

To: Boulder City Council Members
From: R Kevin Brown
9/29/12

In regards to city council's directive from the 2004 resolution 960 to establish overall goals to address alcohol abuse in the community and establish city policies to:

- keep people alive
- keep people healthy
- reduce over consumption
- lower the level of community conflict
- allow congenial places for people to gather
- provide clarity and predictability in process

The city and community has a regulatory body in the Beverage License Authority to grant, suspend and/or revoke liquor licenses according to the state liquor code and the local conditions of that code.

I am appealing to city council at this time to address what I have identified as an abject failure in the function and ultimate responsibilities of the BLA board

Specifically in the recent BLA hearing on September 19, 2012 where the board heard a continued renewal hearing for the licensee, K's China. The board heard over 4 hours of testimony from law enforcement officers, detectives and the state liquor enforcement officer as well as objection from the city attorney, all supporting revocation of this license. The licensee presented testimony from employees, a DJ and the manager's mother to rebut the former.

The hearing process was unorganized, members were unfamiliar with procedure and an overall understanding of the code and guidelines of their charge. Ultimately after nearly an 8 hour hearing, the resolution chosen was to renew the license with over 24 stipulations; many of the stipulations that were offered are currently in the state and city municipal code and were redundant. In addition, the BLA members proposed and adopted stipulations that are not and/or very unlikely to be enforceable.

In my opinion the process was flawed and I failed to see compelling evidence to grant renewal to this licensee.

At the conclusion of the hearing, member Lisa Spaulding made statements to the fellow board members that bears mention. Ms. Spaulding spoke of the culture of drinking in Boulder, to the compelling testimony of the police officers and the time they spent at the hearing and that she felt that if she was a police officer, she would be discouraged based upon the BLA's decision regarding this licensee. There was mention from members during the hearing that they felt enforcement did not do enough and that more citations and Ms. Spaulding continued that they had the opportunity to revoke the license of a "problem" operator and send a message to other licensees and operators that the BLA treats these situations/scenarios with consequence.

Add to this dismay of good operators the fact that the Foundry was allowed to switch from an H&R lisc to a Tavern lisc after they had received a citation foe serving minors. Its just hard to

understand why the BLA does what it does and then we as good operators (in my case for over 4 decades) are faced with more and more layers of rules and regs when the ones that are in place are blatantly disregarded by the people that have the authority to enforce them.

And yet another case that bears weight in this argument would be the approval of a transfer of a liquor license to Shug's Low County Kitchen in 2011. BLA members heard testimony from the applicant that indicated a past history of fraud, violence in the form of pending assault charges and default on a past lease agreement. Members approved the license and less than three months after granting the license, the owner/manager in question defaulted on his current lease. The application process requires a background check, questions specific to experience and sound management plans. Again, in my opinion the applicant failed to show consistent behavior that would support the requirements of this privileged license.

The city of Boulder has a tool to regulate liquor licenses that has failed to act. I ask City Council to investigate the policy, procedure and operating functions of the current Beverage Licensing Authority, whom you appoint.

Suggested solutions would be for council to deliver directives to the BLA to become more stringent in their decisions, especially with problematic and or questionable operators. Additionally I suggest you create a mandatory educational retreat take place to instruct board members on what their appointed duties and responsibilities are.

City leadership has made it clear that addressing the operational standards of "problem" licensees is a priority. This was a missed opportunity for the current systems and procedures to work in the community's favor and limit the ability of these "problem" licenses to operate irresponsibly.

In my opinion if the city's current tools and codes were enforced there would be no need to try and control liquor licenses with more and more rules/regs and zone codes that ultimately may or may not be enforceable.

Respectfully,

R. Kevin Brown
COO and Exec VP of Concept Restaurants, Inc

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IgniteGastroPub.com Ignitecarlsbad.com BoulderWalrus.com ViaBaci.com RialtoCafe.com
TableMountainInn.com Boulderado.com & Woodys Taverns @ WoodysDenver.com

Karl,

I read Sean Maher's opinion this morning in the Daily Camera Business section. I have to say I more or less agree with Sean with regard to the Downtown, however, we must figure out how to solve once and for all the "**bait and switch**" issue which has plagued the Hill and has caused unnecessary neighborhood discontent because of the subjectivity of the late night alcohol use review process. This particular issue can only be solved by instituting clear restaurant definitions (50/60% food) or HILL SPECIFIC zoning such as reinstatement of the 500 foot rule (with close by 11pm, and limited to service of beer and wine). Note: Macon Cowles reference to Thunderbird Case at Lau's call-up--the city of Boulder was reprimanded by the Appellate Court and admonished to "use your zoning," otherwise--no recourse for late night alcohol service by already licensed "restaurants".

