

R-10

Revised

Memorandum
City of Long Beach



Office of Councilmember Steven Neal
Councilmember, 9th District

Date: March 18, 2011

To: Honorable Mayor and Members of the City Council

From: Councilmember Steven Neal, Ninth District *SN*
Councilmember Robert Garcia, First District *RG*
Councilmember Dee Andrews, Sixth District *DA*
Councilmember Suja Lowenthal, Second District *SL*

Subject: "Deemed Approved" Ordinance

Recommended Action:

Respectfully request the City Manager to incorporate the recommended "Deemed Approved" conditions into the City's Nuisance Abatement and Administrative Citation process in order to address public nuisance activity at retail alcohol outlets. The "Deemed Approved" conditions should include the following standards:

- The outlet must maintain upkeep so that its operating characteristics are compatible with the surrounding neighborhood.
- The outlet must not contribute to nuisance activities, such as disturbances of the peace, drug dealing, public drinking and inebriation, gambling, loitering, prostitution and sale of stolen goods.
- The premises are properly maintained and do not adversely affect the health, peace, or safety of persons residing or working in the surrounding area.
- Nuisance activities such as litter, graffiti, and unruly behavior associated with public consumption of alcoholic beverages within the premises or in close proximity of the premises, be resolved with the best interests of the community.
- The premises' owner, the employees, or agents do not participate in, or assist persons participating in, illegal activities within the premises or within the boundaries of the premises' property line including the sidewalk

and areas between the premises and the street, including, but not limited to, disturbance of the peace, illegal drug activity, illegal sale of firearms, public drunkenness, drinking in public, harassment of passers-by, gambling prostitution, sale of receipt of stolen goods, or theft, assaults or batteries.

- Violations of any applicable provision of city, state or federal regulation, ordinance or statute are not committed on the premises.
- Premises upkeep and operation are compatible with and will not adversely affect the liveability or appropriate development of surrounding properties and the surrounding neighborhood.

Fiscal Impact:

There is no fiscal impact. Any fines generated should be used to fund programs that assist local businesses in offering healthier food options to the community.

Background

- According to the 2010 census, the city of Long Beach has one alcohol license per every 400 residents over the age of 18.
- The city of Long Beach has one off-sale alcohol license per every 1000 residents over the age of 18.
- Studies have shown a link between alcohol availability and violence, fatal car accidents, and other law violations. With a "deemed approved" ordinance, communities can place conditions of operation upon outlets that, after due process, are determined to contribute to some kind of nuisance.

Deemed Approved Standards generally hold that:

- The outlet must not adversely affect to the health and safety of the local community
- The outlet must maintain upkeep so that its operating characteristics are compatible with the surrounding neighborhood
- The outlet must not contribute to nuisance activities, such as disturbances of the peace, drug dealing, public drinking and inebriation, gambling, prostitution, sale of stolen goods

What Happens to Outlets that Do Not Comply with these Standards?

Outlets that fail to comply with the deemed approved standards as part of the enforcement process will be subject to fines and penalties and civil court action pursued by the City Attorney.