



**Legislative Department  
Seattle City Council  
Memorandum**

**Date:** July 5, 2007

**To:** Sally Clark, Chair  
Richard J. McIver, Vice Chair  
Jan Drago, Member  
Economic Development and Neighborhoods Committee

**From:** Mike Fong and Ketil Freeman, Central Staff

**Subject:** **Nightlife Regulation – Committee Direction**

At the June 20th Economic Development and Neighborhoods Committee (EDN) meeting, councilmembers gave staff further direction regarding multiple legislative approaches to addressing livability and public safety issues associated with nightlife establishments. The purpose of this memo and today's discussion is to further confirm and clarify direction given to staff by this committee, raise additional issues for consideration that have not been previously addressed and discuss any new proposals to be included in Council's nightlife legislative package.

The potential legislative package as discussed on June 20th includes the following components:

- Amendments to the Noise Ordinance;
- Amendments to the Nuisance Code;
- Increased Enforcement Staffing;
- Creation of a Nightlife Advisory Board; and
- Direction to the Executive to Take Complementary Actions at the State and City Level.

This memo will outline the direction and basis for legislation as directed by the committee on each of these components as well as outlining any remaining issues to be discussed. In addition, Councilmember Clark has proposed a business regulation concept requiring certain nightlife establishments to develop safety plans. This proposal is outlined in greater detail below and is intended for committee discussion today.

**Business Regulation – Safety Plan Requirement**

Councilmember Clark is interested in considering a requirement in the City's business regulations that would apply to establishments that serve liquor after 10pm and can accommodate more than 250 people in occupancy.<sup>1</sup> Conceptually, this requirement would do the following:

- Require that every liquor serving establishment develop a safety plan in a form acceptable to the City when there have been either:
  - 2 or more assaults inside the club within a 6 month period or
  - Any incident involving a deadly weapon; and
- Establish a fine structure for failure to develop a security plan or execute the provisions of a security plan.

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<sup>1</sup> The City's Business Regulations are contained in Seattle Municipal Code Title 6. This is also the title in which regulatory license requirements are set out.

Refusal to draft a safety plan or failure to follow elements of a safety plan would not result in revocation or suspension of a business license. However, they could form the basis for a request that the Washington State Liquor Control Board decline to renew or refuse to grant a liquor license.

Policy Issues:

- Issue A: Should Council adopt a safety plan requirement?
- Issue B: If Council adopts a safety plan requirement, what threshold should be used to compel adoption of a safety plan by a nightlife establishment? Potential options include a threshold size for establishments, a threshold number of violent incidents, or some other threshold or combination of thresholds?
- Issue C: If Council adopts a security plan requirement, who should review and approve the security plan and should approval be informed by a recommendation from the Nightlife Advisory Board?

*The following are issues discussed at the June 20 EDN Committee meeting. Staff has attempted to summarize these issues and the basis for legislation as directed by councilmembers.*

**Amend the Noise Ordinance**

Committee Direction:

- Create an objective metered, rather than audible, standard using the dB (C) (decibel standard) weighted network measurement for public disturbance noise from commercial establishments.
- Implement a fine structure as follows:
  - 1<sup>st</sup> violation = warning
  - 2<sup>nd</sup> violation within 365-day period = \$1000 (may be used for noise remediation)
  - Subsequent violations within a 365-day period = \$2000
- Allow for dual enforcement of public disturbance noise violations by SPD and by a “to be determined” other City Department.

Remaining Policy Issues:

Issue 1: Defer effective date of the ordinance?

- 6 months? (approximately March 1, 2008)
- 9 months? (approximately June 1, 2008) **(Chair’s Recommendation)**
- 12 months? (approximately September 1, 2008)

Issue 2: Allow the Executive to promulgate by rule the appropriate sound levels?

- Yes **(Chair’s Recommendation)**
- No

**Nightlife Advisory Board**

Committee Direction:

- Create a 9-member Nightlife Advisory Board consisting of both Mayoral and Council appointees. The board would be constituted as follows:
  - 3 members representing the nightlife industry
  - 3 members representing neighborhoods (north, central and south)
  - 3 at-large members
  - Council and Mayor appoint 4 members each and the board appoints 1 member.
- Board's duties will include:
  - (1) the promotion, development and sustainability of the nightlife industry in Seattle;
  - (2) the development of guidelines for effective and responsible business practices for the operation of nightlife establishments (including guidelines to promote the safety of operators, patrons, entertainers and promoters);
  - (3) the effectiveness of the City's enforcement of nightlife related regulations;
  - (4) the emerging nightlife issues related to increasing density in urban villages and centers; and
  - (5) exploring new ideas related to balancing neighborhood and residential needs with a vibrant and active nightlife environment.
- Board will be staffed by the Office of Economic Development.
- Board will submit an annual report to the Mayor and City Council on effectiveness of enforcement and observations related to the nightlife industry.

Remaining Policy Issues:

Issue 1: If Council pursues a safety plan business regulation, should the Nightlife Advisory Board have a formal role in reviewing the nightclub's proposed safety plans and making recommendations to the City regarding their adequacy?

