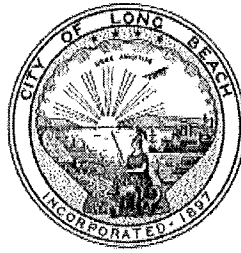


City of Long Beach
Many Unique Neighborhoods
One Great City



Memorandum

To: Mayor and City Council

May 10, 2011

From: Suja Lowenthal, Second District 

Subject: Downtown Dining and Entertainment District Conditions

REQUESTED ACTION:

Request the City Attorney and City Manager to amend the Conditions of Operation for the Downtown Dining and Entertainment District in the following manner:

Dining and Entertainment District Conditions:

- Outdoor amplified music on patios and rooftops is prohibited, except in conjunction with special events or occasional events permits.
- All doors and windows shall remain closed whenever entertainment is being provided, except for normal ingress and egress and in case of an emergency.
- The permittee shall not allow employees to discard trash or beer bottles into the outside dumpster between the hours of 12:00 am and 7 a .m.
- All new permittees and existing permittees shall install and maintain a video surveillance system that monitors no less than the front and rear of the business with full view of the public right-of-ways and any parking lot under the control of the permittee. The video system must be capable of delineating on playback the activity and physical features of persona and areas within the premises. Recordings shall be retained for a minimum of 30 days and be accessible via the Internet by the Long Beach Police Department. A Public Internet Protocol (IP) address and user name/password is also required to allow the Long Beach Police Department to view live and recorded video from these cameras over the internet. All video security cameras shall be installed to the satisfaction of the Chief of Police, Director of Technology Services, and Director of Development Services. At the discretion of the Chief of Police, the permittee may be required to add additional video cameras. New permittees must install the system within three months of being approved for an Entertainment Permit and existing permittees must install a system within one year of this condition being established. Lack of compliance may result in assignment to Tier II status.
- Require annual review of violations (i.e. calls for service, code violations, health violations, Alcoholic Beverage Control complaints) before Entertainment Permits are renewed to determine whether Tier II conditions should be applied.

Request the City Manager survey cities with similar entertainment areas and/or permits as well as acoustic organizations to provide feedback on the following topics to the Environmental Committee within 60 days:

- Use of "vibration perception threshold" and C-weighted sound as a means of accurately measuring the impact of bass sound upon adjacent businesses and residents.
- Measure and require mitigation of sound in commercial and residential developments located inside the Dining and Entertainment District as part of planning approval or the Certificate of Occupancy process.

Request the City Manager pursue the following recommendations and update the Environmental Committee within 60 days.

- Work with the Downtown Long Beach Associates (DLBA) to develop a Peer-to-Peer Review program for new and existing Entertainment Permittees to receive guidance before infractions and complaints require corrective action per conditions in their permit.
- Develop a more effective tracking system of "calls for service" that enables LBPD South Division, Vice and the Business Relations Bureau to be informed when three or more similar complaints are received within a month's period, as per existing conditions found in Attachment B, Tier II.

BACKGROUND INFORMATION:

The Downtown Dining and Entertainment District Pilot Program was established in 2005 to develop consistent hours and operating conditions for businesses requiring an entertainment permit. The program also set conditions to promote a safe environment benefiting visitors, retail and entertainment venues, while ensuring quality of life for residents who might be impacted by the enhanced hours and operating conditions. In December 2008, the Downtown Dining and Entertainment District was established on a permanent basis with a set of seventeen (17) Conditions of Operation and three (3) Tiered Conditions for progressively more stringent regulation of entertainment and related activities. The Downtown Dining and Entertainment District consists of the area bounded by Ocean Boulevard, Third Street, Pacific Avenue, Long Beach Boulevard, and the areas known as the Pike at Rainbow Harbor and Shoreline Village. Hotels and retail stores providing entertainment within these boundaries are excluded from Downtown Dining & Entertainment District requirements.

In the name of growth and prosperity in our downtown, we have encouraged construction of mixed-use development within the Downtown Dining and Entertainment District. Reaching a critical mass of residents in the downtown is crucial for sustaining a healthy and diverse retail, dining and entertainment economy. However, there are challenges now confronting our Downtown Dining and Entertainment District, where in many cases entertainment occurs in historic or older buildings constructed before municipal codes and building technologies were developed to address the negative impact of noise. Residents in new and existing buildings downtown have expressed mixed feelings about their desire to live in an active, dynamic downtown with its ambient sounds and their concern with the constant pounding of bass noise emanating from businesses offering entertainment. Therefore, I am proposing updates to the current conditions and research/development of new methods to meet the needs of our evolving downtown core.

Sound that is not muted by four walls and a ceiling impacts residents and businesses all around the source. It is a primary reason why the pilot program conditions restricted outdoor amplified entertainment on patios. However, the existing Conditions of Operation (#1) exempt outdoor amplified sound coming from rooftop entertainment that was permitted on or before February 3, 2007. There is only one property with rooftop access in the Dining and Entertainment District and residents regularly complained about the noise from amplified music when the space was occupied. It does not seem fair or impartial to prohibit amplified sound from patios in over 20 other establishments, while allowing outdoor amplified entertainment for this property. In fact, it is contradictory to the original intent of creating standard conditions for everyone to follow in the Dining and Entertainment District. Therefore, I propose that we prohibit outdoor amplified music on patios *and* rooftops in the Downtown Dining and Entertainment District, unless a business applies for a special events or occasional events permit.

Over the last 5 years, it has become standard for entertainment permits citywide to include a condition prohibiting the discarding of trash and recyclables into an outside dumpster in early morning hours immediately following venue closure. However, the Dining and Entertainment District conditions do not include this condition, so it is appropriate to bring it up to date. Another condition being applied to entertainment permits per the request of our Chief of Police is the inclusion of video surveillance systems that monitor the front and rear of businesses with full view of the public right-of-ways and any parking lot under the control of the permittee. The system is intended to assist police with the investigation and prosecution of a crime occurring on the property or public right-of-way and encourage businesses to be our partners in public safety.

In almost every instance downtown, bass sound does not qualify as a violation of our Noise Ordinance (Municipal Code Section 8.80), but it is clearly a nuisance for adjacent residents. For the last four years, residents have attended City-sponsored Downtown Dining and Entertainment District meetings, community meetings, organized a progressive to observe the impact of noise and scheduled one-on-one meetings with businesses and police to varying degrees of success. This gap between what is a violation and a nuisance deserves greater attention by City Council and staff. "Vibration perception threshold" and C-weighted sound measurement are among the applications being explored by other cities with these problems. Given the ongoing complaints from residents about bass sound and the likelihood that this issue will continue to grow as more residents move into downtown, I recommend the Environmental Committee work with appropriate City staff, businesses and residents to explore more effective methods for measurement and enforcement.

FISCAL IMPACT:

Most of the changes to the District conditions do not have a fiscal impact. Although there may be increased staff time associated with research of new enforcement methods and co-development of the Peer-to-Peer Program, the intent is to reduce police and city staff costs in the long term through preventative measures, improved monitoring and more effectual responses to violations before they require greater attention. The Environmental Committee will hear more about potential costs associated with sound equipment and staff time and include those estimates in any recommendations to the full Council.