We must not forget that the University Hill neighborhood has the highest concentration of an underage, particularly vulnerable population who binge-drink on a regular basis. As a consequence, we have suffered a dramatic increase in alcohol-related violent crime (talk to our DA Stan Garnett--who will attest to the fact that "it's all about alcohol" up here--murders/assaults/rape). The Hill (with its current reputation) will never attract the type of upscale restaurants mentioned by Sean (Oak/Pasta Vino, etc.) which are ultimately more about eating than drinking. I wouldn't refer to Oak as a "bar," and I wouldn't call K's China a "restaurant".

In order to actually begin to change the **culture of alcohol** on the Hill we must have effective (smart) regulations that target the specific problem without the unintended consequences referred to in Sean's article---to this end, let's be HILL SPECIFIC in our legislative solutions to a persistent, yet solvable, problem. We will NEVER attract these types of higher-end restaurants and other respectable businesses to the Hill unless we change its reputation FIRST. (Mark, you even mentioned that the problem with attracting business to the Hill is its "brand"--and by the way, you are to be commended for recently filling your vacant space with an academic tutoring service).

The Hill and Downtown are like "apples and oranges" despite the fact that both attract patrons who over-indulge in alcohol.

The Hill Business District sets the TONE for its young student population. The Downtown sets the tone for the entire city of Boulder. Unfortunately the Hill's businesses do not include the likes of Frasca, The Med, Brasserie Ten Ten, Oak, Mateo, the list goes on. In this category of dining we have only Cafe Aion (but maybe not for long--no longer serving breakfast--bad sign) and Hapa. Our list of distinguished "establishments **with liquor licenses** " includes Ks China (still going strong!!!), The Goose, Half-"Fast" Subs, Abo's Pizza, Geisty's DogHouse, and Illegal Pete's. This leaves few real food options for not only the "over-30" crowd, but the students who inhabit the peripheral area. So "late night" downtown is an entirely different animal than "late night" on the Hill. It is the Hill neighbors (including the students) who suffer most of the impacts of late night alcohol service (noise, vandalism, trash, house break-ins)--not Mapleton Hill or Whittier.

So, yes, Sean, I agree with you and the RHG--late night business licenses and 3-year use review may not be appropriate solutions--instead we should crackdown on house parties (hold landlords

accountable); step up enforcement and make necessary policy changes to enable PD to do their job effectively; give greater mandate to BLA; and go after handful of "bad actors" (this has proven impossible to date--K's)---But none of the above will solve the "**bait and switch**" issue of Hill establishments and change the inherent **culture of alcohol on University Hill** unless we have stricter definitions of what constitutes a restaurant and/or a reinstatement of the 500 foot rule (11pm closing/beer and wine only). Only then can we begin to limit the amount of late night bars in a very small and particularly volatile neighborhood. (and yes, Mark, the Sink and **18 other licenses** would be grandfathered in!!) We must start somewhere! Some of these other licenses will disappear by attrition if proprietors break the law. So a law-abiding, well-managed establishment such as The Sink should not be concerned about Hill-specific regulation.

Just so you all know, I have nothing to gain or lose from all of this--I do not even live in the "war zone"--but as a CU Alum and 30 year resident of Boulder I have a deep concern for the future sustainability of University Hill (both the residential area and business district) and for the economic vitality of the City we all know and love.

Sincerely, Kim Voorhees

Hi All,

Kim, I respect your opinion but I don't agree with your conclusions. The last license I remember being issued where bait and switch was a concern was Abo's and that was a long time ago with no problems. In fact they moved since then. I just don't see bait and switch as an issue with the way the planning process has been working. There is not one license issued that supports the conclusion of bait and switch. The two licenses most referred to (K's and Goose) have been around for at least 15 years. What to do about how those licenses impact our community is what we have (I think) effectively focused on.

I am concerned with changing the 500' rule for primarily two reasons. One is that even if current licenses are grandfathered they are at the disadvantage of being targeted for revocation. I do appreciate the recent civility of this discussion but I have not forgotten the dedicated assault by many in our community to single out and attack specific businesses. Operating our business defensively is no one's gain and will only perpetuate the friction.

