem Area with a history of serious or persistent problems with unlawful activities, noise or disturbances?
- Are the proposed premises in an Alcohol Impact area?
- Should the license be restricted?

### B. RESTRICTING A LICENSE

A Restriction is a limitation on the license privileges, such as disallowing "to go" or fortified wine sales or discontinuing alcohol sales after 1:00 a.m. The OLCC may restrict a license when:

- In the absence of the restriction, the OLCC has a basis to cancel, suspend/fine or deny the license or service permit;
- The restriction may prevent the recurrence of the problem that caused the violation; or
- The OLCC determines that a restriction is in the public interest or convenience under specific criteria.

The OLCC notifies the licensee when a license is restricted. If the licensee disagrees with the restriction, they may request a hearing. Once restricted, the restriction is in effect until the OLCC lifts it, which generally occurs when a licensee successfully requests that the Commission lifts or modifies the restriction.

## **VI. RECOGNIZING PROBLEMS RELATED TO THE LIQUOR LICENSE**

### **A. ARE NEIGHBORHOOD PROBLEMS AND LIQUOR RELATED?**

When making licensing decisions, the City of Portland and OLCC must determine if problems that are being encountered by neighborhoods are problems that should be dealt with in forums other than the liquor license process. Problems like litter, traffic, and parking may not be liquor related. Many problems are land use issues that may not be relevant when considering a liquor license. This is not to say that outlet owners should ignore these types of neighborhood complaints. It is always in the owner's best interest to try to address neighborhood concerns.

Investigating staff may consider the following in developing their recommendation:

- Are the concerns related to the liquor license or to land use or non-liquor-related issues?
- Does the activity fall within the purview of the City Code (Section 14.160) and within OLCC rules and regulations?
- Do criminal statistics and police reports support the allegations?
- Do all sources report the same information?
- Are problem incidents isolated or part of a pattern?
- Is the licensee aware of the activity, willing to take corrective measures, and willing to mediate?
- Is the activity within the licensee's control?
- Are the complainants willing to sit down and mediate?
- Are existing agreements being complied with?
- Will a new, additional license unreasonably disturb the neighborhood?
- Are there concerns such as zoning, entertainment, or a lack of food service related to the new application?
- Is the new location within a problem area or a designated liquor impact area?
- Is the new applicant a convenience store subject to the convenience store review process?

### **B. UNLAWFUL ACTIVITIES AND DISTURBANCES**

In 1989, the Oregon Legislature passed a Neighborhood Livability law (Senate Bill 126) that makes liquor licensees responsible for monitoring the behavior of customers outside their businesses. This law focuses on businesses with serious and persistent problems caused by customers who are noisy, disorderly or involved in illegal activities and the disturbances are related to the sale and/or service of alcohol. Licensees are responsible for customer disturbances in the vicinity of the business.

The OLCC may refuse to issue a license if an owner/operator, employees or customers of the business are involved in illegal activities in or near the business, or there are serious and persistent problems with fights, noisy activities or other disturbances in or around the business. If the problems occur with an existing licensee and are not brought under control, the OLCC may issue violation tickets or may refuse to renew the

license.

Unlawful activities and liquor related disturbances or problems might include:

- Selling or serving alcohol to a visibly intoxicated person
- Selling alcohol to minors
- Making alcohol available to minors through other people (called furnishing)
- Selling alcohol between 2:30am and 7:00am
- Licensee or employee drinking on duty
- Illegal drug use or sale
- Lewd conduct
- Prostitution
- Public drunkenness
- Unlawful drug activity
- Trespassing on private property
- Obtrusive or excessive noise - Music or sound vibrations, noise in the parking lot such as squealing tires, racing car engines, shouting
- Disorderly activities - Fights, altercations, harassment
- Trash or litter related to alcohol around the business
- Public urination by patrons

#### C. LIKELIHOOD OF CRIMINAL ACTIVITY

Liquor laws do not allow the OLCC to deny a license because there is a **possibility** that granting the license will result in criminal activity. Rather, there must be a **reasonable probability** that granting the license will give rise to criminal activity. A poor record of obeying liquor laws if the applicant formerly held a liquor license can support the likelihood of criminal activity. Probability of criminal activity can also be demonstrated if the business caused or was the focus of illegal activity under previous management and may result in granting of the license with restrictions based on history at the location.

