

# CITY OF SPOKANE ETHICS COMMISSION

## ETHICS COMPLAINT FORM

Please review the City of Spokane's Code of Ethics – Chapter 1.04A SMC – before completing this complaint form. When you have completed this form, submit it to:

City of Spokane Ethics Commission  
Attention: Rebecca Riedinger  
Office of the City Attorney  
5<sup>th</sup> Floor Municipal Building  
W. 808 Spokane Falls Blvd.  
Spokane, WA 99201

**RECEIVED**  
**JUL 20 2016**  
**OFFICE OF THE CITY ATTORNEY**

or at: rriedinger@spokanecity.org

Pursuant to the City of Spokane's Code of Ethics, I am filing a complaint regarding conduct which I believe constitutes a violation of the City's Code of Ethics.

**Name, position, and department of person(s) I believe to have violated the Code of Ethics:**

Name: Nathan Mulkey (Spokane Fire Dept) Dean Giles (Spokane Planning Dept)

Position/Title: Spokane Fire Marshall / City of Spokane Planning

**Nature of Code of Ethics violation:**

What specific provision of SMC 1.04A.030 do you believe has been violated?

N Commission of Acts of Moral Turpitude or Dishonesty Prohibited

M Aiding others prohibited.

Describe in as much detail as possible the alleged Code of Ethics violation conduct. Attach additional sheets of paper, if necessary. Please include all documentation you believe demonstrates a violation. Your description should include the date, location and frequency of the alleged violation.

Details Attached.

**Names and positions of the persons who may have witnessed the event:**

Michael Miller (City of Spokane) Stephanie Bishop (City of Spokane)

Dave Kokot (City Of Spokane) Kris Becker (City Of Spokane)

Kris Becker (City Of Spokane) Kyle Twohig (City Of Spokane)

**Evidence or documentation**

Please list any evidence or documentation that would support your allegation of a Code of Ethics violation. Indicate whether you can personally provide that information.

In the complaint details attached we have listed exhibits that we refer to by number that we have also provided in this complaint. These records were provided by public records requests obtained by City of Spokane PRR's

## Complainant Declaration

I declare under penalty of perjury of the laws of the State of Washington that to the best of my knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true and correct.

  
Complainant's Signature

7/14/2016

Date

Date and Place (e.g. City, State)

Spokane, Wa 99201

Name (please print): Jamie Pendleton

Address: 15202 E Sprague Ave #1888 Veradale, Wa 99201

Phone Number(s): 208-918-1045

E-Mail Address: jpendleton@spokanedaiquirifactory.com

On **December 2013** Jamie Pendleton of Pendleton Enterprises after discussing the possibilities of increasing the capacity of the space at 121 N wall Street from the assembly capacity issued to the previous tenant Biegnets.

Spokane Fire said it was possible to increase the capacity and made suggestions on what floor plan would get a capacity of 129 and removing tables and chairs would get the Maximum load up to 224.

#### **Exhibit 1 (floor Plan)**

Pendleton's 12 year lease was contingent on the fire and other city required permits. Pendleton made a investment into business in downtown Spokane based on this information.

Pendleton used this information to apply for the Places of Assembly Permit with Spokane Fire on **12/19/2013** which is issued on **1/19/14**.

#### **Exhibit 2 (permit workflow Review comments)**

All City employees including Dean Giles, Michael Froemming, City Of Spokane Planning Development, Building Services and others are notified of this on **January 6<sup>th</sup> 2014**.

#### **Exhibit 3 (email from SHRD)**

Pendleton's business Spokane Downtown Daiquiri Factory is issued the license **1/19/2014**

#### **Exhibit 4 (Spokane Downtown Daiquiri Factory Places of Assembly License)**

Spokane Downtown Daiquiri Factory is wrongfully evicted from the premises by Landlord **June 2014**.

Spokane Superior Court reinstates Spokane Downtown Daiquiri Factory's lease **March 2016** and Pendleton Enterprises reapplies for the business license.

