



Agenda Item #: \_\_\_\_\_

# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Powell and Members of the City Council

**THROUGH:** David N. Carmany, City Manager

**FROM:** Richard Thompson, Director of Community Development  
Eve Irvine, Chief of Police  
Angelica Ochoa, Assistant Planner

**DATE:** May 15, 2012

**SUBJECT:** Presentation of the Los Angeles County Health Department report regarding alcohol consumption and Liquor License Requirements in the City

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**RECOMMENDATION:**

Staff recommends that the City Council receive and file this report.

**FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action.

**BACKGROUND:**

The Planning Commission requested that the City Council review the City's policy on approving licenses for businesses that sell alcohol for on-site consumption and off-site consumption. On-site consumption licenses are issued for businesses that sell alcohol for consumption on the premises, such as bars and restaurants. Off-site consumption licenses are issued for businesses that sell alcohol for consumption off the premises, such as liquor stores and grocery stores. Staff presented information to the City Council at their regular meeting of October 4, 2011 regarding the Use Permit process currently in place as the City's alcohol policy (Exhibit A). Issues that were discussed focused on Use Permit findings that must be met per Section 10.84 of the Municipal Code and conditions that are placed on businesses during the approval process. The City Council directed staff to return with information from other cities regarding their alcohol license policies, practices and code requirements. The City of Manhattan Beach requires a Use Permit for all alcohol licenses.

The Police Department's comments on the Los Angeles County alcohol-related HARMS publication is also included in this report.

**DISCUSSION:**

***Alcohol Related Harms Report***

In December 2011, the Los Angeles County Department of Public Health, through the Substance Abuse Prevention and Control Office of Health Assessment and Epidemiology, published a Revised Edition of a March 2011 report titled “Reducing Alcohol-Related Harms in Los Angeles County.” This report was provided to assist communities in policy making efforts and designing strategies to prevent alcohol-related harms. This report examined the relationship between the density of alcohol outlets and three alcohol-related harms in 117 cities and communities across Los Angeles Counties.

The original report was published in March 2011; however, there was an erroneous reporting of a significant amount of alcohol-related crashes between the years of 2006 and 2008 that were attributed to Manhattan Beach. This caused the report to be inaccurate and therefore all data was re-analyzed and the report was revised in December 2011.

After the revision, of the three alcohol-related harms that were examined, Manhattan Beach was ranked 7th out of 117 cities for Alcohol-Related Violent Crimes, 17th out of 117 cities for Alcohol-Related Deaths, and 68<sup>th</sup> out of 117 cities for Alcohol-Related Motor Vehicle Crashes. The ranking indicates 1 being the city with the lowest level of alcohol-related harms that were each examined (Violent Crime Rate, Death Rate, and Motor Vehicle Crash Rate) to 117 being the city that ranked the highest.

***Liquor License Requirements***

Staff specifically researched the cities included in the South Bay Cities Council of Governments (SBCCOG). The cities included in the SBCCOG are Hermosa Beach, El Segundo, Torrance, Redondo Beach, Lawndale, Hawthorne, Inglewood, Gardena, Carson, Lomita, Palos Verdes Estates, Rolling Hills Estates, Rancho Palos Verdes and Rolling Hills. The City of Rolling Hills is only residential so they were not included in this research. Staff researched the individual cities alcohol code regulations, practices and policies for on-site consumption of alcohol (beer and wine, and full alcohol) for bars and restaurants and off-site consumption of alcohol (beer and wine and full alcohol) for liquor stores and grocery stores which is summarized in Exhibit B.

***On-site Consumption***

Overall, most cities require a Use Permit for on-site consumption of alcohol for bars, subject to findings and conditions. Use Permits are regulated by the State as well as local laws. Some cities, such as Hawthorne and Redondo Beach, in addition to a Use Permit, require a minimum distance from residential, parks, schools and other sensitive areas. For restaurants, some cities permit the business by right if only beer and wine is being consumed on-site (Redondo Beach, Carson, Rancho Palos Verdes and Inglewood -10,000 square foot minimum and no live entertainment) and if the hours are limited, such as Hermosa Beach. However, if a restaurant wants full alcohol for on-site consumption, a Use Permit is required for the majority of the cities, except the City of Redondo Beach, which is considered a permitted use.

***Off-site Consumption***

For off-site consumption, some cities allow liquor stores and grocery stores without a Use Permit and some require a Use Permit. In some cases, there is no distinction between beer and wine and

full alcohol (Torrance, Carson, Rancho Palos Verdes and Hermosa Beach, if closed by 11pm). Cities that require a Use Permit have requirements such as hours of operation, distance requirements from residential, schools, and parks (Hawthorne, Lomita, Redondo Beach, and Carson), ratio requirements per the number of residents (Carson) and maximum number of issued alcohol licenses (Carson). The Cities of Carson (20,000 square feet) and Inglewood (10,000 square feet) require a minimum square foot of grocery area.

***ABC Requirements/Process***

All alcohol licenses are required to have approval from the State of California Department of Alcoholic Beverage Control (ABC) which issues and regulates liquor licenses. The ABC notifies the local governing agency of the application for an alcohol license. The ABC can place conditions on the license such as restriction of hours, entertainment, or any condition that will mitigate impacts on nearby residential, churches or schools. The ABC must also notify the local governing agency and surrounding property owners of any business that wants to modify or remove conditions in their license. The local agency or property owner can request a hearing and protest the license before the ABC. A zoning affidavit is required for any new license signed by the local governing agency. The ABC may deny a license if there is a law enforcement problem or if the issuance of the license would create an “undue concentration of licenses” based on a high number of crimes and excess ratio of licenses to population. The ABC may also issue a license if the local governing agency determines that the business requesting a license would serve the public convenience or necessity. Typically, the City Council makes this determination.

***City Authority***

The State (ABC) has primary jurisdiction for issuing alcohol licenses. The State can deny alcohol licenses for businesses close to schools, playgrounds, youth facilities, churches and hospitals. The State will also consider impacts to public welfare and morals. The local agency can regulate secondary effects (crime, noise, trash, traffic, parking, etc.); issues that impact health, safety and welfare. Local alcohol regulations aimed at eliminating nuisances and criminal activities are allowed. However, a city may not impose new restrictions on existing locations with alcohol licenses, only on new locations. Minimum distance requirements to sensitive uses and between businesses selling alcohol are permitted.

**CONCLUSION**

Based on the research conducted of other cities, it is evident that the City of Manhattan Beach is more restrictive than other South Bay Cities by requiring Use Permits for all businesses with alcohol sales or services. Each case is reviewed on an individual basis by the Planning Commission through the public hearing process.

- Attachments:
- A. Staff report, attachments (with updated charts), minutes from October 4, 2011
  - B. Excel Spreadsheet of South Bay Cities alcohol license requirements
  - C. Los Angeles County Health Department HARM Report dated December 2011
  - D. Report by League of California Cities dated September 22, 2011
  - E. Map of Parcels of On Sale and Off Sale Liquor Licenses

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# Staff Report

## City of Manhattan Beach

**TO:** Honorable Mayor Tell and Members of the City Council

**THROUGH:** <sup>06</sup> David N. Carmany, City Manager

**FROM:** Richard Thompson, Director of Community Development

**DATE:** October 4, 2011

**SUBJECT:** Consideration of Planning Commission's Request Seeking Direction from the City Council Regarding the Review of the Number and Type of Liquor Licenses in the City.

**RECOMMENDATION:**

Staff recommends that the City Council discuss and provide direction.

**FISCAL IMPLICATION:**

There are no fiscal implications associated with the recommended action.

**BACKGROUND:**

The Planning Commission has recently reviewed requests for a number of liquor licenses and wondered if the City Council felt further study is necessary which may result in establishing a change in policy toward approving such permits.

The Department of Alcoholic Beverage Control has the dual responsibility for both the issuance of liquor licenses and the regulation of existing licensees. The Department issues two broad categories of alcohol licenses. On-sale licenses are issued for businesses that sell alcohol for consumption on the premises, such as bars and restaurants. Off-sale licenses are issued for businesses that sell alcohol for consumption off the site, such as grocery stores, liquor stores, and corner markets. Additionally, one-day licenses are issued for the sale of alcohol at special events, and other miscellaneous licenses are also available.

Cities have limited authority over issuing liquor licenses. Currently the City requires a Use Permit for any type of liquor license in commercial zones and if approved is considered an entitlement that remains with the property. The City must also make the finding that there is not an "undue concentration" of liquor licenses at the proposed location and the "public convenience and necessity" would be served by the approval of the proposed license.

**DISCUSSION:**

The Planning Commission considers Use Permit applications for liquor licenses on a case-by-case

basis. The Planning Commission does not consider broader policy issues in the context of reviewing an application. A broader policy issue might include the number and type of licenses in our community and how that compares to other communities. At the July 27<sup>th</sup> Planning Commission meeting, this issue was raised by commissioners as one for potential study since the Planning Commission continues to receive and review applications for new and expanded liquor licenses. The Planning Commission understands that it does not have the authority to study that issue without direction from the City Council. The Planning Commission wanted to raise this policy issue with the City Council as a potential topic for either the City Council or the Planning Commission to review.

***Use Permit Findings***

In order to approve a Use Permit or an amendment to a Use Permit the following findings must be made by the Planning Commission in accordance with MBMC Section 10.84.060.

- 1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located.*
- 2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city.*
- 3. The proposed use will comply with the provisions of this title; including any specific condition required for the proposed use in the district in which it would be located;*
- 4. The proposed use will not adversely impact nor be adversely impacted by nearby properties.*

***Planning Commission Authority***

In accordance with Chapter 10.84 of the MBMC, the Planning Commission conducts a public hearing and has the authority to approve, approve with conditions or deny the Use Permit Amendment. With any action the Use Permit findings must be considered (10.84.060 A), and conditions (10.84.070) may be placed on an application. The Commission has the ability to modify the proposal to meet the Use Permit purpose, findings, and criteria.

***Typical Conditions***

- Limitation on the hours of operation
- Comply with approved plans, which includes layout of seating and bar areas, and location and size of alcohol sales display area
- Food service must be available at all times
- Limitation on promotion and advertising
- Sound attenuation
- Crowd control measures
- Security measures
- Regulating entertainment and dancing

***Public Input***

A public notice is required for all Use Permit proposals which are mailed to the property owners within 500 feet of the site and published in the local newspaper.

***Comments from the Police Department***

The Police Department evaluates and provides input for each request for a liquor license. They consider the following when evaluating each request;

- Location of business (commercial, residential, proximity to schools and the surrounding area)
- Impact on traffic and parking
- Quality of life issues
- Saturation (number of ABC licensed businesses in the area)
- Inquiry into previous issued ABC license for disciplinary action

They will then recommend conditions to be placed on the location such as hours of operation, sales and service, noise restrictions and other appropriate recommendations.

The Police Department supports the City's current policy of review on a case-by-case basis. Some of the above factors may not be considered in a broad policy and in using a broad policy some conditions may be imposed on all license types that are not necessary for some locations. Also the uniqueness of a business may not be considered in using a broad policy.