#### D. CHRONIC NUISANCE

Within the City of Portland, the Council found that chronic criminal activity of various kinds on or near property adversely affected the health safety and welfare of citizens, and diminished the quality of life in neighborhoods where the activity occurred. To address these problems, the City adopted an ordinance (Title 14.110) defining chronic nuisance property and establishing a regulatory system.

Chronic Nuisance property is property:

- On which three or more nuisance activities have occurred during any thirty day period,
- On which or within 200 feet of which any person associated with the property has engaged in three or more nuisance activities during a 30 day period, or
- Which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses have occurred within the previous thirty days.



Enforcement of this code may include the following actions:

1. Two complaint driven investigations occur for a specific location within 30 days. Two complaints must be regarding two separate incidents (as opposed to two separate citizen complaints about a single event).
2. The Neighborhood Response Team (NRT) contacts the property owner to discuss the problem and solutions.
3. If an acceptable solution is not identified, NRT sends the property owner a warning letter that the property is in danger of becoming a chronic nuisance property subject to abatement and offering the property owner an opportunity to propose a plan to abate the nuisance activities.
4. If a third complaint driven investigation at the location occurs, a demand letter is prepared notifying the property owner that the property is a nuisance property subject to abatement and demanding that the property owner propose a course of action to abate the nuisance activities.
5. A precinct commander may agree to postpone legal activity for between ten and thirty days to implement and evaluate the proposal.
6. If the proposal fails to abate the nuisance activity, the precinct commander may request legal action. The ordinance provides for closure of nuisance property for up to one year.

#### E. PROBLEMS NOT ASSOCIATED WITH LIQUOR LICENSING

The City of Portland Liquor Licensing Process and the OLCC do not have the authority to address the following problems:

- **Nude dancing and other forms of legal entertainment**

The City of Portland has, in the past, attempted to regulate adult businesses. These efforts were declared unconstitutional. Nude dancing has been declared a constitutionally protected expression under the terms of Oregon's free speech clause, and therefore cannot be regulated by the City or the OLCC. The fact that nude dancing occurs at a liquor outlet is therefore not a violation of any law. However, disturbances at or near any liquor outlet that are caused by the clientele of that outlet, regardless of the outlet's entertainment format, may be liquor related violations of the law. Furthermore, if the nude dancing involves sexual acts or sexual touching it may be considered "lewd" according to OLCC guidelines and an OLCC citation may be issued. Violations of this nature could lead to license cancellation.

- **Litter**

Only litter associated with the liquor license may be considered, such as alcoholic beverage containers and related litter.

- **Signs or other advertising not related to alcohol**

- **Inadequate parking**

- **Traffic congestion**

- **Devaluation of property**

- **Other zoning-related issues**

## VII. HOW TO DOCUMENT AND REPORT CONCERNS

### A. REPORTING A CONCERN

If you see an illegal activity, such as a drug deal in the parking lot of a business with a liquor license, call the police first. The police are equipped to deal with such criminal activity and also document the incident with a report. The OLCC gets reports of illegal activities and may warn, fine, suspend or cancel the license depending on the severity of the violation. In addition to potential immediate action, the City and OLCC investigators review police reports when considering a new or renewal license application.

If you see or know of a liquor law being violated, you may call the OLCC directly. You will be asked for the information stated below in the incident log section. To report a noise violation (refer to next section), contact the Noise Control Office. To document liquor related problems, complete an OLCC Incident Report or write a letter listing specific complaints to the OLCC with copies to your neighborhood association and ONI.

Be sure to include your telephone number, address, and zip code if you would like to be notified of City action on the application. Although you are not required to provide any personal contact information, it will help with the investigation of the incident. Submit an incident report soon after the violation occurs so that it can be investigated. Follow up with ONI, the OLCC or the police department to make sure the problems are corrected or resolved.

