



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

October 2009

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 third annual 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)

## San Francisco Department of Public Health

Time period: October 1, 2008 thru September 30, 2009

### *Community Outreach & Education*

- Provided DAO outreach and education and educational materials at neighborhood meetings and community organizations through direct contact through emails, one-on-one meetings and community group meetings.

### *Vendor Outreach & Education*

- Outreached to and educated vendors through on site observation and inspection visits. Over time the vendor visit procedures and checklists/tools have evolved (see below). The program goal for this report period, the third full year of operation, was to complete a three year cycle of at least one visit/inspection to each of the approximately 800 current vendors subject to the Ordinance by September 30, 2009. At the time of this report approximately 80% of visits have been conducted.
- In the first year of DAO, visits to premises were concentrated in the Third Street corridor, the Mission District and the Tenderloin. No formal inspection tool was used at that time, vendor education visits were documented. 48 visits were conducted (10/01/06 – 06/30/07).
- In the second year, we concentrated in the same neighborhoods. In the Spring 2008 a more systematic observation tool/checklist was developed with implementation during May and June. 288 visits (without the observation tool/checklist) 32 visits (with observation tool/checklist). Total visits: 320 (07/01/07 – 06/30/08)
- In the third year, this reporting period, we transitioned from the observation tool/checklist to an inspection tool/checklist and procedure which provided for additional contact with the vendor. 185 first time visits and 63 follow up visits with the inspection tool/checklist. Total visits: 248 (07/01/08 – 06/30/09)
- Currently, 235 vendor site visits were conducted (July 1, 2009 – September 2, 2009). It is anticipated that a total of 250 visits will be completed by September 30, 2009.
- Vendor education packets were developed and will be disseminated and uploaded on website in the fall of 2009.

- Provided technical assistance to vendors relating to DAO (i.e., compliance, instructions on fee payment, alcohol licensing information, educational materials, etc.)

### *DAO Community Advisory Committee/ Mayor's Good Neighbor Tenderloin Pilot*

- DPH served as the first point of contact for complaints from community members concerning vendors in the Tenderloin not in compliance with the pilot Good Neighbor Agreement (GNA).
- Following GNA Pilot, met with Mayor's Office staff concerning their plan to roll out the GNA to all neighborhoods and possible blending of the two programs.
- During this period, no community advisory committee meeting was convened due to meetings with Mayor's staff regarding the Good Neighbor Agreement.

### *DAO Educational Materials*

- Materials in Arabic and Chinese were translated, disseminated and uploaded to DAO website.
- A new vendor education packet was developed and will be disseminated to vendors during the next reporting period.

### *Community Action Teams*

- Two youth led community action teams (June Jordan High School and Girls After School Academy) completed their work plans and deliverables on educating and working with neighborhood (Visitation Valley and Excelsior) vendors in reducing the number of alcohol advertisements in their stores and educating their peers on the DAO.

### *DAO Administrative*

- Utilized Google Earth/Map to retrieve storefront views and to determine whether or not stores appeared to be in compliance with exterior DAO performance standards; filed information for review upon scheduled site visit/inspection.
- Revised and developed an inspection report form, questionnaire, visit procedure, documentation, follow-up procedure and database. All reports have been entered into an Access database.
- Reported periodically to other Performing Department staff on vendor performance based on inspection reports.
- With Performing Department staff, developed fourth year vendor fee waiver application, criteria and process.
- Met quarterly with DAO Performing Department staff (SFPD, Tax Collector's Office & City Attorney)
- Provided Tax Collector with California Alcohol and Beverage Control monthly updates of the status of type 20 and 21 vendors in San Francisco.
- In preparation for determining fee waiver eligibility and to prioritize visits/inspections, reviewed requested reports from Tax Collector/DTIS on vendor late fee payment, penalties levied and ownership changes.
- Met with other relevant Departments under the leadership of the Mayor's Office to develop a strategy in respect to a

### **San Francisco Police Department, Vice Crimes Division**

Time Period: July 1, 2008 thru June 30, 2009

#### *Informed Merchants Preventing Alcohol-Related Crime Tendencies (IMPACT) Inspections:*

- 161 Initial Inspections
- 109 Re-Inspections
- Total 270 Inspections
- 20 Incident Reports (12% Violation Rate)

#### *Decoy Operations*

- 740 Premises
- 96 Incident Reports/Criminal Citations Issued (13% Violation Rate)

#### *Summary of Report:*

- In December 2008 a Department Bulletin was issued by the Chief of Police to the entire Department regarding the DAO.
- During the fiscal year 2008-2009, the Vice Crimes Division visited 901 ABC licensed premises involving the DAO. Vice Crimes personnel generated 116 police reports documenting illegal activity. Incident reports were submitted to the District Attorney's Office and the California Department of Alcoholic Beverage Control for review and administrative action

#### **City Attorney**

- The City Attorney's Office received and reviewed incident reports from the SFPD, and based upon that review determines if further enforcement action is necessary under the DAO.