This requires a renewal of the application. Nothing has changed in the space. It is simply reopening.

During the application process Nathan Mulkey Fire Marshall of Spokane Fire claims that he can not grant a double occupancy, claiming that it isn't done any more because so many bars violated it in the past. City no city municipal code or rules stating such, but clearly providing it as a excuse to prejudice the renewal application so he can alter the maximum capacity already completed by Shannon on **12/19/13** Nathan has no justified reason to prejudice the business for having the same assembly double occupancy as provided by the **City of Spokane in 2013**.

***This is a violation of Section N of the Ethics Code:***

#### **N. Commission of Acts of Moral Turpitude or Dishonesty Prohibited.**

No City officer or employee shall commit any act of moral turpitude or dishonesty relating to his or her duties or position as a City officer or employee or arising from business with the City. Conviction of a felony or a misdemeanor involving moral turpitude or dishonesty, the nature of which demonstrates lack of fitness for the position held, shall be considered conclusive evidence of a violation of this Code of

Ethics. Demonstrated acts of moral turpitude or dishonesty are not limited to felony or misdemeanor criminal convictions

Spokane Daiquiri has never been cited for capacity violations. The business has only been accused of them by Lisa Jones City of Spokane Fire Marshall subject of another ethics complaint in regards to the business in another matter. There is no reason in the code or reason to not grandfather the business who has always been in compliance and never cited for over capacity and has signed a 12 year lease using the expertise of Spokane Fire's original estimates. Nathan Mulkey refuses to acknowledge these facts that are clearly part of Spokane Fire Departments records and proceeds to state a new walk thru has to be done to decide the new occupancy load for the space. Nathan Mulkey was fully aware of our compliance and the **2013** granted capacity for that he was dispatched to safety inspect himself on **2/28/2014** and **3/16/2014**

#### **Exhibit 5 (City Of Spokane Permit Work Flow Comments)**

Nathan explains that other business in Spokane have been allowed to remain grandfathered to their double occupancy licenses but provides no clear reason why we are now forced to continue with a Maximum Occupancy now determined by City Planning Department Dean Giles & Nathan Mulkey to now be 164 after previously being granted a maximum total of 224. The sidewalk patio café permit capacity has been cut in ½ and the neighboring tenant has a higher patio capacity for the same size patio. Nathan Mulkey and Dean Giles provides no clear reason or SMC why these previous calculations calculated by City of Spokane Fire Department should now be changed and not grandfathered. **Creating a total loss of 60 people to the business occupancy.** Dean Giles, and Nathan Mulkey provide no clear factual reasons why they have chose to prejudice the business assembly license capacity granted in 2013 but have took great effort in doing so.

#### **Exhibit 6 (City Of Spokane Fire Assembly Permit granted in 2016)**

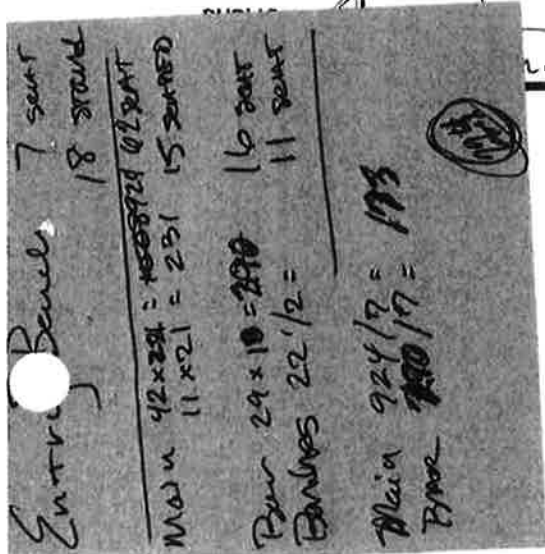
***This is a violation of Section I of the Ethics Code:***

**I Aiding others prohibited.**

**No City officer or employee may knowingly aid or assist any City officer or employee in the violation of any provision of this Code of Ethics**

We will provide additional evidence at the future Ethics commission hearing that these individuals conspired together to prejudice the business by the directions of others within their departments.