We are a community driven by resident citizen complaints. A common response to this point is "no one is going to target you". I would like that guaranteed. Of course no one can guarantee it. There is plenty to worry about in this business and no matter how good an operator one is, losing a license is always a top concern. The City should not create circumstances that encourage this friction.

The second reason is that, if our community truly wants to see the Hill change, signaling that the Hill is "just for kids" by changing the code is a big mistake. The Hill needs every ability any other location in the city has, plus some. This is an opportunity to reach out and support the Hill as an integral piece of our community and not the "red headed step child that has to be part of the family".

Putting further restrictions in place will lock the Hill into its current form for the foreseeable future. What evidence do I have of this? Our retail space has been listed for rent since August. The only viable non-head shop tenant was interested only at a price below our low market rate, for one year and we pick up all the broker costs. Now they are interested in a space on the Mall at twice the price. By the way, the tutoring business is a temporary tenant until May. Confidence in the Hill is low. I can't see an upside of imposing more restrictions. Having another news article about how "the city is doing something about the Hill, it's only for reckless out of control kids, don't take your family there" is going to hurt badly.

Just yesterday, a friend told me how he can't bring his young kids to the Sink for dinner with "all those college kids there"; a false perception. That is the mindset that needs to change. Let's talk about positives like tax incentives for business location and development, an arts district or a lively micro-zoned entertainment district.

Let's not talk about regulations, restrictions or increasing the difficulty of attracting new businesses. How the discussion is framed will make all the difference. If you want to change the commercial district it has to be more attractive to consumers. Perception has to change. Then the Oaks etc. might come.

Thanks, Mark

It has come to my attention that there are potential zoning and code changes being suggested for liquor licensed establishments basically because of binge drinking. I would support the alternatives listed by many licensees. No doubt you have received a number of letters from them. I am a 35 year resident of Boulder, the mother of three sons who attended CU, and a retired teacher. Boulder is a culinary and nightlife destination for many people which bring in tax dollars. The binge drinking of some young adults should not drive laws.

Will these proposals really "solve" binge drinking which is a personal choice? The focus should be on stricter policies and consequences for house parties and residential drinking where there are no restrictions; more restrictions on licensees translates into more drinking in **unregulated** situations. Concentrate on working with the University and Boulder police, while putting pressure on only the problem licensees, if that is what is driving the proposals.

It seems there was a survey on this issue in November. The community response indicated **86.2% were against restricting alcohol sales after 11:00 P.M. Why would you ignore that?**

Frankly these proposals seem misguided; nor do they appear to be reasonable solutions or suggestions for mitigating the impacts and risks of binge drinking. In fact these proposals seem to target negatively those who already have a commitment to prevent it.

Please re-evaluate the city's proposals and give credence to the alternatives suggested by our many responsible licensees.

Barbara Wolpoff
800 Brooklawn Drive
Boulder, CO 80303

Mayor and City Council
City of Boulder
PO Box 791
Boulder CO 80306

February 2013

To: Boulder City Council Members and City Manager, Jane Brautigam

My name is, _____, I am a business owner and operator of a liquor licensed establishment in Boulder, CO. I am writing to you to express my concern and opinion regarding the potential land use and code changes for liquor licensed establishments.

I do not endorse creating any additional zoning and municipal code changes. I do not believe that any of these proposed changes to the municipal code will result in a change of behavior in regards to "binge drinking". They will, however, negatively impact licensee's ability to operate, may create more problems around this issue and frankly would not address existing "problem" licensees. In lieu of these proposed land use changes, I would like to offer some alternatives.

- Enforce existing ordinances such as nuisance party, noise, littering, public intoxication, fake IDs and the State of Colorado liquor code to better regulate alcohol consumption and create greater consequences for such infractions.
- Update the zoning and liquor license management plan procedure to make it more transparent and understandable for both business owners and neighbors. There is no current method of accountability to ensure a licensee is adhering to the business plan presented to the City.
- Enhance coordination among city departments (planning, licensing/BLA, fire, police).
- Replace the Boulder Beverage License Authority with a municipal court judge OR bifurcate the BLA, where the BLA would approve and deny license applications, but any violations would be heard by a judge. The intended result of this change would be to create consistency and transparency. A judge would have a better understanding of the laws

and be able to properly interpret such laws for punishment. Currently, we have a system where both the law and procedures are not adhered to or known and judgments and penalties are inconsistent.