#### **Tax Collector**

- For the period from May through August 14, 2009, the Tax Collector received \$186,054.00 in fees and \$947.10 in penalties. On the Tax Collector's behalf, DTIS made monthly updates to DAO accounts based on California Alcohol and Beverage Control records. Upon request several reports were provided to DPH of accounts/"uses" having changed ownership or those with penalties due to late payment or non-payment of the DAO fee.

**Attachments:**

Inspection Report form, Procedure, Letter to Vendor/"Uses"

Fee Waiver procedure and application

New Vendor educational packet



**City & County of San Francisco**  
**Deemed Approved Ordinance (DAO)**

30 Van Ness, Suite 2300  
 San Francisco, CA 94102  
 (415) 581-2400

[www.sfdph.org/dph/comupg/oprograms/CHPP/alcoholOrdInfo/DAO.asp](http://www.sfdph.org/dph/comupg/oprograms/CHPP/alcoholOrdInfo/DAO.asp)

**Inspection Report for Alcohol Retailer Site Visits**

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

Business Name:	License Number:
Business Address:	Zip Code:
Name of Store Owner:	Phone Number:
Address of Store Owner:	
Outreach Aide:	Date of Visit:
Name & Title of Person(s) Present:	

CHECKLIST ITEM:	YES	NO
1. Outside of store is clean and free of debris. <i>San Francisco Police Code Sections 33-39.</i>		
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). <i>California B &amp; P Code Section 25612.5</i>		
3. There is no graffiti within property line including the sidewalk. <i>San Francisco Penal Code 594 &amp; SF Police Code Section 1303</i>		
4. There are no excessive loud noises caused by store, its patrons, or personnel. <i>San Francisco Police Code Section 49</i>		
5. Performance Standards are posted in clear site for public view. <i>California B &amp; P Code Section 25658.4</i>		

**Concerns of present personnel:**


\_\_\_\_\_  
 DPH Public Service Aide (Print)

\_\_\_\_\_  
 Store Agent Present (Print)

\_\_\_\_\_  
 DPH Public Service Aide (Signature)

\_\_\_\_\_  
 Store Agent Present (Signature)

June 2009

# **Inspection Report for Alcohol Retailers Site Visits**

## **Deemed Approved Ordinance 43-06**

### **Sec.26.12 Deemed Approved Performance Standards**

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#### ***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.



July 9, 2008

[Business Name and Address Here]

Dear Mr. or Ms. \_\_\_\_\_,

This letter is a follow up to the recent visit made to your type 20 or 21 business premises in regards to the Deemed Approved Uses Ordinance (DAO). While visiting your store [Public Service Aide] completed a checklist with [Name of Person Present at Visit] on [date of visit]. The checklist that was completed at the time of the visit is attached to this letter.

Your business was found to be in compliance with the Performance Standards of the Deemed Approved Uses Ordinance. Thank you for maintaining your business in a manner beneficial for the community. For continued compliance, please observe the following recommendations:

- **sweep and remove any litter from the front door entrance of your store**
- **limit posted signage to 1/3 the front windows of your store**
- **remove graffiti within your property line, including the sidewalk**
- **restrict loud noises caused by the store, its patrons and/or personnel**
- **post Performance Standards in clear site for public view**

Please be aware that a future visit may be made to the business to verify continued compliance with the DAO Performance Standards. Owners of business premises not in conformance with the DAO Performance Standards are subject to penalties. All findings are made available to the City Attorney and the Vice Unit of the San Francisco Police Department.

Thank you for your time and cooperation with the DAO. If you have any questions or concerns about this letter, its content, or the DAO, please call **415-581-2400**.

Sincerely,

Virginia Smyly  
Deputy Director, Community Programs



**City & County of San Francisco  
Deemed Approved Uses Ordinance (DAO)**

[www.sfdph.org](http://www.sfdph.org)

**Mayor Gavin Newsom**

July 9, 2008

**[Business Name and Address Here]**

Dear **Mr. or Ms.** \_\_\_\_\_,

This letter is a follow up to the second visit made to your type 20 or 21 business premises in regards to the Deemed Approved Uses Ordinance (DAO). While visiting your store [Public Service Aide] completed a checklist with [**Name of Person Present at Visit**] on [**date of visit**]. The checklist that was completed at the time of the visit is attached to this letter. Please read through this letter and the copy of the checklist and make the necessary changes to your business in order to keep in compliance with the Performance Standards of the Deemed Approved Uses Ordinance.

The recommendations based upon the visit and the observations are as follows:  
*(list appropriate recommendations here)*

- **sweep and remove any litter from the front door entrance of your store**
- **remove 2/3 of the signage posted on the front windows of your store**
- **remove graffiti within your property line, including the sidewalk**
- **reduce loud noises caused by the store, its patrons and/or personnel**
- **post Performance Standards in clear site for public view**

Our staff previously visited your store on [**date of visit**] and found non-compliance with DAO Performance Standards. The recent visit was made to your business to verify that all changes requested for compliance with the DAO Performance Standards have been met. Owners of business premises not in conformance with the DAO Performance Standards are subject to penalties.