**121 N WALL STREET SPOKANE, WA 99201 (707 W MAIN ST)**





## Review Comments

**13022396PBA**

**Permit Type** - Operating Places of Assembly

**Status** - Closed

**Site Address** - 121 N WALL

**Description of Work** - SPOKANE DOWNTOWN DAIQUIRI FACTORYDAIQUIRI BAR WITH DANCING ON WEEKEND NIGHTS THRU SUNDAY.

### Permit Workflow Comments

**Issued - Closed**

Date recorded - 7/25/14

Staff: Laura C Thurston 625-7125

**Site Review-Inspection - Approved**

Date recorded - 1/9/14

Staff: Shannon Millard 625-7046

Completed inspection with no issues. New max occupancy figured for both events and for normal dining.

**Application Submittal - Applied**

Date recorded - 12/19/13

Staff: Cathy E Johnson

Completed by Event Script

**Permit Issuance - Issued**

Date recorded - 1/9/14

Staff: Shannon Millard 625-7046

Completed by Event Script (Fees already paid)

**Permit Issuance - Issued**

Date recorded - 1/9/14

Staff: Shannon Millard 625-7046

Closed by Event Script. (Fees already paid - Approved)

### Comments

Date Recorded 1/9/2014 1:29:12PM

Staff: SMILLARD

Date Recorded 2/26/2014 2:01:28PM

Staff: LTHURSTON

Completed inspection with no issues. New max occupancy figured for both events and for normal dining.

MAILED A REPRINT PLACE OF ASSEMBLY PERMIT TO JAMIE PENDLETON-SEE DOCUMENTS TAB

**From:** Haas, Margarete <MHaas@srhd.org>  
**Sent:** Monday, January 06, 2014 12:39 PM  
**To:** Building Services Certificate of Occupancy; Froemming, Michael; Giles, Dean; Halsey, John; Jones, Lisa; Kokot, Dave; Meyer, Eric; Penkunis, Mike  
**Subject:** Spokane Downtown Daiquiri Factory at 121 N Wall

The above establishment has been approved to open.



**Margarete Haas** | Environmental Health Specialist II | Environmental Public Health  
509.324.1556 | 509.324.3603 fax | [mhaas@srhd.org](mailto:mhaas@srhd.org)  
Spokane Regional Health District | [www.srhd.org](http://www.srhd.org)



*Always working for a safer and healthier community*

CONFIDENTIALITY NOTICE: This e-mail message and any attachments are for the sole use of the intended recipient(s) and may contain proprietary, confidential or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited and may be a violation of law. If you are not the intended recipient or a person responsible for delivering this message to an intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.





4

2/26/2014

JAMIE PENDLETON  
SPOKANE DOWNTOWN DAIQUIRI FACTORY  
PO BOX 1888  
VERADALE WA 99037

Permit No: F13022396PBA

### PLACES OF ASSEMBLY PERMIT

Permit Expiration Date: 12/19/2014

Site Name: SPOKANE DOWNTOWN DAIQUIRI FACTORY

Site Address: 121 N WALL ST

### MAXIMUM OCCUPANT LOAD: 224

Occupancy Description	Seated / Standing / Balcony		
MAIN AREA W/ TABLES AND CHAIRS/ DAY USE	104	0	0
MAIN AREA OPEN	15	173	0
WAITING AREA	7	18	0
PATIO	20	40	0

MAX OCCUPANCY W/ TABLES AND CHAIRS IS 129.

PATIO MAX OCC IS NOT INCLUDED IN BUSINESS MAX

PLEASE INFORM THE SPOKANE FIRE DEPARTMENT OF ANY CHANGE IN USE OR  
MODIFICATION TO THE FLOOR PLAN OF YOUR ASSEMBLY USE AREA AS THIS MAY  
INCREASE/DECREASE THE MAXIMUM OCCUPANCY NUMBER ALLOWED.