### B. MAINTAINING AN INCIDENT LOG

It is advisable that you maintain a detailed log of incidents. This information will be useful for future presentations at neighborhood meetings and OLCC hearings. An incident log should include:

- Name of business involved
- Address of business
- Date of incident
- Time of incident (start/end)
- Number of people involved, description of people involved, names if available
- Type of incident, description
- Location of incident (inside business, right outside of business, in the parking lot, on the sidewalk or street)
- Did the incident involve a patron of the business? How do you know the incident is connected to the business?
- Are there any witnesses?

## VIII. NOISE CONTROL

Most of Portland's citizens realize that unnecessary noise causes health problems, including additional stress and elevated respiratory and heart rates. Reasonable quiet means we can enjoy our lives without intrusion and maximize the value of our homes. To address noise concerns, the City of Portland adopted a noise ordinance which establishes permitted levels of noise, based on audibility standards and actual decibel readings using noise meters. The ordinance deals with all aspects of noise including noisy stereos, construction and industrial sources.

### A. INVESTIGATION AND ENFORCEMENT

The Noise Control Office is the primary enforcer of the noise regulations in Title 18 of the City Code. The Police Bureau is also authorized to respond to complaints and enforce the regulations and focuses on responding to noise complaints after 10:00 PM and before 7:00 am. Documented violations of the noise regulations will be taken into consideration in the City of Portland's liquor license recommendation process. The Police Bureau will coordinate with the Noise Control Officer to identify whether noise is or will be a significant and persistent problem at the proposed premises.

The Noise Office Investigation process is complaint-driven, which means that enforcement of the code relies primarily on complaints to identify and report ongoing violations. The process is typically as follows:

1. Noise complaint - If you identify a noise problem and would like to make a complaint, call the Noise Control Office (503-823-7350). Be prepared to describe the problem in detail (where, when, how often, etc.). You will be asked for your name, address and phone number but this information will not be given to the noisemaker unless required by a City Hearings Officer or Judge (anonymous complaints are not responded to). Complainants are encouraged to maintain a complaint log as described in Section VII on Reporting Concerns.
2. Warning letter - Once a complaint is filed, a warning letter will typically be sent to the noisemaker describing the problem and requesting that the occupant resolve any possible noise violations before the City gets involved. The warning also indicates the possibility of fines.
3. Inspection Card and Sound Reading— an inspection card is generated and an inspector reviews the case to identify a predictable time to catch the noise to make a sound level reading. If it is not possible to catch the noise, the inspector will make an appointment with the noisemaker to measure the source of the complaint.
4. Violation letter – If a violation is found, the inspector sends a violation letter giving the violator 30 days to rectify the problem.
5. Penalties – If the problem is not resolved within 30 days, the Noise Control Office will take further action to deal with the noise problem, which may include:
  - Monthly penalties – penalty amount varies based on property type, includes a 10% fee for processing, and doubles after 6 months.
  - Code Hearing – Although this has not been used often, the Noise Control Office may take the violator to a hearing before the Code Hearing Officer. This is a quasi-judicial process and results in a finding in favor of the City or the respondent(s). The Noise Control Office can request a penalty for up to \$1000

per day of violation.

- Noise Citation – The violator may be cited into the Multnomah County Court through the District Attorney’s Office. This process has not been used with much success.

## IX. MEDIATION AND GOOD NEIGHBOR AGREEMENTS

### A. MEDIATION

Mediation is a voluntary process where people with disputes come together, sit down with a mediator (an impartial third person to facilitate the process), and talk about ways to solve their dispute. Mediation is often a successful means of resolving problems that may or may not be liquor related and typically ends with a written agreement. Mediation may involve nearby neighbors, neighborhood representatives, the liquor outlet owner, and representatives from the Police Bureau, and the OLCC and may be facilitated by the Office of Neighborhood Involvement. Mediators or facilitators from the Neighborhood Mediation Program are also available to assist with more difficult situations.

