

**2.04-8**

DAYTON POLICE DEPARTMENT  
GENERAL ORDER  
**ENFORCEMENT OF LIQUOR PERMIT VIOLATIONS**



RICHARD S. BIEHL – DIRECTOR AND CHIEF OF POLICE

REV. 5/17

**POLICY STATEMENT**

The enforcement of the laws pertaining to the liquor permit establishments in the city is primarily the responsibility of the Dayton Police Department. The enforcement of the Ohio Department of Liquor Control Rules is a cooperative effort between the Dayton Police Department and the Ohio Department of Liquor Control. The degree of enforcement ranges from routine permit holder checks to investigations directed at closing a liquor permit holder's business.

**I. Liquor Violations and Enforcement**

- A. It is important to remember that the rules of the Liquor Control Commission are only applicable to permit holders and their agents/employees. Violations of liquor rules/regulations do not necessarily constitute a crime and an arrest cannot be made for violating those rules/regulations **ONLY**.
- B. Under circumstances where a liquor rule also constitutes a violation of a city ordinance or state statute, arrest or request for issuance of a criminal summons may be undertaken in accordance with the rules of arrest.

EXAMPLE: Hindering an inspection is a violation of law as well as a violation of the Division of Liquor Control rules.

- C. Where such acts constitute a violation of a liquor rule only, the proper procedure is to document the violation in an e-mail and send it to the Narcotics Bureau Commander. The Narcotics Bureau Commander will assign the complaint to a detective and if warranted, will then do a request for citation against the permit and forward it to the Ohio Department of Public Safety, Division of Liquor Control.
- D. Any enforcement action or investigative activity related either directly or indirectly to a permit premises, its owner(s), manager(s), patron(s) or employee(s), must be documented appropriately and a copy or e-mail sent to the Narcotics Bureau as soon as is practical. These reports are invaluable in successful objections to permit renewals.

1. The **Permit Holder Check Form (PHC)** FIC type will be completed on the MDC or in MIS when a check is made of any establishment possessing a liquor license. These checks will be made periodically of establishments in each respective Division.

2. When a non-routine PHC is made, additional documentation is required. Non-routine PHC's for Class D permits (on premises consumption) occur whenever an arrest or any criminal activity occurs inside the permit establishment, outside the establishment if on the business premises, or in some way connected with the establishment, its owner or operator. Non-routine PHC's for Class C permits (off premises consumption) occur whenever the activity noted is a violation of a liquor law or regulation or other criminal activity directly involving the owner or operator.

A Permit Holder Check (PHC) should also be entered whenever an incident occurs at a permit-holding location (i.e. assaults, disturbances, noise complaints, parking issues). Additional documentation that should be referenced includes DIBRS reports, arrest, minor misdemeanor and/or traffic citations, etc.

- E. The Investigations-Administrative Services Division will provide each Patrol Operations Division Commander with a list of all permit holders operating in their area of responsibility every January. This list will be on the P-Drive under "LIQUOR PERMITS IN COD 20XX" (with the appropriate year).

1. The Patrol Operations Division Commanders or their designee will check which licensed retail premises typically generate numerous police responses for violations of liquor laws, breaches of peace, etc. They will exclude locations that have activity that have no direct relation to the legal sale of beer and alcohol



(e.g. police personnel frequently respond to grocery stores on complaints of theft, robbery, etc, crimes). For the purpose of the permit holder enforcement strategy, it will not be necessary to monitor those locations.

2. Each quarter, Patrol Operations Division personnel will be responsible for reviewing all requests for police services, including reports of criminal behavior and law enforcement action, involving each permit holder establishment located in their area of responsibility. The purpose of the review is to identify trends that may indicate the owner(s)/operator(s) of the establishment are failing to manage their business effectively and in accordance with the law.

The following criteria will be used as a guideline for a review/response from DPD Division Commanders or their designee and the Narcotics Bureau:

- a. Any felony offense of violence on permit premises.
  - b. Any felony drug offense on or in permit premises.
  - c. Any felony or misdemeanor sex related offense on or in premises, including any public indecency offense committed by an employee.
  - d. Any incident involving violations of liquor laws or regulations and/or criminal statutes involving agents/employees of the permit holder in a ninety (90) day period.
  - e. Any misdemeanor drug offense on/in permit premises committed by a permit premise employee. Consideration will be given to the permit holder if said employee's employment is terminated after the offense. Two (2) separate misdemeanor drug offenses in a ninety (90) day period involving permit premises patrons. Consideration will be given to the permit holder if said offenders are formally trespassed from property and any future trespass violation is prosecuted by permit holder.
  - f. Twenty five (25) calls for service to permit premises for disorderly conduct, disturbance, fights or public intoxication in a ninety (90) day period. Consideration will be given to the permit holder who agrees to promulgate and enforce measures to reduce said offenses and there is a decrease in calls for service to below the above criteria during the following review period.
  - g. Twenty-five (25) citizen or Priority Board complaints in a ninety (90) day period involving misconduct at the permit holder's business which has a detrimental impact on the neighborhood. (e.g., trash blowing into yard, beer bottles, excessive noise, illegal parking complaints, disturbances, fights, public intoxication). Consideration will be given to the permit holder who agrees to promulgate and enforce measures to reduce said complaints and there is a decrease in complaints to below the above criteria during the following review period.
3. When a permit holder location has been identified as potentially troublesome, the Division Commander or their designee will contact the appropriate Priority Board and Neighborhood Association to determine if either organization is aware of complaints or concerns regarding the establishment.
    - a. The Division Commander or his designee, along with the Narcotics Bureau investigator responsible for coordinating permit holder compliance efforts, will then meet with the permit holder to discuss the specific issues giving rise to the communities and department's concerns. The appropriate Priority Board and Neighborhood Association representatives should also be encouraged to attend. The goal of the meeting is to gain voluntary compliance from the permit holder. It may be useful to provide the permit holder with copies of specific statutes and/or ordinances the permit holder is believed to be violating. Suggestions for operating a lawful establishment should also be provided to the permit holder.
    - b. Following the meeting, a follow-up letter should be prepared by the Division Commander or his designee and sent to all in attendance. The letter will document the concerns raised by the community and department, as well as any and all specific recommendations made and agreed to by all involved.



## II. Narcotics Bureau Responsibilities

The Narcotics Bureau's Support Unit is responsible for maintaining a city - wide file on all liquor establishments. In addition to this the Support Unit will:

- A. Investigate and report on any activity involving a city liquor permit, (i.e. transfer, stock transfers, renewal, temporary application and new permit applications).
- B. Make appropriate recommendation to the City Law Department and City Commission concerning the basis for objection to the permit action before the Division of Liquor Control.
- C. Coordinate the preparation of cases to be presented before the Division of Liquor Control in response to City Commission objections to any of those requests in II.(A.)(1.) This will include physically bringing evidence to the hearing, testifying, and notifying any appropriate departmental personnel to be available for testimony.
- D. Refer pertinent, documented violations to the Division of Liquor Control for appropriate action and coordinate the presentation of evidence relating to those violations before the Ohio Department of Liquor Control.

## III. OBJECTION TO RENEWAL OF LIQUOR PERMITS

- A. All liquor permits issued in the State of Ohio must be renewed annually on June 1st. Each year, the City of Dayton is given the opportunity to object to the renewal of any liquor permit issued in the city. Based on information supplied from various sources, including the Police Department, the City Commission decides whether to adopt a resolution objecting to the renewal of any permit.

If the City Commission resolves to object to a renewal, a hearing will be scheduled by the Ohio Department of Liquor Control to consider the advisability of renewing the permit. Although the safety and welfare of Dayton citizens is an important priority, the Department of Liquor Control must consider each objection guided by statutes, rules and legal causes presented. Therefore, it is the responsibility of the City of Dayton to firmly establish good cause for such objection.

- B. The Patrol Operations Division Commanders and the Investigations-Administrative Services Division Commander are responsible for recommending objections during the annual renewal of liquor permits. Primary responsibility for assembling investigations relating to permit renewal objections rests with the Narcotics Bureau and the various districts of the Patrol Operations Divisions.

However, personnel from other divisions may have information concerning criminal activity at a permit premise, which would warrant an objection to the permit renewal. All information relating to the fitness of a permit holder to operate the permit premise, or the negative impact of the permit operation on the community, should be forwarded to the Narcotics Bureau for inclusion in the investigative packages. An objection to the renewal of such permit must be well documented.

Areas that are necessary for the proper documentation of "good cause" include, but are not limited to:

1. Incidents occurring inside the permit holder's business, i.e. fights, assaults, or disturbances.
2. Incidents occurring outside but on the permit premises and connected to the permit location.
3. Incidents involving intoxicated persons inside the permit holder's business or on the premises.
4. Citizen or priority board complaints involving misconduct at the permit holder's business which has a detrimental impact on the neighborhood in which the establishment is located.
5. Incidents involving violations of liquor laws or regulations and violations of criminal statutes involving agents/employees of the permit holder.
6. Incidents involving drug violations connected with the permit location either inside or outside the premises.



- C. During each January and February, all Division Commanders or their designee are to contact their respective Priority Boards, neighborhood groups and councils for input in the renewal objection process.
1. A report identifying each permit, to which renewal objection is requested, must be submitted to the Narcotics Bureau no later than March 1.
  2. Any Division with information supporting objection to a permit premise should also submit a report no later than March 1. The Narcotics Bureau Commander will notify the Division Commanders of any changes regarding this date.
  3. The report should identify each permit premise, what group wishes to pursue the renewal objection, and the reasons for the requested objection.
  4. Documentation of police activity and community support for the objection should be submitted with the report.
- D. Although all valid information concerning a permit premises will be considered, the reports and information supplied by the affected district are often the main criteria used in objecting to a permit renewal. Therefore, it is important that the submission of documentation and communication with the Narcotics Bureau be on a continuing basis and not a last minute activity.