October 3, 2008

Honorable Aaron Peskin, President
San Francisco Board of Supervisors
#1 Dr. Carlton Goodlett Place
San Francisco, CA 94103

RE: Report to the Board of Supervisors
Deemed Approved Uses Ordinance
Ordinance #43-06, February 28, 2006
Signed by the Mayor: March 10, 2006

Dear Supervisor Peskin:

Please find attached the annual report on the conduct of the Deemed Approved Uses
Ordinance. This report reviews activities for the period of October 2007 through September
2008.

Each performing department has added a summary of their activities to this report and those
sections are clearly marked.

Thank you in advance for your attention to this matter. I am available to answer any questions
about the Department's role and activities undertaken to date.

Sincerely,

[Signature]

Virginia Smyly, MPH
Report to the Board of Supervisors  
Deemed Approved Uses Ordinance  
Ordinance #43-06, February 28, 2006  
signed by the Mayor: March 10, 2006

October 2008

In March 2006, the Board of Supervisors passed an Ordinance, which was signed by Mayor Newsom to create a “Deemed Approved Uses” program that addresses the role and responsibilities of businesses that sell alcohol in off-sale venues in respect to community health and safety. This constitutes the second report to the Board of Supervisors and includes a summary of activities undertaken over the last year by each performing Department.

Background
The Deemed Approved Uses Ordinance (DAO) establishes Performance Standards for businesses that sell alcohol in off-sale venues. The California Alcohol Beverage Control Board (ABC) regulates the sale of alcohol and provides licenses to vendors to sell alcohol under specific conditions. The San Francisco Deemed Approved Uses Ordinance is based on the county’s oversight of land use and planning to educate, monitor and ultimately penalize businesses that sell alcohol in off-sale venues if they are found to be in nonconformance to the DAO Performance Standards.

The functions and primary responsible departments of the DAO are as follows:

- Vendor and public education, including development and dissemination of educational materials, on-site visits, neighborhood meetings, and vendor meetings.
- An advisory committee is organized and staffed to provide feedback and input from community representatives.
- Documentation of activities.  
  (San Francisco Department of Public Health)

- Development and maintenance of a database of businesses that are subject to the Performance Standards and the annual fee.
- Fees and late payment penalties be levied and collected.  
  (Tax Collector)

- Observation and inspection of premises to determine compliance with DAO Performance Standards.
- Maintaining a database of results of inspections.  
  (San Francisco Police Department)

- Pursuing legal measures and providing for an appeals’ process for Deemed Approved Uses found to be in non-conformance with the Performance Standards.  
  (City Attorney)
Vendor Outreach & Education
- Convened DAO vendor education meetings for Bayview, Tenderloin/SOMA, Excelsior and Western Addition districts
- Outreached to and educated on-site to approximately 400 vendors (with priority to referrals from SFPD and Tax Collector Office record of delinquent accounts)
- Conducted approximately 60 observational Performance Standard checklists and follow-ups to vendors (see attached)
- Provided technical assistance to vendors as it relates to DAO (i.e., compliance, instructions on paying fee, educational materials, etc.)
- Using a web-based search function, conducted observational Performance Standard checklists of vendor premises’ storefronts.
- Maintained a database of visits and observational Performance Standard checklists conducted and created separate files with storefront photos to serve as baselines.
- Conducted outreach to vendors along the Castro Street corridor at the request of Supervisor Duffy to assure store closures on Halloween night.

Community Outreach & Education
- Provided DAO outreach and education to neighborhood and community organizations
  - Community Leadership Alliance
  - St. Francis Memorial Hospital Community Advisory Committee
  - Mission Community Council
  - Golden Gate Association
  - North of Panhandle Neighborhood Association
  - Sunset District Neighborhood Coalition
  - Japantown Task Force
  - Tenderloin Futures Collaborative

DAO Educational Materials
- DAO section of DPH website has been updated with information for the public and vendors, materials and resources
- Materials in Korean and Spanish have been translated and disseminated