**ALTERNATIVES:**

1. No change to existing policies and procedures
2. Request staff to study this issue further and return with recommendations

Attachments:

- A. List of establishments serving liquor

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Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
1	Houston's Restaurant	1550 Rosecrans Ave.	6am-12am, Daily	6am-12am, Daily	Full Liquor	90-19 07/25/90	None
2	12th+Highland	304 12th Street	10am-12am, Sun-Thu 10am-1am, Fri-Sat	10am-12am, Sun-Thu 10am-1am, Fri-Sat	Full Liquor	87-36 12/08/87	Live Entertainment & Dancing
3	Kettle	1138 Highland Ave.	24 Hours Daily	11am-1am	Beer & Wine	83-06 01/11/83	None
4	Mr. Cecils California Ribs	1209 Highland Ave.	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	Beer & Wine	07-04 05/09/07	None
5	Oceana Bistro Café	2201 Highland Ave.	6am-10:30pm, Daily Patio Dining Stops @ 9pm, Sun-Thu	6am-10:30pm, Daily Patio Dining Stops @ 9pm, Sun-Thu	Beer & Wine	03-10 5/14/03	None
6	Beach Pizza	3301 Highland Ave.	11am-12am, Sun-Thu 11am-1am Fri-Sat	11am-12am, Sun-Thu 11am-1am Fri-Sat	Beer & Wine	84-31 07/24/84	None
7	The Local Yolk	3414 Highland Ave.	6am-12am, Daily 6am-11pm Outdoor Dining	6am-12am, Daily 6am-11pm Outdoor Dining	Beer & Wine	02-26 08/14/02	None
8	Sloopy's Beach Café	3416 Highland Ave.	Unspecified opening time, Closes by 9 pm	Unspecified opening time, Closes by 9 pm	Beer & Wine	83-14 03/22/83	None
9	North End Café	3421 Highland Ave	7am-10pm, Sun-Thu 7am-11pm, Fri-Sat	7am-10pm, Sun-Thu 7am-11pm, Fri-Sat	Beer & Wine	10-06 8/25/10	None
10	Four Daughters	3505 Highland Ave.	Unspecified opening time, Closes by 2am	6am-2am, ABC	Beer & Wine	82-32 10/12/82	None
11	Sharkeez	3600 Highland Ave.	No Limits Specified	6am-2am, ABC	Full Liquor	83-19 08/26/83	No more than 5 musicians. Live entertainment must stop by 1am
12	OB's Bar & Grill	3610 Highland Ave.	8am-2am, Daily	8am-2am, Daily	Full Liquor & Caterers	92-22 10/20/92	Live entertainment 8pm-1am Thu-Sat; 3pm-9pm Sun/Holidays No dancing
13	Pancho's	3615 Highland Ave.	Unspecified Opening Time 2am (Rest, Bar, Lounge) 9pm (Deck & Patio)	6am-2am, ABC	Full Liquor	76-10 02/10/76	2 Musicians
14	The Beach Hut	3713 Highland Ave.	7am-1am, Daily	7am-1am, Daily	Beer & Wine	86-34 10/28/86	Live entertainment no later than 12:30am daily
15	Summers	3770 Highland Ave.	Unspecified opening time, Closes by 2am	6am-2am, ABC	Full Liquor	82-25 08/24/82	None

Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
16	FishBar	3801 Highland Ave.	9am-2am, Daily	9am-2am, Daily	Full Liquor	89-50 12/19/89	None
17	The Strand House	117 Manhattan Beach Blvd.	10am-12am, Mon-Thu 10am-1am, Fri 8am-1am, Sat 8am-12am, Sun	10am-12am, Mon-Thu 10am-1am, Fri 8am-1am, Sat 8am-12am, Sun	Full Liquor	CC Reso. 6304 04/19/11 PC 11-02 02/23/11	Live Entertainment & Dancing Fri-Sat, till 1am Thu & Sun, till 11:30pm
18	Manhattan Pizzeria	133 Manhattan Beach Blvd.	6am-2am, Daily	6am-2am, Daily	Beer & Wine	CC Reso. 5175 06/20/95 86-38 12/09/86	None
19	Sharks Cove	309 Manhattan Beach Blvd.	7am-2am, Daily	7am-2am, Daily	Full Liquor	03-24 12/10/03	3 nonamplified muscians, no later than 12am
20	Hennesseys	313 Manhattan Beach Blvd.	11am-2am, Daily No Outdoor Dining After 10pm When Entertainment Performs	11am-2am, Daily	Full Liquor	83-18 04/26/83	Live entertainment til 1:30am, Mon-Sun
21	Café Pierre	317 Manhattan Beach Blvd.	9am-1am, Daily	9am-1am, Daily	Full Liquor & Caterer's	94-20 07/13/94	2 entertainers til 1am Fri, Sat & 12am Sun
22	Fusion Sushi	1150 Morningside Dr.	9am-11pm Sun-Wed 7am-12am Thu-Sat	9am-11pm Sun-Wed 7am-12am Thu-Sat	Beer & Wine	05-05 03/23/05	Entertainment/Dancing for Private Parties In Banquet Room Only Thu-Sat
23	Pasta Pomodoro	401 Manhattan Beach Blvd.	7am-11pm, Daily	7am-11pm, Daily	Beer & Wine	05-05 03/23/05	None
24	Sun & Moon Café	1131 Manhattan Ave.	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	Beer & Wine	CC Reso. 5175 06/20/95	None
25	Post	1142 Manhattan Ave.	11am-11pm, Mon-Wed 11am-12am, Thu-Fri 7am-12am, Sat 7am-11pm, Sun	11am-11pm, Mon-Wed 11am-12am, Thu-Fri 7am-12am, Sat 7am-11pm, Sun No Alcohol on Patio After 10pm	Full Liquor	CC 5513 10/19/99	"Kids Night" Monday 5pm-7pm
26	Katsu	302 Rosecrans Ave.	5pm-11pm, Sun-Thu 5pm-12am, Sat-Sun	5pm-11pm, Sun-Thu 5pm-12am, Sat-Sun	Beer & Wine	02-11 03/27/02	None

Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
27	Verandas	401 Rosecrans Ave.	7am-12am, Daily	7am-12am, Daily	Full Liquor	99-15 05/26/99	Entertainment/Dancing subject to permit
28	Kah	1019 Manhattan Beach Blvd.	11:30am-3pm, Mon-Fri 5pm-12am, Sun-Thu 5pm-1am, Fri-Sat	11:30am-3pm, Mon-Fri 5pm-12am, Sun-Thu 5pm-1am, Fri-Sat	Full Liquor	83-43 08/09/83	None
29	Grunions	1501 Sepulveda Blvd.	No Resolution	No Resolution	Full Liquor	No Resolution	
30	The Castle	2401 Sepulveda Blvd.	Unspecified opening time, Closes by 2am	6am-2am, ABC	Full Liquor	80-12 06/22/80	None
31	Cocos	2620 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
32	The Schooner	1120 22nd St.	No Limits Specified	No Limits Specified, Alcohol Served In Conjunction with Food Service	Full Liquor	81-07 02/10/81	None
33	Residence Inn	1700 N. Sepulveda Blvd.	No Limits Specified	4pm-9pm, Daily Hospitality Service	Beer & Wine	90-24 09/19/90	None
34	Open Sesame	2640 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Beer & Wine	01-27 12/12/01	None
35	CA Pizza Kitchen	3280 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
36	China Grill	3282 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Beer & Wine	01-27 12/12/01	None
37	Joeys Smokin BBQ	3564 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Beer	01-27 12/12/01	None
38	Chili's	2622 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
39	Tin Roof Bistro	3500 N. Sepulveda Blvd. Ste. 100	11am-12am, Daily	11am-12am, Daily	Full Liquor	CC 6171 01/06/09 01-27 12/12/01	None
40	Tin Roof Bistro (Private Dining Area)	3500 N. Sepulveda Blvd. Ste. 120	8am-12am, Daily	8am-12am, Daily	Beer & Wine	12-02 02/08/12	None
41	Lido Di Manhattan Beach	1550 Rosecrans Ave. Suite G	6am-2am, Daily	6am-2am, Daily	Full Liquor	90-30 10/10/90	None

Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
42	Bristol Farms	1570 Rosecrans Ave. Suite H	7am-10pm, Daily	7am-10pm, Daily	Beer & Wine & Off Sale General	90-29 10/10/90	None
43	Beech Street Café	1570 Rosecrans Ave. Suite K	9am-12am, Daily	9am-12am, Daily	Beer & Wine	91-04 03/13/91	None
44	Samari Sams Grill	1570 Rosecrans Ave. Suite P	6am-12am, Daily	6am-12am, Daily	Beer & Wine	04-12 06/14/04	None
45	Rubios Baja Grill	2000 Sepulveda Blvd.	No Limits Specified	Must Be In Conjunction w/ Food Service at All Hours	Beer & Wine	08-05 04/09/08	4 Video Games
46	Olive Garden	2610 Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
47	Islands	3200 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
48	LA Food Show	3212 N. Sepulveda Blvd.	6am-2am, Daily	6am-2am, Daily	Full Liquor	01-27 12/12/01	None
49	Belamar Hotel	3501 N. Sepulveda Blvd.	Garden Room & Outdoor Patios: 9am-10pm, Sun-Thu 9am-11pm, Fri-Sat No Other Limits Specified	Not Specified	Full Liquor	91-08 04/23/91	None
50	El Sombrero #2	1157 Artesia Blvd. Suite B	11am-10pm, Daily	11am-10pm, Daily	Beer & Wine	84-30 06/26/84	None
51	El Tarasco	350 N. Sepulveda Blvd. #2	10am-11pm, Daily	10am-11pm, Daily	Beer & Wine	05-03 01/26/05	None
52	Big Wok	350 N. Sepulveda Blvd	11:30am-10pm, Daily	11:30am-10pm, Daily	Beer & Wine	CC 5617 11/07/00	
53	Mr. Pockets	516 N. Sepulveda Blvd.	11am-2am, Daily	11am-2am, Daily	Full Liquor	90-04 01/23/90	Pool Tournaments
54	Back Home in Lahaina	916 N. Sepulveda Blvd.	11am-9pm, Mon-Thu 11am-11pm, Fri 8am-11pm, Sat 8am-8pm, Sun	11am-9pm, Mon-Thu 11am-11pm, Fri 8am-11pm, Sat 8am-8pm, Sun	Beer & Wine	00-38 12/13/00	None
55	American Farmstand	924 N. Sepulveda Blvd.	Unspecified opening time, Closed by 12am, Sun-Thu Closed by 1am, Fri-Sat	Unspecified Start Time, End by 12am, Sun-Thu End by 1am, Fri-Sat	Full Liquor	84-43 09/25/84	None
56	The Hanger Inn	1001 S. Aviation Blvd.	No Resolution	No Resolution	Beer		No Resolution

Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
57	Brooklyn Brick Oven Pizza	500 S. Sepulveda Blvd	6am-10pm, Sun-Thu 6am-12am, Fri-Sat	6am-10pm, Sun-Thu 6am-12am, Fri-Sat	Beer & Wine	95-20 07/12/95	None
58	El Torito	600 S. Sepulveda Blvd.	11am-12am, Daily	11am-12am, Daily	Full Liquor	94-33 11/09/94	None
59	Versailles	1000 N. Sepulveda Blvd.	7am-10pm, Daily	7am-10pm, Daily	Full Liquor	86-25 09/09/86	None
60	Sion's	235 S. Sepulveda Blvd.	7am-10pm, Mon-Sun	7am-10pm, Mon-Sun	Beer & Wine	CC 4338 07/01/86	None
61	Osho	913 N. Sepulveda Blvd.	No Resolution	No Resolution	Beer & Wine	No Resolution	
62	Thai Dishes	1015 N. Sepulveda Blvd.	11am-10:30pm, Daily	11am-10:30pm, Daily	Beer & Wine	89-03 01/24/89	None
63	El Gringo	921 N. Sepulveda Blvd.	No Resolution	No Resolution	Beer & Wine	No Resolution	
64	Izaka-Ya	1133 Highland Ave.	11:00am-11:00pm Sun-Wed 11:00am-12am Thu-Sat	11:00am-11:00pm Sun-Wed 11:00am-12am Thu-Sat	Beer & Wine	10-04 07/14/10	None
65	Shellback	116 Manhattan Beach Blvd.	No Resolution	No Resolution	Full Liquor	No Resolution	
66	Rock N Fish	120 Manhattan Beach Blvd.	7am-12am, Sun-Thu 7am-1am, Fri-Sat	7am-12am, Sun-Thu 7am-1am, Fri-Sat	Full Liquor	99-04 02/10/99	None
67	MB Brewing Co	124 Manhattan Beach Blvd.	7am-12am, Sun-Thu 7am-1am, Fri-Sat	7am-12am, Sun-Thu 7am-1am, Fri-Sat	Full Liquor	09-01 01/14/09	None
68	Mangiamo	128 Manhattan Beach Blvd.	11am-12am, Mon-Sat 8am-12am, Sun	11am-12am, Mon-Sat 8am-12am, Sun	Full Liquor	83-28 06/14/83	Maximum 3 musicians, nonamplified
69	Penny Lane	820 Manhattan Ave.	7am-10:30pm, Sun-Thu 7am-11:30pm, Fri-Sat	7am-10:30pm, Sun-Thu 7am-11:30pm, Fri-Sat	Beer & Wine	89-23 06/27/89	Nonamplified live music
70	900 Manhattan Club/Sidedoor	900 Manhattan Ave.	11am-12 am, Mon-Thu 11am-1 am, Fri 9am-12am, Sat-Sun	11am-12 am, Mon-Thu 11am-1 am, Fri 9am-12am, Sat-Sun	Full Liquor	CC Reso. 5155 04/04/95	Live allowed on 2nd floor Dancing allowed on Fri/Sat nights
71	Mucho	903 Manhattan Ave.	11am-12am, Sun-Thu 11am-2am, Fri-Sat	11am-12am, Sun-Thu 11am-2am, Fri-Sat	Full Liquor	CC Reso. 4108 01/03/84	No Limit
72	Old Venice	1001 Manhattan Ave.	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	Beer & Wine	07-09 06/25/07	None
73	El Sombrero	1005 Manhattan Ave.	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	7am-11pm, Sun-Thu 7am-12am, Fri-Sat	Beer & Wine	07-09 06/25/07	None

Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
74	Fonzs	1017 Manhattan Ave.	9am-9pm, Sun 5:30am-10pm, Mon-Thu 5:30am-11pm, Fri-Sat	9am-9pm, Sun 5:30am-10pm, Mon-Thu 5:30am-11pm, Fri-Sat	Full Liquor	01-04 02/14/01	None
75	Ercoles	1101 Manhattan Ave.	11am-2am, Daily	11am-2am, Daily	Full Liquor	85-32 11/12/85	None
76	Mama D's	1125 A Manhattan Ave.	6am-11pm, Sun- Thu 6am-1am, Fri-Sat	6am-11pm, Sun- Thu 6am-1am, Fri-Sat	Beer & Wine	CC Reso. 5175 06/20/95	None
77	Wahoo's	1129 Manhattan Ave.	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	Beer & Wine	CC Reso. 5312 02/18/97	None
78	Darren's	1141 Manhattan Ave.	11am-11pm, Sun-Thu 6am-12am, Fri-Sat	11am-11pm, Sun-Thu 6am-12am, Fri-Sat	Full Liquor	02-28 08/28/02	None
79	Talia's	1148 Manhattan Ave.	7am-11pm, Sun-Wed 7am-12am, Thu-Sat	7am-11pm, Sun-Wed 7am-12am, Thu-Sat	Full Liquor	01-24 11/28/01	None
80	Crème De La Crepe	1140 Highland Ave.	6am-10pm, Sun-Thu 6am-11pm, Fri-Sat	6am-10pm, Sun-Thu 6am-11pm, Fri-Sat	Beer & Wine	02-14 05/08/02	None
81	Simmzy's	229 Manhattan Beach Blvd.	6am - 11pm, Mon-Thu 6am-12am, Fri-Sat	6am - 11pm, Mon-Thu 6am-12am, Fri-Sat	Beer & Wine	03-20 01/22/03	None
82	Le Pain Quotidien	451 Manhattan Beach Blvd.	7am-7:30pm, Daily	10am-7:30pm, Daily	Limited Selection of Beer & Wine	CC 5770 07/16/02 08-08 05/14/08	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More
83	Shade Hotel	1221 Valley Drive	Zinc Lobby Bar & Zinc Terrace: 11pm Daily Interior Courtyard (for Special Events Only) 11pm, Sun-Thurs 12am, Fri-Sat Rooftop Deck, 10pm Daily	Zinc Lobby Bar & Zinc Terrace: 11pm Daily Interior Courtyard (for Special Events Only) 10:30pm, Sun-Thurs 11:30pm, Fri-Sat Rooftop Deck, 9pm Daily	Full Liquor	05-08 05/25/05 CC 5770 07/16/02 (CC 6275 07/09/10 Hours Not Shown As Reso. Not Yet Implemented)	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More

Citywide List of Restaurants and Bars with On-Sale Alcohol Service

	Establishment	Address	Approved Hours of Operation	Approved Alcohol Hours	Alcohol License	Resolution Nos. & Dates	Entertainment
84	Petro's	451 Manhattan Beach Blvd Suite B-110	6am-12 am, Sun-Thu 6am-1am, Fri-Sat	6am-11:30pm, Sun-Thu 6am-12:30am, Fri-Sat	Full Liquor	06-20 12/13/06 CC 5770 07/16/02	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More
85	Sashi	451 Manhattan Beach Blvd Suite D-126 1200 Morningside	6am-11pm, Sun-Thu 6am-12am, Fri-Sat	6am-10:30pm, Sun-Thu 6am-11:30pm, Fri-Sat	Full Liquor	CC 5770 07/16/02	2 Unamplified Entertainers Background Music Class I Entertainment Permit Required for More
86	Il Forniao	1800 Rosecrans Ave. Unit F	6am-2am, Daily	6am-2am, Daily	Full Liquor	98-25 08/12/98	None
87	Sushi Ya Matsu	210 N Aviation Blvd Manhattan Triangle	6am-11pm, Daily	6am-11pm, Daily	Beer & Wine	02-21 07/24/02	None
88	Hotdoggers	1605 N. Sepulveda Blvd.	7am-10pm Sunday to Thursday, 7am-12am, Friday and Saturday	7am-10pm Sunday to Thursday, 7am-12am, Friday and Saturday	Beer & Wine	CC 6322 07/05/11	Family style business, no outside sound, no bar seats, no beer and wine without a meal, rear driveway at Oak Ave. close by 10pm

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Citywide List of Off-Sale Alcohol Service

	Establishment	Address	Allowed Hours of Alcohol Sales	Operating Hours	Use Permit	Notes	Type of Licence
1	Manhattan Fine Wines	1157 ARTESIA BLVD, A	-		No UP		Full Alcohol
2	7-11 Convenience Store	1221 ARTESIA BLVD	-	-		No UP that discusses off-site alcohol sales	Beer/Wine
3	Smart Store	1727 ARTESIA BLVD, A	6am - 12am Daily	24/7	CC 6055 (2006)		Beer/Wine
4	E & A Wine & Cigar	1751 ARTESIA BLVD, D	-	-	No UP		Beer/Wine
5	Speedi Mart	975 N AVIATION BLVD	6am -2am Daily	24/7	PC 11-09	Previously no UP and Beer/Wine only. Conditions- alcohol display only behind counter, no single serving, other security.	Full Alcohol
6	Chevron Gas Station	2301 N AVIATION BLVD	7am - 10pm Daily	Food Mart: 6am - 10pm Daily Limited Sales through Window: 10pm - 6am Fueling: 24/7	PC 09-05		Beer/Wine
7	Moon's Market	3307 HIGHLAND AVE	-	-	No UP	-	Full Alcohol
8	Beach Shop, The	3504 HIGHLAND AVE	-	-	No UP	-	Beer/Wine
9	Player's Liquor	3804 HIGHLAND AVE	-	-	No UP		Full Alcohol
10	El Porto Liquor Market Deli	4103 HIGHLAND AVE	Hours for Alcohol Sales Not Specified		PC 85-10 PC 85-11		Full Alcohol
11	Bacchus Wine Shop	1000 MANHATTAN AVE	Sun - Wed 11am - 8 pm Thur - Sat 11am - 9pm	Sun - Wed, 11am - 8pm Thur - Sat, 11am - 9pm	PC 05-02	-	Beer/Wine
12	Manhattan Beach Market	1111 MANHATTAN AVE	-	-	No UP		Full Alcohol
13	VONS	410 MANHATTAN BEACH BLVD	6am - 10pm Daily	6am - 10pm Daily	No UP	-	Full Alcohol

Citywide List of Off-Sale Alcohol Service

	Establishment	Address	Allowed Hours of Alcohol Sales	Operating Hours	Use Permit	Notes	Type of Licence
14	ARCO	1002 MANHATTAN BEACH BLVD	-	7am-10pm	CC 77-32 (1985)	Hours for Alcohol Sales Not Specified	Beer/Wine
15	Trader Joes	1821 MANHATTAN BEACH BLVD	-	-	No UP		Full Alcohol
16	Mobil Gas Station	1865 MANHATTAN BEACH BLVD	6am - 12am Daily	Mini Market: 6am - 12am Daily Fueling: 24/7	CC 4505 (1988)	Hours for Alcohol Sales Not Specified	Beer/Wine
17	Marriot Travel Traders Hotel Store	1400 PARKVIEW AVE	-	-	Not required- PD Zone-	City Council 07/20/10-Public Convienance or Necessity finding	Beer/Wine
18	Bristol Farms	1570 ROSECRANS AVE, H	-	-	PC 90-29 PC 89-61	Operating/Alcohol Sales Hours Not Specified	Full Alcohol
19	CVS	1570 ROSECRANS AVE, L	-	-	PC 89-61	Operating/Alcohol Sales Hours Not Specified	Full Alcohol
20	Fresh & Easy	1700 ROSECRANS AVE, C	-	-	CC 5203 (1995)	Operating/Alcohol Sales Hours Not Specified	Full Alcohol
21	BevMo	1700 ROSECRANS AVE, B	9am - 10pm Daily	9am - 10pm Daily	PC 08-12		Full Alcohol
22	Trader Joes	1800 ROSECRANS AVE	10am - 12am Daily	10am - 12am Daily	PC 98-25		Full Alcohol
23	Sepulveda Wine Co	917 N SEPULVEDA BLVD	Tues - Sat: 10am - 8pm Sun - Mon: 12pm - 5pm	Tues - Sat: 10am - 8pm Sun - Mon: 12pm - 5pm	PC 04-11		Full Alcohol
24	Mr. D's Liquor Market	1100 N SEPULVEDA BLVD	-	-	No UP	-	Full Alcohol
25	Target	1200 N SEPULVEDA BLVD	7am-11pm	7am-11pm	PC 11-08	No Refrigerated Alcohol Sales/ Limited Sales Space/No outside signs. Previously beer and wine	Full Alcohol

Citywide List of Off-Sale Alcohol Service

	Establishment	Address	Allowed Hours of Alcohol Sales	Operating Hours	Use Permit	Notes	Type of Licence
26	Grow	1830 N SEPULVEDA BLVD	-	-	PC 08-05	Operating/Alcohol Sales Hours Not Specified. Max. 10% of area alcohol	Beer/Wine
27	Walgreens	2400 N SEPULVEDA BLVD	7am - 12am	24/7	PC 11-04		Beer/Wine
28	Ralphs	2700 N SEPULVEDA BLVD	6am - 2am Daily	24/7	PC 01-27 and PC 07-12	Hours restricted for wine tasting only	Full Alcohol
29	CVS	2900 N SEPULVEDA BLVD	6am - 2am Daily	24/7	PC 01-27		Full Alcohol
30	Macy's	3400 N SEPULVEDA BLVD	6am - 2am Daily	24/7	PC 01-27	-	Beer/Wine
31	The Vintage Shoppe	3500 N SEPULVEDA BLVD	6am - 2am Daily	24/7	PC 10-03	Hours restricted for wine tasting only	Beer/Wine
32	Chevron Gas Station	3633 N SEPULVEDA BLVD	6am - 12am Daily	Mini Market: 6am - 2am Daily Fueling: 24/7	PC 06-13		Beer/Wine
33	Manhattan Car Wash	300 S SEPULVEDA BLVD	6am - 12am Daily	Mini Market: 6am-12 am Daily Car Wash: 6am-7pm Daily	BZA 83-10	-	Beer/Wine

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10/04/11-13. Consideration of Planning Commission's Request Seeking Direction From the City Council Regarding the Review of the Number and Type of Liquor Licenses in the City

Mayor Tell introduced the subject item and Community Development Director Richard Thompson provided the staff presentation.

