

Ordinance Authorizing Commissioner in Charge of Police Bureau to Order Content-Neutral Time, Place, and Manner Regulations for Demonstrations

What is the bottom line on what this does?

This ordinance gives the Commissioner in Charge of the Police Bureau another tool to preserve peace and order in the community while respecting First Amendment rights. The Police Commissioner would be authorized by Council to issue reasonable time, place, and manner regulations to govern demonstrations when the Police Commissioner anticipates a high risk of danger and violence.

What are the conditions around enforcing this?

The Police Commissioner can only issue these regulations through a written order that explains the reasons for the order. The order must show sufficient facts that:

- Two or more groups plan to demonstrate on the same day and there is a history of violence between the groups, or
- There is a threat to the safety of participants and bystanders, interference with the ability to access public property, or the disruption of public services, or
- There is a substantial likelihood of violence at the planned demonstrations based on the conduct of the group or information gathered in advance of the event.

Violating a written order of the Police Commissioner would constitute a misdemeanor, and violators could be arrested and then prosecuted by the Multnomah County District Attorney.

What are the protections against abuse?

In addition to the conditions around enforcement above, the ordinance specifies the limited types of regulations the Police Commissioner can order. These include:

- Regulating the time and length of the event.
- Directing that the demonstration and counter-demonstration be located or moved to locations that do not create a substantial risk to public safety, obstruct traffic, or interfere with previously scheduled activities.
- Restrict the location of groups to areas that do not threaten public safety.

The ordinance also expressly provides that the regulations cannot be based on the content of any beliefs expressed or the attire or appearance of the participants.

Written orders will be released to the public in advance of the event so everyone understands the regulations in place for the demonstration.

Do other jurisdictions do this?

Other jurisdictions have reasonable time, place, and manner regulations concerning demonstrations. This ordinance draws on similar policies in other jurisdictions across the country.

Has something similar been held up in court?

Similar regulations have been upheld in court. For example, Seattle's time, place and manner regulations imposed on demonstrations in the late 1990s were upheld by the Ninth Circuit Court of Appeals.