The maximum occupant load on the assembly permit pertains to only the designated assembly areas listed on the permit and does not include other accessory use areas such as storage, restrooms, employee only use areas, etc.

This shall serve as notice that the business owner, manager or responsible employee is subject to a Class I Civil Infraction and/or permit revocation for exceeding the permitted maximum occupancy load as listed on this permit.

*This permit is not a substitute for any other permit, or approval that may be required under other law or regulation relating to the activity and use of the premises.*

**DISPLAY THIS DOCUMENT IN PLAIN VIEW AT YOUR PLACE OF BUSINESS**

FD08011 FS01695

44 W. RIVERSIDE AVENUE • SPOKANE, WA 99201-0189 • (509) 625-7000 (509) 625-7006 Fax, [www.spokane-fire.org](http://www.spokane-fire.org)

## Review Comments

5<sup>A</sup>

14F00306CNS

Permit Type - Consultations NA

Status - Completed

Site Address - 121 N WALL

Description of Work - DAIQUIRI FACTORY BAR INSPECTION

### Permit Workflow Comments

Consultation - Completed

Date recorded - 3/12/14

Staff: Nathan R Mulkey 625-7043

On 2/28/2014, I completed a safety inspection with downtown SPD officers and LCB officer Mahan at approximately 23:35 hours. No deficiencies noted. Occupant load moderate.

### Comments

Date Recorded

Staff:

## Review Comments

58

**F14F00443CNS**

**Permit Type** - Consultations NA

**Status** - Completed

**Site Address** - 121 N WALL

**Description of Work** - PADDYS DAY BAR INSPECTION 2014

### Permit Workflow Comments

**Consultation** - Completed

**Date recorded** - 4/23/14

**Staff:** Nathan R Mulkey 625-7043

At approximately 00:20 hours on 3/16/2014, I completed a safety inspection at this location with LCB officers Mittmann, Stensatter, and Baker. Occupant load was 210. No deficiencies noted.

### Comments

**Date Recorded** 4/23/2014 2:20:53PM  
**Staff:** NMULKEY

At approximately 00:20 hours on 3/16/2014, I completed a safety inspection at this location with LCB officers Mittmann, Stensatter, and Baker. Occupant load was 210. No deficiencies noted.


**J. Pendleton**

**From:** "Mulkey, Nathan" <nmulkey@spokanecity.org>  
**Date:** Friday, June 17, 2016 4:59 PM  
**To:** "J Pendleton (Drink Spokane / Spokane Daiquiri Factory)" <jpendleton@spokanedaiquirifactory.com>  
**Attach:** 4105\_001.pdf  
**Subject:** RE: CO for Daiquiri Factory

Ok! Your permit is attached!

Have a great weekend,

*Spokane*  
**FIRE DEPARTMENT** <sup>TM</sup>

**Nathan Mulkey**  
 Deputy Fire Marshal  
 Phone: 509 625-7043  
 Fax: 509 625-7006  
[nmulkey@spokanefire.org](mailto:nmulkey@spokanefire.org)



**From:** J Pendleton (Drink Spokane / Spokane Daiquiri Factory) [mailto:jpendleton@spokanedaiquirifactory.com]  
**Sent:** Wednesday, June 15, 2016 7:59 PM  
**To:** Mulkey, Nathan  
**Subject:** Fwd: CO for Daiquiri Factory

Drink Spokane (Spokane Downtown Daiquiri Factory) CO is attached for your records. (Pdf)

Please email us the new assembly permit pdf when completed.

Thanks.

J. Pendleton  
 Pendleton Enterprises LLC  
 832-602-6819  
 208.918.1045

----- Forwarded message -----

**From:** "Bishop, Stephanie" <[sbishop@spokanecity.org](mailto:sbishop@spokanecity.org)>  
**Date:** Jun 15, 2016 9:23 AM  
**Subject:** CO for Daiquiri Factory  
**To:** "[jpendleton@spokanedaiquirifactory.com](mailto:jpendleton@spokanedaiquirifactory.com)" <[jpendleton@spokanedaiquirifactory.com](mailto:jpendleton@spokanedaiquirifactory.com)>  
**Cc:**

Good Morning,

7/17/2016



I've attached a scanned copy of the CO for 121 N Wall St. I'll drop the original in the mail. Let me know if I can help with anything else.