City Attorney Roxanne Diaz, Community Development Director Richard Thompson, Police Captain Nan Rados and Police Sergeant Chris Vargas responded to Council questions.

**The following individuals spoke on this item:**

- **Bill Victor, No Address Provided**
- **Jacque May, No Address Provided**
- **Ed Caprielian, No Address Provided**

Mayor Tell directed staff to return to Council with information from other cities regarding their alcohol license review practices, policies and code requirements.

Hearing no objection, it was so ordered.

10/04/11-14. Consideration of Recommendations for Program Goals (Energy Efficiency and Water Conservation) from the Environmental Task Force

Mayor Tell introduced the subject item.

Public Works Director Jim Arndt and Environmental Task Force members **Daniel Salzman** (Energy Efficiency), **Audrey Judson** (Energy Efficiency), **Paul Beswick** (Water Conservation) **Julie Gonella** (Water Conservation) and **Greg Monfette** (Water Conservation) provided the PowerPoint presentation and responded to Council questions.

**The following individuals spoke on this item:**

- **Craig Cadwallader, Surf Rider Foundation, South Bay Chapter**
- **Scott Gobble, Southern California Edison Regional Manager of Public Affairs**

Mayor Tell directed staff to move forward with the recommendations from the Environmental Task Force establishing goals and programs to improve energy efficiency and water conservation in the City of Manhattan Beach, with the exception that staff coordinate their art contest with the Centennial art contest.

Hearing no objection, it was so ordered.

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City	On Premises Alcohol Consumption			Off Premises Alcohol Consumption			Comments/Policy
	Bars	Restaurants		Liquor Stores	Grocery Stores		
	Full Alcohol-Type 42	Beer/Wine-Type 41	Full Alcohol-Type 47	Full Alcohol-Type 21	Beer/Wine-Type 20	Full Alcohol-Type 21	
<b>Manhattan Beach</b>	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Case by case review
<b>Hermosa Beach</b>	Use Permit	Allowed (close by 10pm, after 10pm, CUP required)	Use Permit	Allowed (close by 11pm, after 11pm, CUP required)	Allowed (close by 11pm, after 11pm, CUP required)	Allowed (close by 11pm, after 11pm, CUP required)	On-sale - No CUP required if meet one of the following: comply with hours set for areas in the City, hours and conditions set by ABC, no change in existing CUP operating conditions, no increase in intensification of the use, or license transfer only.
<b>El Segundo</b>	Use Permit	Use Permit	Use Permit	Administrative Use Permit	Administrative Use Permit	Administrative Use Permit	Off-Sale subject to Administrative Use Permit, Director makes decision with conditions, sent to PC for receive and file for final approval unless PC requests to discuss.
<b>Torrance</b>	Use Permit	Use Permit	Use Permit	Allowed	Allowed	Allowed	
<b>Redondo Beach</b>	Use Permit	Allowed	Allowed	Use Permit	Allowed	Allowed	Use Permit subject to distance from residential, hours of operation, and not a blight impact.
<b>Lawndale</b>	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Case by case review
<b>Hawthorne</b>	Use Permit (1,000 ft. from school, park or playground, 600 ft. from church, not within 1,000 ft. of other on-sale, not to exceed 1 on-sale license for every 2,000 residents)	Use Permit (exempt from ratio and distance requirements)	Use Permit (exempt from ratio and distance requirements)	Use Permit (subject to ratio and distance requirements for off-sale)	Use Permit (8,000 sq. ft. and over of floor area, 80% of gross receipts from non-alcohol exempt from ratio and distance requirements)	Use Permit (8,000 sq. ft. and over of floor area, 80% of gross receipts from non-alcohol exempt from ratio and distance requirements)	Off-sale, max 1 full alcohol license per 2,500 residents and 1 beer and wine license per 2,500 residents (min. 1,000 ft. from schools, parks or playgrounds, min. 600 ft. from church)
<b>Inglewood</b>	Use Permit	Allowed (10,000 sq. ft. min., no live entertainment)	Use Permit	Use Permit (not within 600 ft. of school, playground, or youth facility)	Allowed (10,00 sq. ft. min.)	Use Permit	
<b>Gardena</b>	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Case by case review
<b>Carson</b>	Use Permit	Allowed	Use Permit	Allowed	Allowed (20,00 sq. ft. min.)	Allowed (20,000 sq. ft. min.)	85 max for on-sale, not within 300 feet of school or park, 70 max off-sale, not within 300 feet of school, park or church
<b>Lomita</b>	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Off-sale (2,500 sq. ft. or less, at least 600 ft. from other off-sale business, 2,500 sq. ft. or greater, at least 300 ft. from other off-sale business. Min. 300 ft. from schools, parks, public areas and other sensitive areas. PC may modify distance requirements. CUP required for expansion or change to quantity of alcohol for sale
<b>Palos Verdes Estates</b>	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Use Permit	Case by case review
<b>Rolling Hills Estates</b>	Use Permit	Use Permit	Use Permit	Allowed	Use Permit	Use Permit	
<b>Rancho Palos Verdes</b>	Not Permitted	Use Permit if only changing type of alcohol license	Use Permit if only changing type of alcohol license	Allowed	Allowed	Allowed	Rest. w/no alcohol/no dancing/no UP. Letter of Public Convenience or Necessity requires City Council approval.

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# Reducing Alcohol-Related Harms in Los Angeles County

A Cities and Communities Health Report

Excessive alcohol consumption costs  
LA County 2,500 lives and \$10.8 billion  
each year.

Alcohol misuse and abuse is not only  
treatable, but preventable!

How communities can take action:

- Stop alcohol sales to minors
- Reduce youth exposure to alcohol advertising
- Limit the density of alcohol outlets
- Increase youth awareness of the hazards of alcohol

EXHIBIT C

CC MTG 5/15/12



**Table 1. On-Premises and Off-Premises Alcohol Outlet Density, by City and Community, Los Angeles County, 2009<sup>18,19</sup>**

City/Community Name	On-Premises AOD	Rank/Tertile	Off-Premises AOD	Rank/Tertile
Los Angeles County	8.9	—	6.7	—
Agoura Hills	15.5	101	6.9	62
Alhambra	8.1	71	4.6	22
Altadena	1.6	9	4.6	22
Arcadia	13.5	95	7.1	70
Artesia	23.1	111	8.4	91
Avocado Heights	4.0	28	6.2	53
Azusa	8.9	75	9.3	101
Baldwin Park	3.7	25	5.6	38
Bell	5.4	44	8.5	93
Bell Gardens	3.5	23	9.9	105
Bellflower	5.6	47	7.7	81
Beverly Hills	41.4	116	10.3	107
Burbank	13.6	96	7.3	72
Calabasas	8.4	73	6.7	59
Carson	4.3	33	8.3	88
Cerritos	12.4	94	5.3	33
Citrus	0.0	1	0.8	3
Claremont	11.9	91	3.5	13
Commerce	10.4	85	23.8	117
Compton	1.5	7	6.4	55
Covina	9.9	82	8.3	88
Cudahy	2.7	18	6.6	57
Culver City	20.6	109	11.3	109
Del Aire	8.9	75	8.9	99
Diamond Bar	6.8	56	4.5	21
Downey	8.8	74	5.9	46
Duarte	6.9	62	9.1	100
East Compton	0.8	5	4.1	18
East La Mirada	2.0	13	3.0	7
East Los Angeles	4.2	32	8.0	83
East San Gabriel	1.9	12	3.1	9
El Monte	4.5	36	6.8	60
El Segundo	38.7	115	12.3	112
Florence-Graham	3.2	21	8.3	88
Gardena	15.8	102	8.4	91
Glendale	9.2	79	8.2	86
Glendora	9.9	82	4.8	26
Hacienda Heights	4.6	38	3.9	17
Hawaiian Gardens	11.9	91	11.9	111
Hawthorne	5.1	41	6.2	53
Hermosa Beach	38.6	114	11.3	109
Huntington Park	6.8	56	9.7	104
Inglewood	5.5	45	8.7	96
La Canada Flintridge	10.4	85	5.7	40
La Crescenta-Montrose	2.2	14	3.3	10
La Mirada	7.7	66	6.6	57
La Puente	5.6	47	8.1	84
La Verne	10.8	89	5.7	40
Lake Los Angeles	2.5	16	4.2	19
Lakewood	6.6	54	7.0	67
Lancaster	7.8	67	5.4	35
Lawndale	4.5	36	8.7	96
Lennox	1.5	7	5.8	42
Lomita	17.1	106	7.6	79
Long Beach	10.7	88	7.0	67
Los Angeles, All Districts	8.7	—	6.5	—
LA City Council District 01	6.3	50	7.3	72
LA City Council District 02	6.8	56	7.3	72
LA City Council District 03	9.1	78	6.1	50
LA City Council District 04	14.3	99	5.4	35