Community Action Teams (Youth driven teams that work toward reducing the harm of alcohol access to youth and children; each team selects a neighborhood to focus on and provides additional educational opportunities to vendors and others to learn of the DAO and the impact of alcohol availability and advertising on youth and their neighborhoods.)
- 2 youth led community action teams have been funded to focus on the reduction of alcohol advertisements in the Excelsior (June Jordan School of Equity) and Visitation Valley (Girls After School Academy) neighborhoods
- June Jordan School of Equity has redecorated 2 stores in the Excelsior (FY 07-08)

DAO Community Advisory Committee and other Meetings
- Convened community advisory committee on May 1, 2008, with attendees from the Mayor’s and Supervisor Maxwell’s offices, CAC members, vendors, community based organizations, DAO performing departments. Ms. Dodd of the Mayor’s Office presented information on the “Good Neighbor” initiative in the Tenderloin; and about the ability or inability to cite bad performance in relation to the DAO Performance Standards.
- Presented DAO activities to date at the Board of Supervisors’ Land Use Committee and subsequently met with the DAO performing departments and Supervisor Maxwell’s Aide, John Lau, to review the terms upon which DAO related citations can be made and
documentation required to do so. DPH created the observational Performance Standard checklist and reporting procedure to address documentation.

San Francisco Police Department, Vice Crimes Division and City Attorney

Deemed Approved Uses Ordinance (DAO) Statistics, July 2007 through June 2008
- IMPACT Inspections
- 332 Premises (Inspections & Follow-up Re-Inspections)
- 102 Inspection Reports/Case Files
- 36 Police Reports (10.8% violation rate)
- 9 Criminal Citations Issued

Decoy Operations
- 560 Premises
- 92 Reports/Criminal Citations Issued (16.4% violation rate)

A Department Bulletin was prepared and submitted to the Chief of Police for distribution to the entire department regarding the DAO.

Summary of Report:
During the fiscal year 2007-2008, the SFPD Vice Crimes Division visited 892 premises involved in DAO. Vice Crimes Division personnel wrote 128 police reports documenting illegal activity and cited 101 persons for those violations. All incident reports and citations were submitted to the District Attorney’s Office. Additionally, all incident reports were sent to the City Attorney’s Office.

The City Attorney's Office receives and reviews incident reports from the SFPD, and based upon that review will determine if further enforcement action is necessary under the DAO.

Tax Collector

For the period of May through August 2008, the Tax Collector received $186,868 in fees and $1445.40 in penalties.
# Observational Checklist and Report for Store Site Visits

Deemed Approved Ordinance 43-06  
Sec.26.12 Deemed Approved Performance Standards

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## CHECKLIST ITEM:

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1. Outside of store is clean and free of debris.
2. No more than 33% of store windows are covered by any advertisement (sign, poster, clear doors, etc). (There must be a clear line of sight from the sidewalk to the store register)
3. There is no graffiti within property line including the sidewalk.
4. There are no excessive loud noises caused by store, its patrons, or personnel.
5. Performance Standards are posted in clear site for public view.

## Concerns of present personnel:

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DPH Public Service Aide (Print)  
Store Agent Present (Print)

DPH Public Service Aide (Signature)  
Store Agent Present (Signature)
Observational Checklist and Report for Store Site Visits
Deemed Approved Ordinance 43-06
Sec.26.12 Deemed Approved Performance Standards

Protocol for Observational Checklist
Stores will be chosen based on the following criteria:

- New stores
- SFPD report
- Delinquent stores that have not paid ordinance tax

General Introduction

- Observe outside of store and environment
- Photograph outside of store and address
- Introduction and observational review of store
- Review background and purpose of DAO
- Provide copy of DAO performance standards
- Provide copy of DAO educational materials
- Review checklist items with store agent
- Ask store personnel to sign checklist form
- Provide store agent with copy of observational checklist
- Ask store agent if possible to photograph inside of store

Follow up Activities After Checklist Completed

- Input checklist data into database from store visit
- Complete letter to vendor
- Attach a copy of checklist to vendor letter
- File copy of vendor letter and completed checklist
- Print Photos with identification
- At the end of every month, a list of stores visited and problem stores will be sent to SFPD and to City Attorney Office with recommendations, if any.