### B. COMMUNICATING PROBLEMS OR CONCERNS

An outlet owner may not be aware that his/her business is causing neighborhood problems. Select one of the following methods of communication to ensure that the business owner is made aware of neighbor concerns, is provided an opportunity to respond and that corrective measures are discussed:

- **Contact the Business Owner:** If you are comfortable, contact the owner or manager directly. Most business owners recognize their role as a part of the neighborhood and are eager to keep communication with the neighbor’s open. This is typically the quickest way to resolve problems.
- **Contact the OLCC, Office of Neighborhood Involvement (ONI) or your Neighborhood Association:** If you are not comfortable contacting the owner or do not feel that your concerns are being resolved, contact the OLCC, the ONI Liquor Licensing Specialist (503-823-3092) or the Crime Prevention Specialist for your neighborhood area. ONI may be able to facilitate communication, resolution and/or a good neighbor agreement to prevent future problems. Your Neighborhood Association may also be able to help with problem resolution and may have an existing agreement with the business owner that needs to be revisited. ONI can provide you with contact information for your neighborhood association.
- **Contact the Neighborhood Mediation Center:** The NMC provides mediation and conciliation services for the following types of disputes: noise, pets, property maintenance, boundary disputes, interpersonal conflict, and landlord-tenant issues.

### C. WRITTEN AGREEMENTS

Community partnership agreements and good neighbor agreements have been used as a tool to decrease neighborhood crime and nuisances and increase neighborhood livability in Portland. ONI Crime Prevention and Liquor Licensing staff, neighborhood associations, the Portland Police Bureau and other agencies have all initiated agreements. Agreements may be preventive (initiated at the beginning of a relationship with a new business or owner) or problem solving (with an establishment or

neighborhood with existing problems).

There are a variety of issues that may be addressed in an agreement, which may include the following:

- Entertainment – sound proofing, outdoor music, volume.
- Operation or Liquor related – hours of service, service on patio/deck, type of alcohol available
- Patron behavior – inside and outside the building, incident log, posting rules, security, parking control
- Appearance and safety of property – physical maintenance, litter patrol, graffiti control/clean-up, lighting
- Communication – availability to neighbors, involvement with neighborhood association, responsiveness to problems, report of crime and suspicious activity, follow-up and/or revision of agreement
- Responsibilities of partners (involvement will vary based on issues addressed)
- Chronic Location – Previous outlets have had problems and violations

#### D. IMPACT ON CITY RECOMMENDATION

Neighbor concern or opposition is considered in formulating the City of Portland's recommendation to the OLCC on a liquor license application. If mediation is successful and all parties are satisfied, the Police Bureau will forward a favorable recommendation to OLCC.

Mediation may not be successful in all cases or there may be insufficient time to complete mediation. All parties may not agree to mediate, may not be satisfied with the outcome, or problems may be of a criminal nature. If mediation is not successful or appropriate the Police Bureau will forward a no endorsement recommendation to the OLCC requesting that neighbor testimony be heard at a commission meeting. If the parties are involved in mediation but a written agreement is not finalized within the time constraints, the Police Bureau will forward a no-endorsement recommendation to the OLCC indicating that mediation is in process and requesting that neighbor testimony be heard if all parties are not satisfied or are unable to complete an agreement.

## **X. GIVING TESTIMONY AT THE OLCC**

### **A. TESTIMONY ON SPECIFIC LICENSING MATTERS**

To be the most effective when appearing before the commissioners or speaking as a party to a contested case:

- Call the OLCC to sign up and arrive early to ensure your name is on the list to testify.
- Choose a spokesperson to represent your group or association when possible.
- Begin your testimony by addressing the commissioners and stating your name, address and business or association affiliation if applicable.
- Present a concise statement of your position. It may help to write out your statement or an outline of your testimony to ensure that you present everything intended. You may also want to submit your statement in writing along with supporting documentation so that the OLCC staff and Commissioners have an opportunity to review prior to the meeting.
- The OLCC will hear only factual information relating to the liquor license premises and applicant. Present your personal observations of activities in or around the proposed premises as opposed to opinion, hearsay, feelings, beliefs or speculation. Provide any supporting documentation such as incident logs. Refer to Section IV: Recognizing Problems Related to the Liquor License to determine applicable information to present to the commission.
- If a prior speaker made one of your points, defer to that person and focus your statement on the other factors.
- Be prepared to answer questions.
- For assistance preparing to testify at the OLCC, contact the Liquor Licensing Specialist at ONI, 503-823-3092.