City/Community Name	On-Premises AOD	Rank/Tertile	Off-Premises AOD	Rank/Tertile
LA City Council District 05	18.5	108	5.8	42
LA City Council District 06	4.1	31	6.5	56
LA City Council District 07	2.8	19	4.7	24
LA City Council District 08	1.7	10	4.9	30
LA City Council District 09	10.4	85	8.5	93
LA City Council District 10	10.3	84	5.9	46
LA City Council District 11	14.5	100	7.0	67
LA City Council District 12	7.1	63	6.1	50
LA City Council District 13	12.1	93	6.9	62
LA City Council District 14	5.9	49	8.2	86
LA City Council District 15	6.5	52	7.2	71
Lynwood	3.4	22	5.3	33
Malibu	27.0	113	12.4	113
Manhattan Beach	22.5	110	7.4	77
Maywood	4.7	39	10.1	106
Monrovia	14.0	98	6.9	62
Montebello	6.7	55	6.9	62
Monterey Park	7.9	68	5.0	31
Norwalk	4.3	33	5.4	35
Palmdale	6.8	56	3.6	15
Palos Verdes Estates	3.6	24	4.3	20
Pasadena	16.6	104	5.9	46
Pico Rivera	6.3	50	8.1	84
Pomona	6.5	52	5.6	38
Rancho Palos Verdes	4.0	28	3.5	13
Redondo Beach	18.0	107	8.6	95
Rosemead	6.8	56	5.8	42
Rowland Heights	8.0	69	3.0	7
San Dimas	8.1	71	7.6	79
San Fernando	6.8	56	9.5	103
San Gabriel	16.9	105	7.3	72
San Marino	3.7	25	0.7	2
Santa Clarita	9.8	81	6.9	62
Santa Fe Springs	16.3	103	23.6	116
Santa Monica	25.5	112	8.7	96
Sierra Madre	10.9	90	3.6	15
Signal Hill	8.0	69	12.5	114
South El Monte	7.1	63	13.4	115
South Gate	4.7	40	7.9	82
South Pasadena	9.7	80	4.7	24
South San Jose Hills	0.4	4	1.7	4
South Whittier	2.5	16	4.8	26
Temple City	5.3	42	5.9	46
Torrance	13.6	96	7.5	78
Valinda	1.8	11	3.3	10
View Park-Windsor Hills	3.9	27	4.8	26
Vincent	2.2	14	2.2	5
Walnut	4.0	28	2.8	6
Walnut Park	4.3	33	4.8	26
West Carson	5.3	42	9.3	101
West Covina	7.2	65	5.1	32
West Hollywood	47.3	117	11.0	108
West Puente Valley	0.0	1	0.0	1
West Whittier-Los Nietos	2.8	19	3.4	12
Westmont	0.0	1	6.1	50
Whittier	9.0	77	6.8	60
Willowbrook	0.8	5	5.8	42

Low Medium High

Excludes cities/communities with populations less than 10,000; AOD = Alcohol Outlet Density/10,000 population



**Table 2. Alcohol-Related Harms, by City and Community, Los Angeles County<sup>20-22</sup>**

City/Community Name	Violent Crime Rate (/1,000)	Rank/Quartile	Motor Vehicle Crash Rate (/10,000)	Rank/Quartile	Alcohol-Related Death Rate (/100,000)	Rank/Quartile
Los Angeles County	6.1	—	12.8	—	8.9	—
Agoura Hills	1.9	15	12.9	86	3.2	6
Alhambra	3.2	37	7.8	29	6.3	27
Altadena	4.1	57	7.5	26	5.8	22
Arcadia	2.6	30	10.2	56	6.2	25
Artesia	4.7	68	8.4	35	9.8	69
Avocado Heights	3.2	37	18.5	113	10.6	85
Azusa	4.1	57	14.9	100	11.6	99
Baldwin Park	3.6	45	13.0	88	10.0	71
Bell	4.5	63	15.2	104	8.0	40
Bell Gardens	5.4	76	5.6	10	8.6	48
Bellflower	6.4	86	9.3	41	11.4	95
Beverly Hills	3.9	53	8.0	33	2.1	5
Burbank	2.4	27	11.5	71	8.1	43
Calabasas	0.8	2	9.0	38	4.2	9
Carson	6.8	90	10.8	64	7.9	39
Cerritos	2.7	32	15.2	103	3.2	6
Citrus	3.0	34	7.8	32	7.8	38
Claremont	2.2	21	11.3	67	9.1	58
Commerce	10.1	110	50.2	117	15.8	116
Compton	16.8	115	9.7	47	10.8	88
Covina	3.6	45	6.9	22	9.3	62
Cudahy	5.4	76	6.3	15	5.3	15
Cuiver City	4.3	61	13.7	94	8.6	48
Del Aire	3.5	42	7.3	24	11.1	94
Diamond Bar	1.8	13	12.7	82	4.6	12
Downey	4.2	59	15.4	105	9.0	56
Duarte	4.0	55	5.2	8	9.2	60
East Compton	14.5	112	10.1	54	7.2	35
East La Mirada	2.2	21	4.6	7	14.8	112
East Los Angeles	7.3	98	14.2	98	15.2	115
East San Gabriel	1.5	9	2.5	1	6.2	25
El Monte	5.6	79	11.7	75	9.2	60
El Segundo	2.1	19	17.6	111	10.3	77
Florence-Graham	12.2	111	10.3	59	10.9	90
Gardena	7.1	95	15.9	106	8.5	47
Glendale	1.8	13	9.8	51	7.0	33
Glendora	1.4	7	11.6	72	10.7	87
Hacienda Heights	2.3	23	10.9	65	5.7	21
Hawaiian Gardens	9.1	108	7.5	27	13.4	110
Hawthorne	8.0	102	13.2	90	9.4	63
Hermosa Beach	3.5	42	12.5	80	5.2	14
Huntington Park	8.8	106	15.0	102	10.4	79
Inglewood	8.6	103	7.8	30	10.8	88
La Canada Flintridge	1.0	4	6.6	17	5.3	15
La Crescenta-Montrose	1.9	15	8.2	34	6.8	31
La Mirada	2.4	27	10.7	61	8.1	43
La Puente	5.8	81	9.6	43	10.4	79
La Verne	2.0	18	8.9	37	7.1	34
Lake Los Angeles	5.9	83	7.8	31	11.5	98
Lakewood	4.9	70	6.4	16	6.4	28

Lowest (1st to 29th)
  Low (30th to 58th)
  High (59th to 88th)
  Highest (89th to 117th)

Excludes cities/communities with populations less than 10,000

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**Table 2. Alcohol-Related Harms, by City and Community, Los Angeles County<sup>20-22</sup>**

City/Community Name	Violent Crime Rate (/1,000)	Rank/Quartile	Motor Vehicle Crash Rate (/10,000)	Rank/Quartile	Alcohol-Related Death Rate (/100,000)	Rank/Quartile
Lancaster	8.8	106	9.8	50	10.4	79
Lawndale	6.7	88	11.6	74	10.1	76
Lennox	6.5	87	11.6	73	10.9	90
Lomita	5.3	73	5.7	11	9.5	65
Long Beach	6.8	90	13.8	96	9.4	63
Los Angeles, All Districts	6.5	—	11.6	—	9.4	—
LA City Council District 01	6.8	90	14.6	99	12.1	103
LA City Council District 02	4.9	70	12.9	87	9.0	56
LA City Council District 03	1.7	12	10.5	60	7.5	37
LA City Council District 04	4.6	67	13.3	91	6.5	29
LA City Council District 05	2.9	33	10.0	52	4.3	11
LA City Council District 06	4.5	63	12.8	85	9.7	68
LA City Council District 07	3.1	35	9.4	42	10.9	90
LA City Council District 08	15.3	113	11.1	66	10.5	82
LA City Council District 09	17.0	116	15.0	101	12.7	107
LA City Council District 10	6.8	90	12.0	76	8.4	46
LA City Council District 11	3.9	53	9.7	49	8.1	43
LA City Council District 12	2.6	30	10.1	55	6.9	32
LA City Council District 13	7.1	95	11.5	70	9.9	70
LA City Council District 14	6.9	94	10.8	63	12.4	104
LA City Council District 15	8.6	103	10.2	58	11.4	95
Lynwood	9.5	109	9.7	48	10.3	77
Malibu	1.9	15	25.0	114	5.5	17
Manhattan Beach	1.4	7	11.4	68	5.5	17
Maywood	5.7	80	6.7	18	8.8	51
Monrovia	3.3	41	12.6	81	11.8	101
Montebello	3.7	50	11.4	69	13.9	111
Monterey Park	2.5	29	9.1	40	5.6	20
Norwalk	5.1	72	12.8	84	10.6	85
Palmdale	6.7	88	10.2	57	8.0	40
Palos Verdes Estates	0.3	1	5.5	9	1.8	2
Paramount	7.3	98	9.7	46	8.6	48
Pasadena	4.5	63	13.7	93	4.2	9
Pico Rivera	4.0	55	6.8	19	12.5	105
Pomona	7.5	101	17.1	109	8.8	51
Rancho Palos Verdes	0.9	3	3.7	4	5.8	22
Redondo Beach	3.1	35	16.7	108	8.9	53
Rosemead	4.2	59	7.3	23	9.6	67
Rowland Heights	3.2	37	6.2	14	1.6	1
San Dimas	2.3	23	10.1	53	9.5	65
San Fernando	4.8	69	13.8	95	16.9	117
San Gabriel	4.5	63	12.0	77	10.0	71
San Marino	1.0	4	8.7	36	1.9	3
Santa Clarita	2.3	23	6.8	21	5.8	22
Santa Fe Springs	7.2	97	45.8	116	13.3	109
Santa Monica	6.3	85	18.1	112	10.0	71
Sierra Madre	1.1	6	3.0	2	9.1	58
Signal Hill	5.8	81	17.6	110	10.0	71
South El Monte	6.0	84	7.6	28	15.1	114
South Gate	5.5	78	13.2	89	11.8	101
South Pasadena	1.5	9	10.7	62	3.9	8

Lowest (1st to 29th)
  Low (30th to 58th)
  High (59th to 88th)
  Highest (89th to 117th)

Excludes cities/communities with populations less than 10,000

continued from page 9

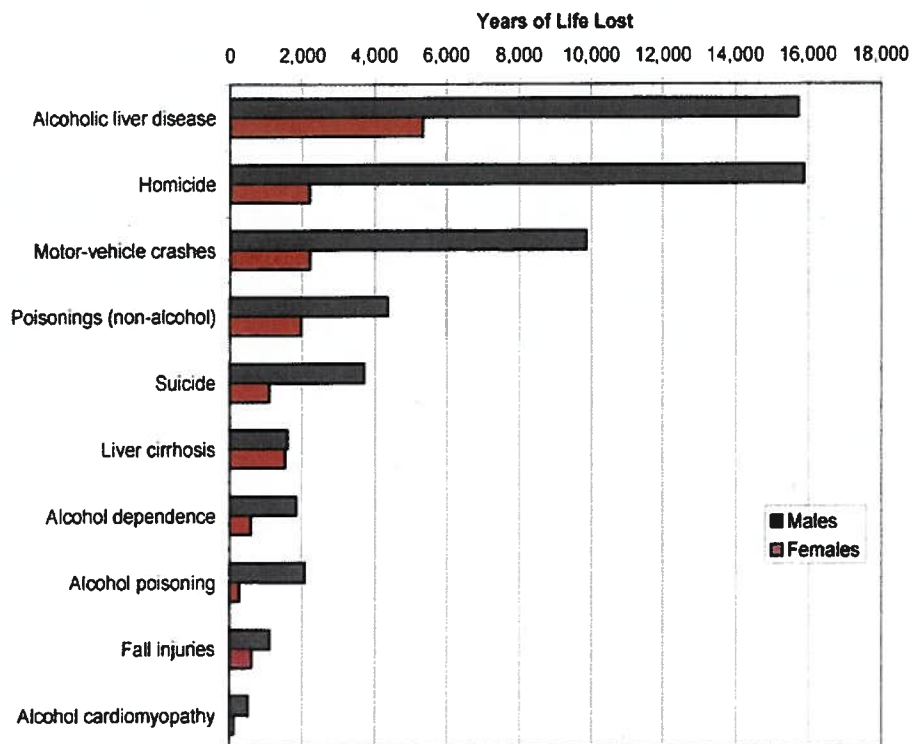
**Table 2. Alcohol-Related Harms, by City and Community, Los Angeles County<sup>20-22</sup>**

City/Community Name	Violent Crime Rate (/1,000)	Rank/Quartile	Motor Vehicle Crash Rate (/10,000)	Rank/Quartile	Alcohol-Related Death Rate (/100,000)	Rank/Quartile
South San Jose Hills	4.3	61	7.4	25	11.4	95
South Whittier	3.6	45	9.1	39	12.7	107
Temple City	2.1	19	3.2	3	6.7	30
Torrance	2.3	23	3.8	5	7.3	36
Valinda	3.5	42	6.1	12	5.5	17
View Park-Windsor Hills	7.3	98	13.9	97	4.8	13
Vincent	3.2	37	6.8	20	8.9	53
Walnut	1.6	11	4.2	6	1.9	3
Walnut Park	5.3	73	9.6	44	8.0	40
West Carson	5.3	73	9.6	45	15.0	113
West Covina	3.6	45	16.1	107	8.9	53
West Hollywood	8.7	105	35.1	115	10.0	71
West Puente Valley	3.6	45	6.1	13	10.9	90
West Whittier-Los Nietos	3.8	52	12.2	78	11.6	99
Westmont	20.8	117	12.5	79	10.5	82
Whittier	3.7	50	12.7	83	12.6	106
Willowbrook	15.4	114	13.3	92	10.5	82

Lowest (1st to 29th)
  Low (30th to 58th)
  High (59th to 88th)
  Highest (89th to 117th)

Excludes cities/communities with populations less than 10,000

**Figure 3. Leading Causes of Years of Life Lost Due to Alcohol for Males and Females, Los Angeles County, 2007<sup>24</sup>**



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# **Liquor Stores, Bars and Nightclubs: Conditional Use Permits and Best Practices for Regulating Alcohol Sales**

Thursday, September 22, 2011 General Session; 1:00 – 2:45 p.m.