Have a wonderful day! ☺



**Stephanie N Bishop** | City of Spokane | Clerk III / CO Coordinator

*Desk* 509.625.6244 | *CO Line* 509.625.6106 | *Fax* 509.625.6013 | [sbishop@spokanecity.org](mailto:sbishop@spokanecity.org)





60



6/17/2016

DRINK SPOKANE  
PO BOX 1888  
VERADALE WA 99037

Permit No: F16025565PBA

## PLACES OF ASSEMBLY PERMIT

Permit Expiration Date: 06/08/2017

Site Name: SPOKANE DAIQUIRI FACTORY

Site Address: 121 N WALL ST

### MAXIMUM OCCUPANT LOAD: 164

Occupancy Description	Seated / Standing / Balcony
NIGHTCLUB	164
PATIO	24

The Building Maximum Occupant load is 164 including the Patio and all employees. No more than 24 occupants can be on the Patio, and no smoking is permitted on the Patio. Ensure that Patio gates swing outward, are signed "Exit", and are unlocked/able to be opened with a single motion.

PLEASE INFORM THE SPOKANE FIRE DEPARTMENT OF ANY CHANGE IN USE OR MODIFICATION TO THE FLOOR PLAN OF YOUR ASSEMBLY USE AREA AS THIS MAY INCREASE/DECREASE THE MAXIMUM OCCUPANCY NUMBER ALLOWED.

The maximum occupant load on the assembly permit pertains to only the designated assembly areas listed on the permit and does not include other accessory use areas such as storage, restrooms, employee only use areas, etc.

This shall serve as notice that the business owner, manager or responsible employee is subject to a Class I Civil Infraction and/or permit revocation for exceeding the permitted maximum occupancy load as listed on this permit.

*This permit is not a substitute for any other permit, or approval that may be required under other law or regulation relating to the activity and use of the premises.*

**DISPLAY THIS DOCUMENT IN PLAIN VIEW AT YOUR PLACE OF BUSINESS**

FD09011 FS03177



6/9/2016

DRINK SPOKANE  
PO BOX 1888  
VERADALE WA 99037

Permit No: F16025565PBA

## PLACES OF ASSEMBLY PERMIT

Permit Expiration Date: 06/08/2017

Site Name: SPOKANE DAIQUIRI FACTORY

Site Address: 121 N WALL ST

### MAXIMUM OCCUPANT LOAD: 95

Occupancy Description	Seated / Standing / Balcony
NIGHTCLUB (INTERIOR ONLY)	95

The Building Department shows that there is currently a CO for this space of only 95 people. Please work with the Building Department to update the CO for this tenant space. Contact us for a revision when the CO has been increased.

PLEASE INFORM THE SPOKANE FIRE DEPARTMENT OF ANY CHANGE IN USE OR MODIFICATION TO THE FLOOR PLAN OF YOUR ASSEMBLY USE AREA AS THIS MAY INCREASE/DECREASE THE MAXIMUM OCCUPANCY NUMBER ALLOWED.

The maximum occupant load on the assembly permit pertains to only the designated assembly areas listed on the permit and does not include other accessory use areas such as storage, restrooms, employee only use areas, etc.

This shall serve as notice that the business owner, manager or responsible employee is subject to a Class I Civil Infraction and/or permit revocation for exceeding the permitted maximum occupancy load as listed on this permit.

*This permit is not a substitute for any other permit, or approval that may be required under other law or regulation relating to the activity and use of the premises.*

**DISPLAY THIS DOCUMENT IN PLAIN VIEW AT YOUR PLACE OF BUSINESS**

FD09011 FS03177