### **B. PUBLIC COMMENT**

If you wish to make comments to the commissioners on an agency or alcohol issue, a public comment time is routinely scheduled into the regular monthly meeting. Remarks concerning contested cases will not be heard until after the commissioners have reached a decision in the case. If you would like to speak during the public comments portion of the monthly commission meeting, please contact the OLCC Public Affairs office, 503-872-5002.

## XI. DEFINITIONS

**CONDITION** A specific requirement that an applicant must comply with. Examples include attending an alcohol and drug treatment program, participating in neighborhood mediation, paying a fee, installing air conditioning. A condition is in effect only until the license expires at the end of the license year.

**CONVENIENCE STORE REVIEW PROCESS** This mandatory process for new convenience stores, which are less than 4000 square feet and open more than fifteen hours per day, requires that a set of standards be negotiated before the Office of Planning and Development Review (OPDR) will issue a building or occupancy permit. A "Good Neighbor Plan" must be developed that meets the minimum standards and deals with neighborhood concerns. Contact OPDR for more information, 823-7526.

**EMERGENCY SUSPENSION** This action is normally coordinated with OLCC and the Police Bureau when it is believed that there is an immediate threat to public safety. While the liquor license privileges are suspended, the business may continue without alcohol sales or service. This is normally a temporary action until due process.

**FORTIFIED WINE AND OTHER PROBLEM PRODUCTS** The City of Portland and the OLCC have agreed on a case-by-case basis to limit, in certain locations, the sale of fortified wines (that have an alcohol content greater than 13.8%) and large containers of malt liquors and malt beverages. These restrictions are often applied to licenses in impact areas and other problem areas that have been recognized as having chronic problems with street drinking, gang activity, and other associated problems.

**LIQUOR IMPACT AREAS** The Chief of Police will only ask the City Council to institute an impact area where there is clear evidence that excessive criminal acts, liquor law violations, alcohol related litter, or noise and disturbances are present and can be attributed to certain types of liquor outlets and/or liquor operations in a specific geographic area. Impact Area status authorizes the Chief of Police to present an unfavorable recommendation to the OLCC for a new licensed premises or recommend restrictions for existing premises. An Impact Area discourages additional outlets of the type associated with the problem(s). An Impact Area creates awareness and a focus of attention by regulatory agencies and it provides an environment for existing liquor licensees to take part in improving the neighborhood through voluntary methods.

**PROBLEM AREA RULE** A license may be denied if it will be located in an area that has a history of serious or persistent problems with unlawful activities, noise or disturbances. This is a *public interest or convenience* reason for which the OLCC may deny a license unless the applicant shows good cause. Good cause may include a showing by the applicant that alcohol sales or service will not substantially contribute to the problems, or that the applicant has a plan that demonstrates a willingness and ability to adequately control the proposed premises and its customers behavior near the premises. This rule, as it pertains to a denial, only applies to a new outlet application or an application with a significant change in operation. However, a renewal or change of ownership application may be restricted based on the same set of facts.

## **XII. TYPES OF LIQUOR LICENSES AND SALES ALLOWED**

Full On-Premises Sales – Allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

Limited On-Premises Sales – Allows the sale of malt beverages, wine and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go.

Off-Premises Sales – Allows the sale of malt beverages, wine and cider to go in sealed containers.

Temporary Sales – Allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed event, for events lasting up to 5 days.

Brewery-Public House – Allows the sale of malt beverages, wine and cider to drink at the micro-brewery and for off-premises consumption.

Brewery – Allows the sale of malt beverages for consumption on the premises and wholesale and distribution to licensees of the OLCC.

Winery – Allows the sale of malt beverages and wines for consumption on or off the premises and wholesales wine sales to licensees of the OLCC.

Grower Sales Privilege – Allows the sale of wines for consumption on or off the premises and wholesales wine sales to licensees of the OLCC for fruit or grape wine grown in Oregon.

Distillery – Allows the sale of distilled spirits to the OLCC.

Wholesale Malt Beverage and Wine – Allows wholesale malt beverage and wine sales to licensees of the OLCC and some sales for consumption off the premises.

Warehouse – Allows storage and sale wine, cider and malt beverages to select licensees of the OLCC.