Steven T. Mattas, Meyers Nave

**EXHIBIT D**  
CC MTG. 5/15/12







**LIQUOR STORES, BARS &  
NIGHTCLUBS:  
Conditional Use Permits and Best Practices for  
Regulating Alcohol Sales**

**League of California Cities Annual Conference  
September 22, 2011**

**Prepared By:**

**meyers | nave**

**Attorneys Steve Mattas and Jason Rosenberg**

## **I. Introduction**

Alcohol sales at liquor stores, bars and nightclubs create social and economic challenges for California's communities. Neighborhoods where bars, restaurants, liquor stores and retail outlets that sell alcohol are close together or concentrated suffer more frequent incidences of violence, social dislocation, medical emergencies and property crimes.<sup>1</sup> However, direct regulation of alcohol outlets by local governments is limited by California's existing regulatory framework.

Upon the ratification of the Twenty-First Amendment, states became empowered to regulate alcohol sales, consumption, production and transportation. California gave exclusive jurisdiction to the state over manufacture, sale, purchase, possession and transportation of alcoholic beverages. In California, this regulatory authority is vested in the Department of Alcoholic Beverage Control ("Department"), which has the dual responsibility for both the issuance of liquor licenses and the regulation of existing licensees. The Department issues two broad categories of alcohol licenses. On-sale licenses are issued for businesses that sell alcohol for consumption on the premises, such as bars and restaurants. Off-sale licenses are issued for businesses that sell alcohol for consumption off the site, such as grocery stores, liquor stores, and corner markets. Additionally, one-day licenses are issued for the sale of alcohol at special events.

Because local authority to regulate alcohol sales and related activity is largely preempted by the Department, the challenge that cities face is how to properly regulate the ancillary aspects of alcohol sales without regulating in areas of exclusive state authority. Cities' land use and police powers function as the effective tools in exercising local control over alcohol sales and its secondary effects.<sup>2</sup>

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<sup>1</sup> Pacific Institute for Research and Evaluation. Accessed online at: <http://resources.prev.org/documents/AlcoholViolenceGruenewald.pdf> (visited July 25, 2011).

<sup>2</sup> Special Thanks to Stacy L. Saetta of Monterey County Counsel's Office for her advice and recommendations concerning best practices for comprehensive ordinance adoption.

## II. State Regulation of Alcohol Sales

### Limited Local Authority and State Preemption

In 1955, the California Constitution was amended to establish a uniform framework for licensing alcoholic beverage sales throughout the state. The Constitution provides that “[t]he State of California. . . shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State.”<sup>3</sup> The sale of alcohol is also regulated by the Alcoholic Beverage Control Act (Bus. & Prof. Code §§ 23000-25762). Accordingly, the Department was established to oversee the licensing process and it was given both the power to issue and revoke liquor licenses.<sup>4</sup> The Department has specific criteria upon which it is permitted to issue and revoke licenses, and cities’ ability to participate in the Department’s license regulation is limited. Nevertheless, cities may participate in the Department’s licensing in a limited fashion, but also impose regulations pursuant to valid police power and/or land use authority. Local government regulation beyond those areas that have been specifically authorized by state law is preempted.

### State License Issuance

Article XX, §22, of the California Constitution grants the Department the exclusive power to license the sale of alcoholic beverages in California. Section 22 grants the Department the power, *in its discretion*, to deny, suspend or revoke any specific alcoholic beverage license if it shall determine *for good cause* that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct

<sup>3</sup> Cal. Const., art XX §22.

<sup>4</sup> *Stroh v. Midway Restaurant*, (1986) 180 Cal. App. 3d 1040, 1047.

involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State. [Emphasis added.]

The Legislature gave the Department the responsibility to “ensure a strict, honest, impartial, and uniform administration and enforcement of the liquor laws throughout the State.”<sup>5</sup> In delegating regulatory authority to the Department, the Legislature also provided guidance for overseeing the licensing process. When issuing licenses, the Department may only grant a license if it determines that the license will not be contrary to the “public welfare or morals.” Additionally, the Department is authorized to refuse issuing any retail license for premises located within the immediate vicinity of churches and hospitals.<sup>6</sup> The Department is also specifically authorized to refuse to issue a license for any premises located within 600 feet of “schools and public playgrounds or nonprofit youth facilities, including, but not limited to, facilities serving Girl Scouts, Boy Scouts, or Campfire Girls.”<sup>7</sup> However, this legislative authorization gives the Department the authority, but not the mandate to issue licenses. Therefore, the determination of whether an applicant is within the “immediate vicinity” of a church or hospital lies within the discretion of the Department.

#### No “Undue Concentration”

State law, however, directs the Department to deny a license if, “issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4.”<sup>8</sup> “Undue concentration” is a key standard in evaluating state and local responsibilities in controlling the adverse consequences of alcohol sales. An “undue concentration” exists when an “applicant’s premises are located in a crime reporting district that has a 20 percent or greater number of Reported Crimes...than the average number of reported crimes as determined from all the crime Reporting

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<sup>5</sup> Bus. & Prof. Code § 23049.

<sup>6</sup> Bus & Prof. Code § 23789.

<sup>7</sup> *Id.*

<sup>8</sup> Bus. & Prof. Code §23958.

Districts within the jurisdiction,” or when the census tract in which the applicant’s store is located “exceeds the ratio of on sale retail licenses to population in the county in which the applicant premises are located.”<sup>9</sup> A city may determine that there is an "undue concentration" of off-sale beer and wine licenses in a given location and that the public convenience and necessity would not be served by approval of the proposed license.

#### Licensee Cannot Conflict with Local Zoning Ordinance

In addition, under Bus & Prof. Code §23790, The Department may not issue a liquor sales license for premises located in an area where the terms of the license conflict with a valid zoning ordinance, unless the following are met: (1) the premises were licensed before adoption of the zoning ordinance, (2) the license will be of the same type and classification as the prior license, and (3) the licensed premises have operated continuously without substantial change in mode or character of operation. Accordingly, a city ordinance denying a use permit for a cocktail bar in a shopping center was upheld because it was supported by findings that the bar would disrupt the peace, health, and general welfare of the people in the area, and more specifically because of the proximity of the bar to surrounding residences.<sup>10</sup> Similarly, a court upheld an ordinance that grandfathered an existing restaurant with only a beer and wine license in a residential zone while barring an expansion of the license to include the sale of distilled liquors.<sup>11</sup> Also, Bus & Prof Code § 23800 authorizes the Department to impose conditions prepared by the Department or requested by a city or county on liquor licensees in certain situations, including the transfer of a license. In fact, license applicants are required to provide a zoning affidavit affirming that issuance of the license will not be contrary to applicable zoning standards. Assuming the license is consistent with local zoning, in order to carry out its mandate to protect the public welfare and morals, the Department is required to conduct a “thorough

<sup>9</sup> Bus. & Prof. Code §23958.4(a).

<sup>10</sup> *Floresta, Inc. v City Council of the City of San Leandro* (1961) 190 Cal.App.2d 599.

<sup>11</sup> *Town Council of the Town of Los Gatos v State Board of Equalization* (1956) 141 Cal.App.2d 344.

investigation” to determine that the license will comply with all statutory criteria for the issuance of a liquor license.<sup>12</sup>

### Department Discretion

However, despite this seemingly clear mandate, the Department tends not to err on the side of the community and issues licenses amidst opposition from local government and community leaders. In such instances the Department’s broad discretion can undermine a local jurisdiction’s ability to manage alcohol related social and police problems. In practice, it is also difficult to overturn a decision of the Department. While the Department may delegate the power to hear from all parties and decide a licensing question to an Administrative Law Judge, the Department must render the final decision: whether it is to adopt the recommendation of the Administrative Law Judge, or to render a decision notwithstanding the Administrative Law Judge’s recommendation.<sup>13</sup>

If a party seeks to challenge a decision by the Department regarding its decision on a liquor license, the petitioner must bring its challenge before the Alcoholic Beverage Control Appeals Board (“Appeals Board”) to determine whether there is substantial evidence to reasonably support the findings of the Department. However, the Appeals Board “will indulge all legitimate inferences in support of the Department’s determination.”<sup>14</sup> If, after reviewing the Department’s decision, the Appeals Board determines there is substantial evidence in the record to support the Department’s decision, the Appeals Board will uphold the Department’s decision. The courts will also review the Department’s decisions under the same standard of review.<sup>15</sup> However, such review is wholly discretionary with the court and the courts are under no obligation to accept such cases. There is, therefore, no guarantee that the Department’s decisions

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<sup>12</sup> Bus. & Prof. Code §23958.

<sup>13</sup> Bus. & Prof. Code §24210.

<sup>14</sup> *Dept. of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2004) 118 Cal.App.4th 1429, 1437.

<sup>15</sup> Bus. & Prof. Code § 23090.2.

will be subject to judicial review. As a result, this deferential standard of review protects the Department's interpretations and decisions with regard to fulfilling its statutory mandate.

A local agency may also file accusations against license holders with the Department. The Department then has discretion to decide whether to proceed with a formal accusation against a license holder.<sup>16</sup> The grounds for suspension or revocation are that the continuance of the license would be contrary to public welfare or morals; the licensee failed to take reasonable steps to correct objectionable conditions on the licensee's premises or immediately surrounding area including public sidewalks and streets within 20 feet of premises; or the failure to abate nuisances, such as disturbance of the peace, public drunkenness, drinking in public and harassment to passersby, after notification by the city attorney.<sup>17</sup> Reasonable steps are defined as timely calls to law enforcement asking for assistance in abating nuisance conditions, asking persons engaging in nuisance activities to cease such activities and the removal of items that facilitate nuisances, such as furniture.<sup>18</sup> Courts have ruled that the existence of a public nuisance, regardless of fault by the license holder, may support the revocation of a license.<sup>19</sup>

Business and Professions Code section 24203 also provides that "accusations may be filed with the Department by the legislative body. . . of any city. . . requesting the suspension or revocation of a retail license. Upon the filing of the accusation, the Department shall provide for a public hearing. . . and determine whether or not the license should be revoked or suspended." Furthermore, if the local legislative body certifies that "the public safety, health, or welfare requires immediate hearing of the accusation; the public hearing shall be held within 60 days after the filing of the accusations with the Department."<sup>20</sup> Using this provision allows the city to directly file an accusation against a license holder and entitles the city to a hearing in front of the

<sup>16</sup> Bus. & Prof. Code §24201.