- Allocate more resources for prevention, education and to the Boulder Police for enforcement.
- Address house parties and residential drinking. Stricter policies and consequences for both residents, renters and landlords must be considered when addressing alcohol concerns in Boulder. I believe that house parties contribute more to the issue of negative impacts to the community and the culture of drinking, than any impacts by licensees. The quantity and size of drinks are not regulated at private residences as they are in licensed establishments nor is it the responsibility of a party host to ensure that guests are of legal drinking age. I also believe that restricting the hours of operation for licensed establishments will “push” even more drinking and specifically, late night drinking into neighborhoods and private residences, impacting the community even more.

City staff circulated a public survey in November on this issue. Community response was overwhelming and the results from the survey indicate 86.2% would not support zoning regulations to restrict alcohol sales after 11 pm. 54.6% think the primary location of overconsumption of alcohol is in private residences (house parties). Respondents indicated that increasing police enforcement in residential areas and addressing “problem” licensees were additional tools they would add. I believe that the opinion of the community, expressed in this survey must be considered by Council.

Boulder, CO has established itself as a culinary and nightlife destination for both residents and visitors from around the state, country and world. Restaurants and bars contribute to the vitality of the Boulder business community and are an essential part of the overall vibrancy of our community. Please consider the unintended consequences of negatively impacting the hospitality community with these zoning changes and the less than hospitable message we are sending to potential new business owners both on the University Hill and throughout Boulder.

As a licensee, I take steps to responsibly sell and serve alcohol to our guests. I recognize that “binge drinking” and the negative impacts on community

are of concern, but I do not believe that these proposed zoning changes imposed on licensees will effectively address these alcohol issues, because by law, we do not serve patrons who are visibly intoxicated. Lastly, I will continue to listen to and work collaboratively on policy, ideas and "reasonable" solutions/suggestions for mitigating these impacts and risks.

