



## Community Options for Dealing with Problem Liquor Permit Premises

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There are three ways a community may stop liquor permit privileges at a problem premises:

- Local option election;
- Padlock procedures to close a nuisance permit premises;
- Local legislative authority objections to the annual renewal of a liquor permit.

### Local Option Election

A local option election involves ceasing alcoholic beverage sales of all liquor permit businesses in the precinct. Ohio Revised Code sections 4301.32, through 4305.14 are the applicable laws dealing with local option elections affecting an entire voting district.

A local option election allows the voters of a particular precinct to decide if the sale of beer, wine, or spirituous liquor shall be permitted within the precinct.

More information regarding local option elections may be obtained from local boards of elections. Instructions for local option petitioners are available by calling the Secretary of State's Office at 614-466-2585.

### Padlock Procedures to Close a Nuisance Permit Premises

Another option local officials and residents may use is the padlock procedure. By establishing a permit premises is a nuisance, a court may order it closed for one year.

Ohio Revised Code sections 3767.01, 3767.03 and 3767.05 define what constitutes a nuisance, and set the procedures used when seeking to padlock such a location. This type of action is heard in the local court system and may be instituted by any of the following:

- **The Ohio Attorney General;**
- **The law director of any municipal corporation or township;**
- **The solicitor of any village;**
- **The county prosecuting attorney;**
- **Any person who is a citizen of the county in which the nuisance exists.**

A padlock action may be brought against any building, room, etc., where alcoholic beverages are manufactured, sold or possessed "in violation of law" and against all property kept and used maintaining it. "Violation of law" includes sales to an underage person, and any food stamp or drug violation. After such an action is filed, if it appears to the satisfaction of the court that such a nuisance does exist, a temporary injunction may be issued restraining the defendant from conducting a nuisance or permitting its continuance until the conclusion of the trial. The court may also preliminarily restrain the defendant from removing or interfering with any of the property that is the subject of the action.

If, at the trial's conclusion, the court finds the material allegations of illegality are proven, the one-year padlocking of the property may be ordered.

Further, the Division of Liquor Control is required to deny the issuance, renewal or transfer of any retail liquor permit if the applicant has been found to be maintaining a nuisance at the premises where the permit is issued or sought.

**Before undertaking a padlock proceeding, the following points should be considered:**

1. All nuisance actions must be brought in the common pleas court of the county where the nuisance is located.
2. Local law officials or prosecuting attorneys are usually in a better position to initiate this type of action, due to two factors:
  - The action must be brought in the local court system.
  - The witnesses are most likely to be local residents or local law enforcement officials. Such familiarity makes case preparation much more convenient and thorough.
3. Finally, these types of cases often take a great deal of time. The burden of proof in verifying the existence of a nuisance is higher than the normal administrative burden before the Liquor Control Commission.

**Local Legislative Authority Objections to the Annual Liquor Permit Renewal**

Although not required by law, the division informs legislative authorities they may object to annual permit renewals. They must adopt a resolution stating the reason for objecting and forward a copy to the division no later than 30 days before the expiration date of the permit. It must be accompanied by a statement from the chief legal officer that they reviewed the resolution, and in their opinion, it is based on substantial legal grounds.

A hearing is then hosted at the division's offices in Reynoldsburg, the county seat of the permit holder/ applicant, or via video conference where available. The objector must appear for the objection to be considered. The hearing is open to the public, but citizens cannot present evidence or provide testimony unless designated by the objector or permit holder/applicant.

An attorney from the division conducts the hearing, but does not make a decision. A report is submitted to the division's superintendent, who decides whether to overrule or sustain the objection



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