<sup>17</sup> Bus. & Prof. Code §24200.

<sup>18</sup> *Id.*

<sup>19</sup> *Yu v. Alcoholic Beverage Appeals Bd.* (1992) 3 Cal.App.4th 286.

<sup>20</sup> Bus. & Prof. Code §24203.

Department to determine whether or not to revoke or suspend a liquor license. The Department does not have discretion to deny a hearing if it is requested by the City Council.<sup>21</sup>

This course of action, however, like the original license issuance decision also places a great deal of discretion in the hands of the Department. Moreover, as with other Department decisions, the Department's decision is difficult to overturn through a legal challenge. In order to successfully proceed with an accusation against a license holder, a city will have to accumulate substantial evidence that a license holder is creating a public nuisance or creating a law enforcement problem as a result of its sale of liquor.

### Miscellaneous Local Regulation

Lastly, cities retain limited authority to regulate the consumption of alcoholic beverages.<sup>22</sup> Regulation of mere possession of alcohol, however, is unconstitutional absent specific legislative authorization.<sup>23</sup> Penal Code Section §647(e), however, authorizes city regulation of possession of open container on certain licensed premises, and Bus & P C §25620 authorizing city regulation of open container in city-owned public place. Cities also have limited authority to regulate the concurrent sale of gasoline and beer or wine at a given location as defined by statute.<sup>24</sup>

### **III. Nuisance Regulation**

A city can exert a certain degree of control over alcohol outlets through its inherent authority to regulate nuisances. A city can adopt an ordinance directed at the abatement of potential nuisance activity around businesses that sell alcoholic beverages, even though such adopted regulations may in fact prohibit the sale of alcohol at particular locations.<sup>25</sup> The right to

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<sup>21</sup> *Id.*

<sup>22</sup> *People v Brewer* (1991) 235 Cal.App.3d 909; *People v Butler* (1967) 252 Cal.App.2d.Supp 1053.

<sup>23</sup> *People v Duran* (1995) 43 Cal.App.4th.Supp 1.

<sup>24</sup> Bus. & Prof. Code §23790.5.

<sup>25</sup> *Korean Am. Legal Advocacy Found. v. City of Los Angeles* (1994) 23 Cal.App.4th 376.



control and abate nuisance and criminal activities by ordinance applies to all alcoholic beverage establishments, including those in operation before an ordinance's effective date.

### Traditional Nuisance Abatement

Cities may also regulate alcohol outlets on an individual basis through the traditional nuisance abatement authority by declaring a building or place where liquor is unlawfully sold a public nuisance.<sup>26</sup> The Unlawful Liquor Sale Abatement Law (Pen Code §§ 11200 – 11207) provides cities with the ability to declare and abate a nuisance when an establishment is selling liquor unlawfully.<sup>27</sup> Recently, the Second Appellate District upheld a permanent injunction against a café that was found to be unlawfully selling alcohol to its patrons.<sup>28</sup> The City of Los Angeles sought and obtained an injunction against a café that was selling alcohol to visibly intoxicated patrons based on a finding of nuisance under the Unlawful Liquor Sale Abatement Law.<sup>29</sup> In upholding the injunction, the Court of Appeal stated that Penal Code section 11200 has a broad reach which encompasses unlicensed liquor sales and unlawful sales, even if lawful sales also occur on the premises.<sup>30</sup> Thus, if a city finds that off-sale alcohol sales establishments are violating laws, and they have a negative effect on the health, safety, and general welfare of those living and working in the area, one available course of action is to declare the activity a public nuisance. The city attorney may then maintain an action to abate and prevent the nuisance.<sup>31</sup> However, this approach is time intensive and must regulate problem alcohol outlets on a case by case basis.

<sup>26</sup> Pen C §11200.

<sup>27</sup> Pen C § 11200-11207.

<sup>28</sup> See *People v. Schlimbach* (2011) 193 Cal.App.4th 1132.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 1141-1144.

<sup>31</sup> Pen C §§11200-11201.

## The City of Oakland “Deemed Approved” Model

The City of Oakland (“Oakland”) tested the limits of the state preemption issue by instituting a “deemed approved” program for existing licensees. Oakland’s program was created as a means of imposing operating standards on legal nonconforming retail alcohol outlets established prior to adoption of the Oakland’s conditional use permit requirements. As part of its program, Oakland adopted a comprehensive code enforcement scheme that the California Court of Appeals has upheld as a permissible use of a city’s police power and authority to regulate nuisances and criminal activities in the areas surrounding alcoholic beverage retail sellers.<sup>32</sup> Oakland’s ordinance was challenged as to whether it could apply its deemed approved program to licensees that had sold liquor prior to the adoption of the ordinance. Specifically, at issue was whether the deemed approved ordinance violated Business and Professions Code section 23790, which prohibits new zoning regulations barring the sale of liquor at a site from being applied to “grandfathered” establishments. The court ruled that the regulations were not intended to control the sale of alcoholic beverages, but instead were intended to eliminate nuisance and criminal activities.<sup>33</sup> Although the ordinance did not prohibit licensees from selling alcoholic beverages, it did prevent licensees from creating nuisances and facilitating criminal activity at their stores and in the surrounding areas.

The Oakland Ordinance establishes that the sale of alcoholic beverages in Oakland is deemed to be an approved commercial activity, so long as the seller complies with the “Deemed Approved Performance Standards.” The performance standards require that the sale of liquor at a site does not:

1. result in adverse effects to the health, peace, and safety of persons residing or working in the surrounding areas;
2. jeopardize or endanger the public health or safety of persons working in or residing in the

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<sup>32</sup> *City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740.

<sup>33</sup> *Id.* at 765.

surrounding area;

3. result in repeated nuisance activities within the premises or close proximity of the premises, including but not limited to illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, the sale of stolen goods, public urination, thefts, assaults, littering, loitering, police detentions, arrests;
4. violate any city, state, or federal regulation, ordinance, or statute; or
5. have upkeep or operating characteristics that are incompatible with the surrounding area or adversely affect the liability of appropriate development of abutting properties.<sup>34</sup>

If the sale of liquor causes a violation of one of the established performance standards, then an administrative hearing is held to review the complaint. Complaints can come from the police department or the general public. The administrative hearing officer then holds a hearing to determine whether the standards have been violated, and at that point, may impose conditions on the merchant in order to enforce the Deemed Approved standards. If the merchant violates those conditions, the Deemed Approved status may be revoked. Once appeals of the administrative hearing officer's decision to the city council are exhausted, the City may seek to have the activity abated as a nuisance. The city may also refer the matter to the Department for revocation of the liquor license. Lastly, to pay for the enforcement of the ordinance, Oakland imposes a \$600 fee on liquor licensees.

Violations of the ordinance do not result in the forfeiture of the merchant's liquor license, because only the Department has the constitutional authority to revoke a liquor license. A violation, however, does prevent the merchant from selling liquor at the location where the violation occurred. Furthermore, violations can be forwarded to the Department for possible revocation.

<sup>34</sup> *City of Oakland Deemed Approved Alcoholic Beverage Sale Regulations*, Title 17 Planning, §§17.156 et seq.

#### IV. Regulation through Local Zoning Ordinance

The Department of Alcoholic Beverage Control may not issue an alcoholic beverage retail license for any business located in a zone where the exercise of the rights conferred by that license would be contrary to a valid local zoning ordinance.<sup>35</sup> When enacting a zoning ordinance, a key distinction involves the status of the specific licensed premise as a “new” or “pre-existing” outlet at the time a city enacts a new ordinance or regulation. A retailer whose business is already in place receives far greater protection under state law than outlets that are proposed following enactment of a valid zoning ordinance.<sup>36</sup> Thus, a city that wants to restrict alcohol outlets from locating near schools cannot impose the new restriction on an existing outlet, but can prohibit a new outlet from locating in the restricted zone or selling a restricted product.

##### Los Angeles’ Ordinance

In an attempt to define the limitations local government may impose on alcohol-serving establishments, courts have consistently held that local ordinances that do not directly affect the sale of alcohol are not preempted by the powers granted to the Department. In 1994, in *Korean American Legal Advocacy Foundation v. City of Los Angeles*,<sup>37</sup> the California Court of Appeal examined the extent to which the state had preempted the field of alcohol regulation. The case was set against the backdrop of the 1992 Los Angeles riots and the effort to rebuild stores destroyed during that period of civil unrest. Since 1985, the City of Los Angeles had required business engaged in the sale of off-site alcoholic beverages to obtain conditional use permits. In 1987, the city adopted a specific plan, which required conditional use approvals for establishments dispensing alcohol in South Central Los Angeles, and provided that approval was contingent on specified findings. Businesses in operation before the effective dates of either ordinance enjoyed “deemed approved” conditional use status. In the aftermath of the riots, the city adopted ordinances to facilitate rebuilding, with expedited procedures to process building

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<sup>35</sup> Bus. & Prof. Code § 23790; *City of Oakland v Superior Court* (1996) 45 Cal.App.4th 740.

<sup>36</sup> Bus. & Prof. Code § 23790

<sup>37</sup> *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376.

permits in conformity with existing code provisions. However, all conditional uses, including conditional uses selling alcoholic beverages for off-site consumption, had to submit plans for approval before rebuilding. Such approval could be made contingent on conditions (such as graffiti removal, adequate lighting, trash removal, security guards and limited hours of operation) imposed on the same basis as for new conditional uses. In addition to the plan approval process, the city instituted “revocation hearings” to revoke or condition an owner’s deemed approved status or use permit in the event the business threatened to become, or had become, a nuisance or law enforcement problem. The plaintiffs, many of whom had stores destroyed during the riots, brought suit, challenging the validity of the ordinance imposing the plan approval process and establishing revocation hearings. They alleged that Los Angeles’ plan approval and revocation processes were completely preempted by the state constitution, which specified that the state had exclusive authority to regulate the sale of alcoholic beverages and exercised this exclusive jurisdiction through the Alcoholic Beverage Control Act.<sup>38</sup>

In addressing the preemption challenge, the court examined the purpose of the ordinance and noted that the conditions imposed by the city did not have the effect, either direct or indirect, of regulating the “manufacture, sale, purchase, possession or transportation” of alcoholic beverages.<sup>39</sup> Rather, the conditions imposed under the plan approval process were aimed at controlling or eradicating the negative secondary impacts often associated with establishments that sell alcoholic beverages.<sup>40</sup> Accordingly, the ordinance was deemed permissible as it was aimed at land use and zoning - to abate or eradicate nuisance activities in a particular geographic area by imposing conditions aimed at mitigating those effects - rather than the regulation of alcohol. The validity of the ordinance was underscored by the fact it focused on the negative conduct occurring in the immediate vicinity of businesses selling alcohol for off-site consumption; “[t]hat the conditions imposed under the ordinance may have some indirect impact on the sale of alcoholic beverages does not transmute the purpose and scope of the ordinance into

<sup>38</sup> *Id.* at 385.

<sup>39</sup> *Id.* at 385-87.

<sup>40</sup> *Id.* at 387.

a regulations merely seeking to control alcohol sales.”<sup>41</sup> Thus, provided that an ordinance imposes land use and zoning regulations, and applies them properly, the zoning regulation should be valid.