**All findings will be forwarded to the City Attorney and the Vice Unit of the San Francisco Police Department for further action.**

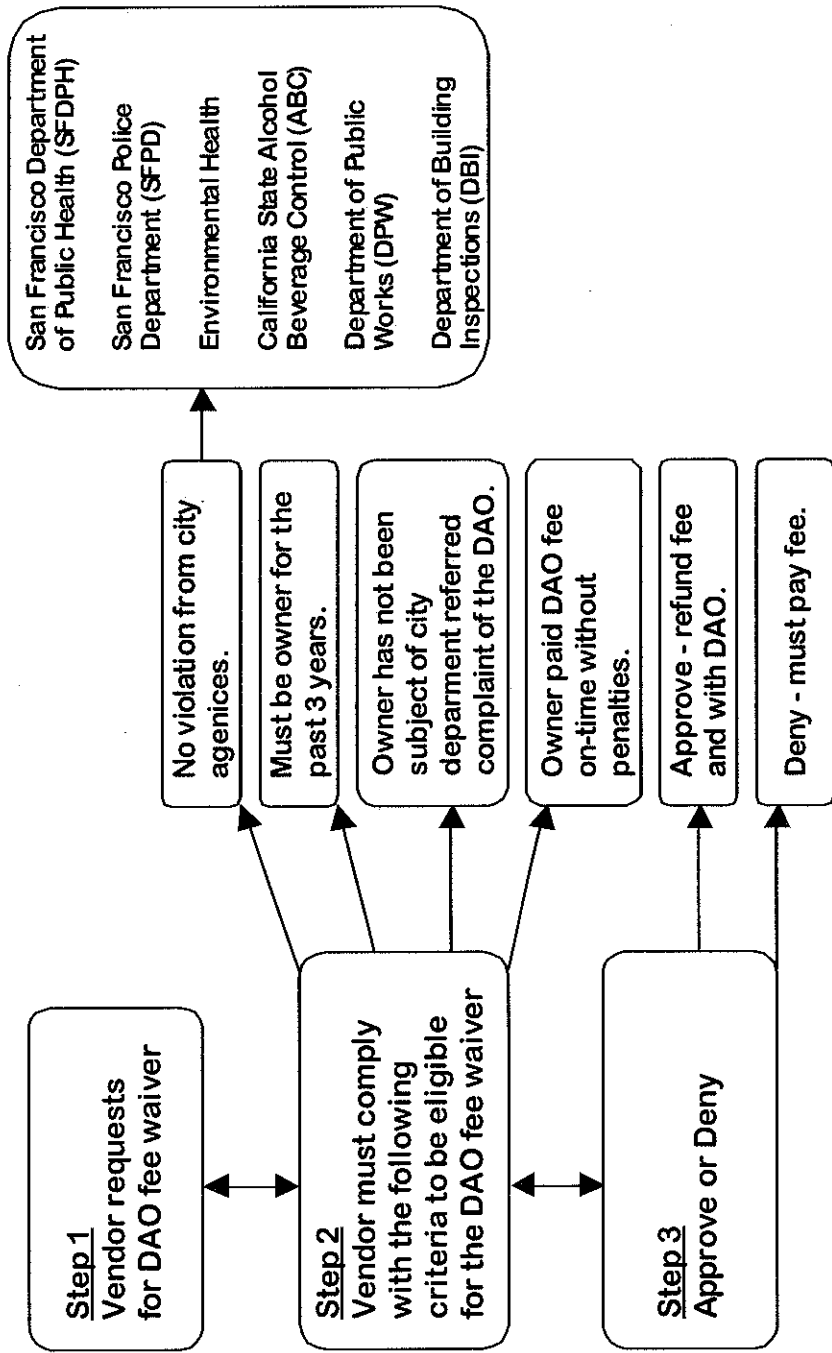
Thank you for your time and cooperation with the DAO. If you have any questions or concerns about this letter, its content, or the DAO, please call **415-581-2400**.

Sincerely,

Virginia Smyly  
Deputy Director, Community Programs



# Deemed Approved Ordinance Fee Waiver Approval Process



# Deemed Approved Ordinance Fee Waiver Application Form

Date: ..... *Send completed form to address below:*

ABC License #: .....

License type (circle all applicable): 20 21

Licensee: .....

Address: .....

.....

Business name: .....

Address: .....

.....

Telephone: .....

## Deemed Approved Ordinance

San Francisco Department of Public Health  
Community Health Promotion & Prevention  
30 Van Ness Avenue, Suite 2300  
San Francisco, California 94102  
Tel: 415.581.2400  
Fax: 415.581.2490