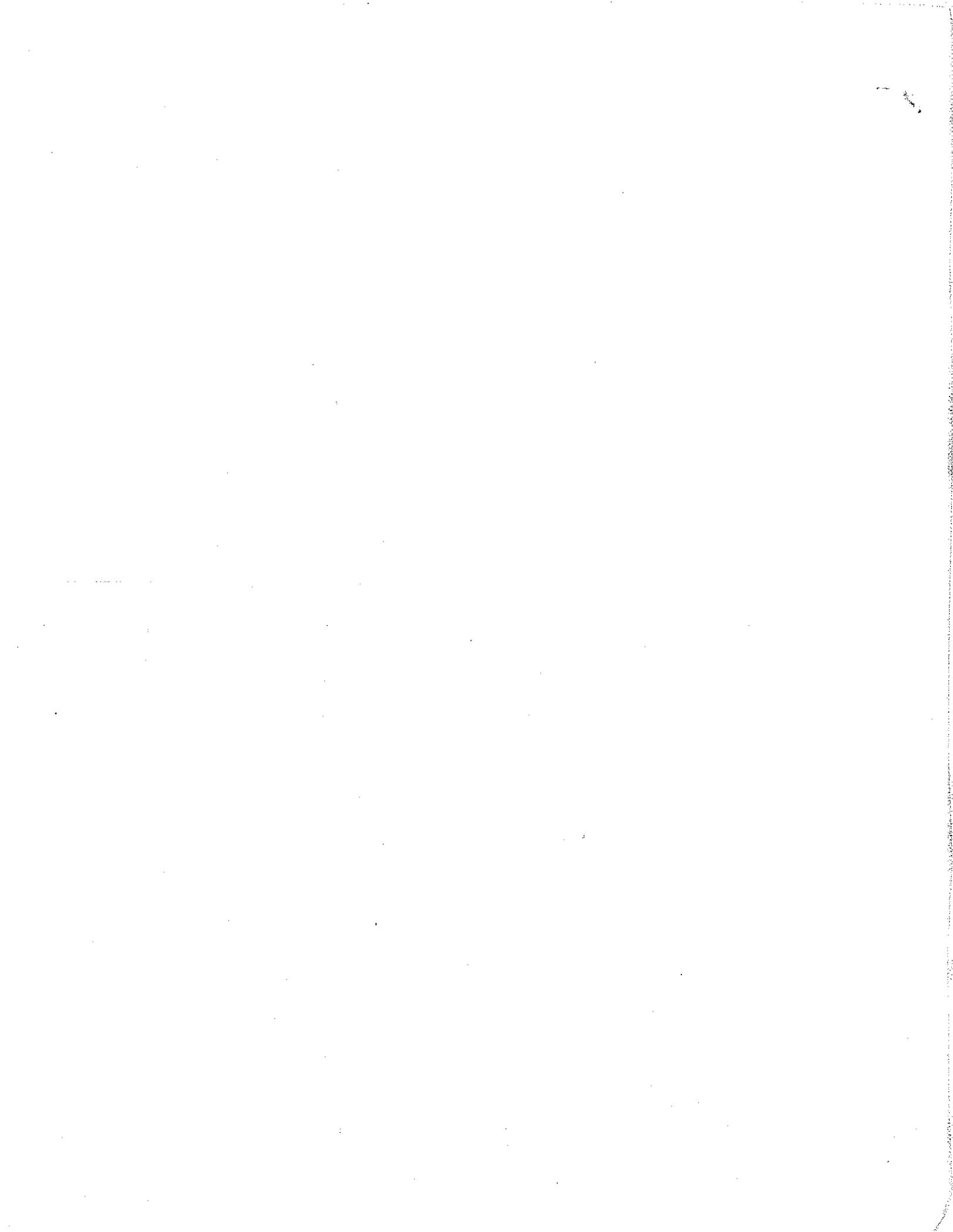
Sincerely,

name

business name

address

email OR phone



RESPONSIBLE HOSPITALITY GROUP

www.RHGboulder.com

Boulder, Colorado

Position on Alcohol-Land Use Regulations and changes to Municipal Code

February 2013

The Responsible Hospitality Group does not endorse creating any additional zoning and municipal code changes. We do not believe that any of these proposed changes to the municipal code will result in a change of behavior in regards to "binge drinking". They will, however, negatively impact licensees ability to operate, may create more problems around this issue and frankly would not address existing "problem" licensees. Because of this, RHG will not 'sign off' on any document that recommends zoning changes that limit licensees. We currently have a liquor code we abide by from the State of Colorado. Additional regulations around alcohol land use are redundant. However, we will continue to listen and work collaboratively on policy, ideas and "reasonable" solutions and suggestions for holistically mitigating the impacts and risks to the community.

From the statement the Community Working Group collaborated on, the hospitality community feels most strongly about pursuing these options and additional tools for mitigation:

- Enforce existing ordinances such as nuisance party, noise, littering, public intoxication, fake IDs and the State of Colorado liquor code to better regulate alcohol consumption and create greater consequences for such infractions.
- Update the zoning and liquor license management plan procedure to make it more transparent and understandable for both business owners and neighbors. There is no current method of accountability to ensure a licensee is adhering to the business plan presented to the City.
- Enhance coordination among city departments (planning, licensing/BLA, fire, police).
- Replace the Boulder Beverage License Authority with a municipal court judge OR bifurcate the BLA, where the BLA would approve and deny license applications, but any violations would be heard by a judge. The intended result of this change would be to create consistency and transparency. A judge would have a better understanding of the laws and be able to properly interpret such laws for punishment. Currently, we have a system where both the law and procedures are not adhered to or known and judgements and penalties are inconsistent.
- Allocate more resources for prevention, education and to the Boulder Police for enforcement.
- Address house parties and residential drinking. Stricter policies and consequences for both residents, renters and landlords must be considered when addressing alcohol concerns in Boulder. We believe that

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house parties contribute more to the issue of negative impacts to the community and the culture of drinking, than any impacts by licensees. The quantity and size of drinks are not regulated at private residences as they are in licensed establishments nor is it the responsibility of a party host to ensure that guests are of legal drinking age. I also believe that restricting the hours of operation for licensed establishments will "push" even more drinking and specifically, late night drinking into neighborhoods and private residences, impacting the community even more.

Boulder, CO has established itself as a culinary and nightlife destination for both residents and visitors from around the state, country and world. Restaurants and bars contribute to the vitality of the Boulder business community and are an essential part of the overall vibrancy of our community. We must consider the unintended consequences of negatively impacting the hospitality community with zoning changes and penalizing responsible operators with broad changes as a result.

As licensees, we take steps to responsibly sell and serve alcohol to our guests. We recognize that "binge drinking" and the negative impacts on the community are of concern, but we do not believe that these proposed zoning changes imposed solely on licensees will effectively address these overall alcohol issues, because, by law, we do not serve patrons who are visibly intoxicated or underage.