## **V. Recommended Practices**

Any local zoning ordinance aimed at regulating retail alcohol outlets should comprehensively seek to regulate, by including both conditional use permit (“CUP”) and Deemed Approved provisions. By including both of these provisions, the city will properly distinguish between pre-existing and new alcohol outlets. Both of these provisions are also flexible enough to vary according to each city’s needs. The recommended approach for regulating pre-existing alcohol outlets, both for on-sale and off-sale outlets is the Oakland Deemed Approved model, as described above. This provides a city with as much regulatory control over existing outlets as is permissible under the state statutory framework. Further, this approach has been upheld by courts as valid.

### Findings and Statement of Purpose

The ordinance should contain specific findings that will give the proper justification for any conditions and/or operating standards that are imposed. As is the case with other conditions imposed on a property, the conditions imposed must be related to the goals of the ordinance. The findings establish the need for the ordinance, listing the specific problems that are to be alleviated. These should be adapted to local circumstances, including any local data regarding alcohol problems and their link to retail alcohol sales. The purposes section can augment the findings from the introductory section, such as focusing on the rationale for requiring CUPs for new alcohol outlets. Carefully drafted findings and purpose sections are important to establish the city’s rationale and authority to take action.

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<sup>41</sup> *Id.*

### Regulation of Retail Outlet Locations

The Department may not issue alcohol licenses for premises located in the immediate vicinity of churches and hospitals.<sup>42</sup> In addition to the state law restrictions concerning location of outlets near those sensitive uses, a local ordinance can further restrict outlet locations through a valid zoning ordinance. Zoning ordinance restrictions regarding the location of outlets could restrict the outlets to certain zones, by defining the alcohol sales use and then restrict alcohol outlets from a zone within the city's zoning ordinance, such as residential zones. Conversely, the ordinance could restrict alcohol outlets only to certain commercial zones. In addition, the adopted ordinance may want to require spacing requirements by imposing specific distances from sensitive uses, such as playgrounds, schools, hospitals, high crime districts, etc. Lastly, the ordinance could require distance requirements between outlets. For example, no more than four alcohol retail outlets can be allowed within a 1,000 foot radius of each other. The location requirements may also choose to focus on particular types of alcohol outlets. For example, restaurants or grocery stores with relatively limited alcohol sales may be treated differently from bars, nightclubs, or liquor stores.

### Conditional Use Permit Provisions

An ordinance containing CUP provisions is an effective tool for local regulation of retail alcohol outlets. When regulating new outlets, establishing specific CUP provisions is the most effective method to impose local conditions and sanction those that do not comply with the enacted conditions. Additionally, the CUP allows cities to take much swifter action than if a city was forced to rely on the Department to take action. Lastly, the CUP provides individuals and groups within the community a voice in the decision-making process with respect to how proposed retail alcohol outlets would impact the community.

Any adopted CUP ordinance must be cognizant of the areas upon which state law has exclusive jurisdiction which is, "the manufacture, sale, purchase, possession and transportation of alcoholic beverages."<sup>43</sup> However, when acting within those restrictions, a city can properly adopt and enforce operating restrictions that will meet the particular needs of its communities.

<sup>42</sup> Bus. & Prof Code § 23789.

<sup>43</sup> Cal Const. Art. XX, § 22.

Operational standards and conditions of approval can work in conjunction to comprehensively regulate new outlets. Operational standards are mandatory requirements that apply to all outlets, are typically general in nature, and can often be similar to the Deemed Approved operating standards. For example, operating standards can have restrictions against public nuisance activities and activities that violate state or local laws.

Although related to operating standards, conditions of approval are more specific and should be tailored to local issues. The conditions can be either standard or discretionary. If standard, they apply to all new outlets automatically; if discretionary, the permitting agency considers their applicability on a case-by-case basis and tailored to the specific application and the surrounding neighborhood. Erring on the side of over inclusion is recommended; if it is uncertain whether a given condition is relevant, it can be treated as discretionary and used only if warranted for particular retail outlets. Some conditions to consider are as follows:

- Soundwalls
- Prohibited Products
- Graffiti Removal
- Chilled Alcoholic Beverages
- Exterior Lighting
- Hours of Operation
- Trash Receptacles
- Paper or Plastic Cups
- Pay Telephones
- Size of alcohol signage
- Complaint Response – Community Relations Program
- Loitering
- Prohibited Activities (e.g. pool tables)
- Security Cameras
- Prohibited Vegetation
- Limitations on signs and advertising on windows of doors in off-sale outlet

#### Provisions Specific to On-Sale Outlets

Although the regulatory framework for on-sale and off-sale alcohol outlets are the same, on-sale outlets can present different issues than off-sale outlets. Because of this variation, cities may want to consider specific regulation for on-sale outlets. For example, nightclubs present operational issues that regulations tailored to liquor stores may not adequately cover. Operating hours restrictions would presumably be different for nightclubs. Additionally, requiring security and noise restrictions for nightclubs is also recommended.



Some cities have a cluster of on-sale outlets within one area that becomes a focal point for entertainment and tourism. Whether a city desires this “entertainment zone” or not, when such zones emerge, including additional provisions for those zones may help to minimize some of the impacts from several inebriated customers streaming out of closing bars all at once. Additionally, some potential conditions for Entertainment Zones could be restricting the number of alcohol licenses within a defined zone and prohibition of transferring a permit from one zone to another zone.

Other on-sale outlets that may present unique issues are restaurants. Cities may want to consider whether or not to include “full service restaurants” as an outlet subject to the CUP ordinance. Some cities, for example, exclude restaurants from their ordinances, provided that they meet strict criteria in terms of food sales, hours of operation, kitchen facilities, among other factors, to ensure that a restaurant does not transform into a more problematic mode of business. Regardless of a city’s desire to subject a full service restaurant to CUP ordinance regulations, the ordinance’s definitions should clearly define what constitutes a full service restaurant. Adopting restaurant specific operational requirements can prevent businesses from opening under the guise of a full service restaurant, but not actually operating as such, and in effect operate as a bar with little regulatory oversight. Some options for regulating restaurants include: treating restaurants similarly to other types of outlets; exempting them from the ordinance entirely; or developing separate standards applicable to restaurants.

#### Additional Ordinance Considerations

Some jurisdictions also charge an annual business license renewal fee to any bar, nightclub, restaurant, or grocery store permitted by the state to sell alcohol. The money generated pays for police officer(s) assigned to moderate the excesses associated with the sale of alcohol. If the exaction is imposed as a "fee," rather than a tax or an assessment, no election is required. Businesses that will likely generate more police response would pay more than those that do not. For example, large nightclubs with dance permits that stay open until 2:30 a.m. pay around \$1,700 per year, and small corner markets that sell beer and wine would pay close to \$300 per year.

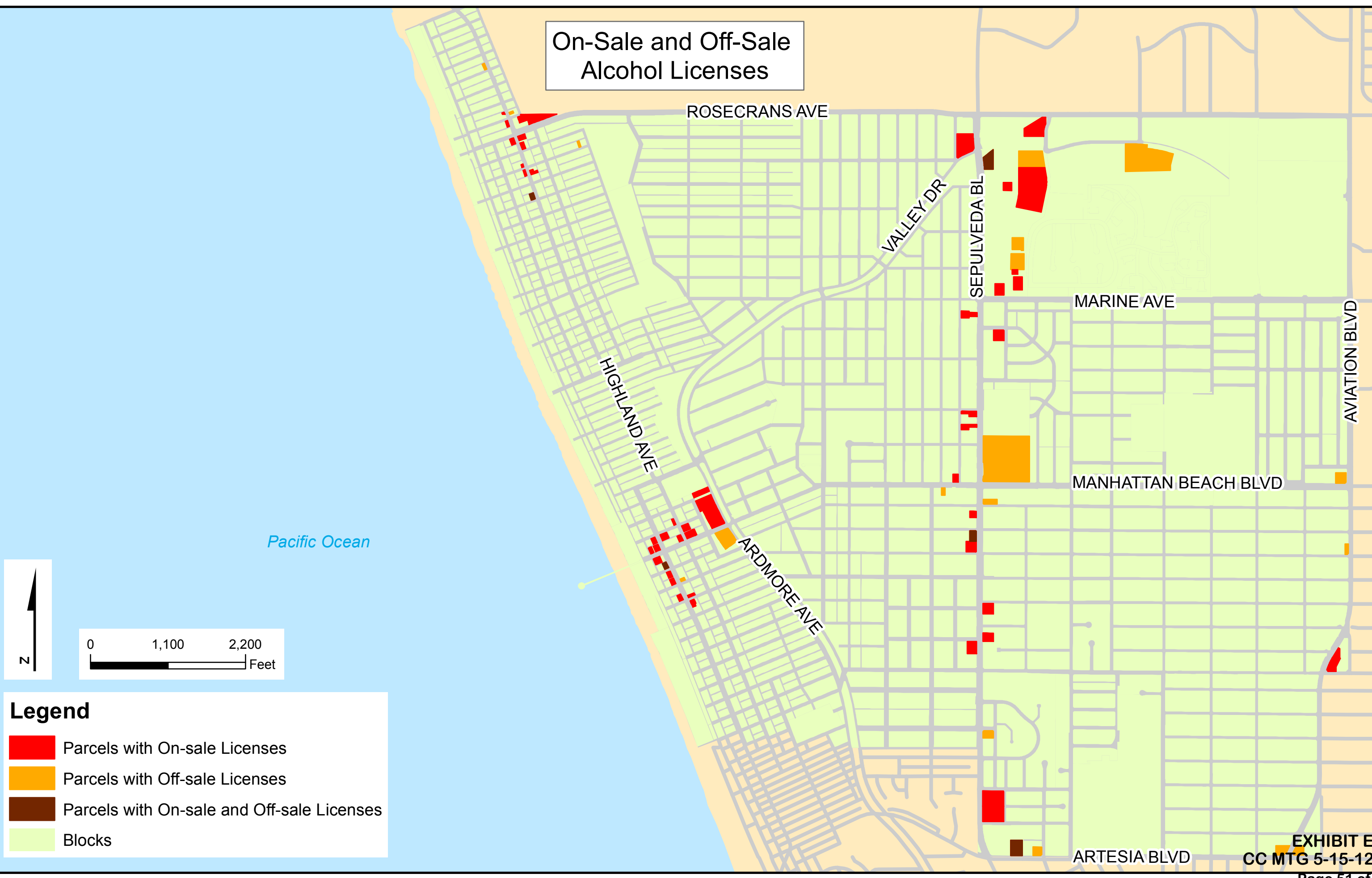
## **VI. Conclusion**

While the State has express authority over the licensing and regulation of alcohol sales, local governments retain the right, under the police power, to regulate the impact of alcohol availability on the public health, safety and welfare of the community. When the existence of licensed alcoholic beverage establishments creates negative secondary impacts, local governments must continue to address these impacts while not treading in the exclusive area of the State's authority.

Although there are limited opportunities for cities to play a role in the state regulatory process, cities can nonetheless use their land use and police powers to exert control over retail alcohol outlets. When regulating pursuant to land use and/or police power authority, cities are able to employ a strategic approach to managing alcohol sales and affiliated issues. Any adopted ordinance should distinguish between pre-existing outlets and new outlets, with the deemed approved program and conditional use permit requirements.

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# On-Sale and Off-Sale Alcohol Licenses



**Legend**

- Parcels with On-sale Licenses
- Parcels with Off-sale Licenses
- Parcels with On-sale and Off-sale Licenses
- Blocks