- Yes (**Chair's Recommendation**)
- No

**Additional Priorities Resolution**

Committee Direction:

- Draft resolution to state Council's additional nightlife related priorities which include directing the Executive:
  - to work with the LCB and our state legislative delegation to get additional liquor control agents dedicated to Seattle;
  - to work with the City Attorney to utilize the new deference afforded by EHB 2113 to jurisdictions requesting that liquor licenses not be renewed and report back on LCB dispositions in which the City has invoked the new deference;
  - to research a permit requirement for private security whereby nightclubs with occupancies exceeding a prescribed threshold would be required to hire private security licensed by the City who have completed a mandatory SPD training. Such training may standardize best practices for providing security and conflict de-escalation at nightlife establishments;
  - to examine the feasibility of implementing a promoter license that requires standards of conduct and best practices that promoters abide by in order to help ensure a safe environment during promotional events in nightlife establishments; and
  - to review a new use designation for nightclubs and prohibitions or regulatory requirements for location of nightclubs in NC1 and NC2 zones

## Remaining Policy Issues:

Issue 1: Does Council want to be explicit in directing the Executive to share proposals related to items in the “additional priorities” resolution with the Nightlife Advisory Board? The Board would be requested to provide comments and recommendations to the Council.

- Yes (**Chair’s Recommendation**)
- No
- Yes to some issues/other

Issue 2: Does Council want to request that the Executive examine and develop a proposal that enables nightlife establishments to pool financial resources in order to hire off-duty Seattle Police Department officers to help maintain public safety in geographic areas including nightclubs and bars?

- Yes (**Chair’s Recommendation**)
- No

Issue 3: Does Council want to request that the Executive increase data collection efforts in order to monitor the effectiveness of new nightlife enforcement strategies and for the purposes of utilizing the deference afforded to the City in EHB 2113 related to the renewal of liquor licenses?

- Yes (**Chair’s Recommendation**)
- No

## **Increased Enforcement Staffing**

### Committee Direction:

There are three enforcement staffing elements councilmembers and this committee has considered. They are as follows (not mutually exclusive):

- Continuation of the Executive’s Joint Assessment Teams (JAT) on a permanent basis. Rename the entity as the **Nightlife Enforcement Team (NET)**. The NET would include representatives from various City agencies conducting spot checks on nightclubs and bars somewhere between three to five nights per month.
- **Dedicated nightlife enforcement unit.** A minimum of two City staffers, working in the evenings up to five nights a week with authority to issue noise violation citations (noise enforcement specialists) and possibly other violations including the fire code, litter laws, etc. A variation of this enforcement authority may be to have the staff be responsible for noise citations, but refer observations of other violations to the NET. The emphasis being “eyes on the street” on a regular basis devoted to focusing on nightlife issues and responding to complaints. This staff team would act as part of the NET.
- **City Nightlife regulatory coordinator.** This proposal would create a full time position in City government to
  - serve as a coordinator for the NET and the enforcement unit;
  - act as a point of contact for the Nightlife Advisory Board and city residents on issues related to nightlife activity; and

- oversee data collection for liquor stat and records compiled for the City to effectively utilize deference granted by EHB 2113 with regard to liquor license renewals.

### Remaining Policy Issues:

Issue 1: Does the Committee want to pursue a nightlife enforcement staffing model that includes all three of these components?

- Yes **(Chair's Recommendation)**
- No. Only certain components.

Issue 2: Does Council want staff to develop a resolution directing the Executive to develop a staffing plan that reflects the before mentioned nightlife enforcement components and request that this proposal be submitted and included as part of the Mayor's 2008 Budget? Alternatively, staff could develop an ordinance creating three positions (2 enforcement unit staffers and 1 regulatory coordinator) and formally create the Nightlife Enforcement Team?

- Resolution **(Chair's Recommendation)**
- Ordinance

Issue 3: If Council pursues creating a nightlife enforcement unit and a regulatory coordinator, should these positions be in the Department of Executive Administration or some other department?

- DEA **(Chair's Recommendation)**
- Other Department

### **Amend the Nuisance Code**

At the June 20th EDN Committee meeting, there was no consensus or recommendation with regard to whether the City's Nuisance Code should be amended. This item has been included again as part of this memo for further discussion.

### Discussion:

Currently, the City's nuisance code is the primary vehicle for addressing chronic problem establishments. The Police Chief has the authority to seek voluntary correction or issue a notice of abatement to establishments that are deemed a public nuisance. Abatement can include any action to remedy the nuisance condition. Abatement actions could range from limiting operating hours to closing a nightlife premises.

A public nuisance is defined as "a condition which wrongfully annoys, injures, or endangers the comfort, repose, health or safety of others, or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any public park, square, street or highway, or any other public place; or in any way renders other persons insecure in life, or in the use of property, and which affects equally the rights of an entire community or neighborhood, although the extent of damage may be unequal."<sup>1</sup> Among other things, public nuisances can include premises where an environment exists that encourages illegal alcohol consumption, acts of violence, unreasonable noise, and obstruction of pedestrian or vehicular traffic.

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<sup>1</sup> Seattle Municipal Code (S.M.C.) §10.09.030.

Making overly noisy establishments and establishments that violate occupancy codes subject to abatement could provide SPD, SFD, and the City Attorney with additional authority to induce voluntary correction or begin abatement.

Policy Issues:

- *Issue A:* Should Council make any business at which three or more public disturbance noise violations in a 365-day period, in conjunction with some other nuisance activity, i.e. engaging in acts of violence, discharging a firearm, intentionally obstructing pedestrian or vehicular traffic, etc... a *per se* nuisance subject to abatement by the City?
- *Issue B:* Should Council make any business at which three or more occupancy violations in a 365-day period, in conjunction with some other nuisance activity, a *per se* nuisance subject to abatement by the City?

**Next Steps**

Council staff will continue to develop draft legislation to flesh out this framework. The EDN Committee will next meet on July 19th. Depending on the outcome of Committee discussion, legislation could be available for Committee discussion and possible vote on July 19th or at a subsequent EDN Committee meeting in August.