The Boulder Responsible Hospitality Group

Michael Absalom, *president*

Jonathan Balliet, *secretary*

Iva Townsend, *community representative and adjunct officer*

RESPONSIBLE HOSPITALITY GROUP

www.RHGboulder.com

Boulder, Colorado

Who is RHG?

The Boulder Responsible Hospitality Group is a partnership of community interests who meet monthly for the purpose of responsibly addressing alcohol issues facing the Boulder community. We are restaurant, bar and liquor store owners and managers who discuss best practices for the responsible sale and service of alcohol through training, collaboration and networking. RHG is a member-volunteer run organization. Over the past few years we have steadily increased membership, worked to add value to our members by providing door staff training, fake ID training, free resources such as ID checking guides and member discounts for self-check programs and responsible vendor training, while asking in return, for members to agree to certain operational standards, such as mandatory attendance at monthly meeting and a three month requirement for responsible vendor training for their employees; The local condition indicates that vendor training must be completed within 6 mos of hire.

RHG achievements and highlights:

- RHG has invited Dr. Donald Misch, Asst Vice Chancellor for Health and Wellness at CU to speak at monthly meetings and present his research and data on AOD use
- RHG attends all Beverage Licensing Authority hearings, and presents a summary of the group's activities to the BLA members as well as submitting meeting minutes and attendance records on a monthly basis for their review
- RHG representatives are members of AACT, a campus-community coalition on alcohol issues, as a community stakeholder
- RHG members volunteer with the CU restorative justice program's fake ID conferences, since their conception
- RHG partnered with CU community health on a poster campaign to both curb binge drinking and lessen the negative impacts of alcohol related behaviors (SHEA)
- RHG participates in outreach meetings for new licensees and offers mentorship and counseling to all existing licensees and members
- RHG works closely with the Boulder Police Department's liquor enforcement officer, Carlene Hoffmann, the City of Boulder's licensing clerk, Mishawn Cook, and community partners, such Downtown Boulder Business Improvement District (DBI), Boulder Convention and Visitor's Bureau and the Colorado Restaurant Association, all of whom also attend our monthly meetings

For additional information about the Responsible Hospitality Group (RHG), please contact iva@RHGboulder.com

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Boulder, Colorado

- In conjunction with Officer Hoffmann and Mishawn Cook's Office, RHG helped promote and endorsed a State LED Standards for Sellers and Servers of Alcohol training last year that will become a bi-yearly training for local licensees

For additional information about the Responsible Hospitality Group (RHG), please contact iva@RHGboulder.com

RESPONSIBLE HOSPITALITY GROUP AGREEMENT

The Responsible Hospitality Group (RHG) is an organization of liquor licensees in the City of Boulder who work together to achieve responsible service of alcohol in licensed establishments. In furtherance of this purpose, the RHG sets certain standards for membership as outlined in this

RESPONSIBLE HOSPITALITY GROUP MEMBERSHIP AGREEMENT:

1. We will not discount liquor of any sort on CU Graduation morning, as agreed upon by the founding members of RHG, in conjunction with The University of Colorado. We will adopt responsible advertising practices and service standards for CU game days.
2. We will have written training manuals at our individual establishments and policies that include a liquor policy based upon Responsible Hospitality Best Practices.
3. We will turn in fake IDs confiscated to the Boulder Police Department within 72 hours.
4. We will have regular staff meetings, addressing the responsible service and sale of alcohol.
5. We will attend at least 8 RHG meetings per year in order to keep active RHG membership.
6. We will have staff representation attend at least one RHG sponsored I.D. seminar per year.
7. We will have staff trained via State of Colorado approved Responsible Vendor Training within 3 months of their hire date in accordance with the local condition of the liquor license code (6 month training required). Such server training is valid for a 3 year period from training date.
8. We will adopt in our individual businesses, the Best Practices documents that currently exist and any other best practice lists that RHG creates in the future, as appropriate to our businesses.
9. We will have available information for our guests and staff on alternative ways home such as taxi cabs and buses.
10. We advocate and encourage participation in such programs and the Boulder Police Department's COPS in SHOPS and any other programs that RHG deem relevant.
11. We will have working relationships with the Boulder Police Department, Environmental Enforcement Office, Downtown Boulder Inc., the Boulder Beverage Licensing Authority and the Boulder Fire Department.

PRINT NAME _____

ESTABLISHMENT _____

DATE _____

YEAR RHG MEMBERSHIPS EST. _____

