

CITY OF
HAYWARD
HEART OF THE BAY

**Recommended Revisions to Hayward's
Alcohol Beverage Outlet Regulations**

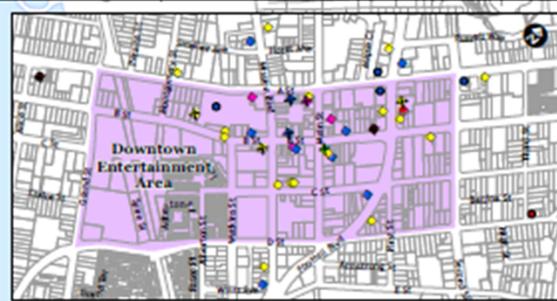
**City Council Work Session
December 4, 2012**

David Rizk, AICP, Development Services Director
Diane Urban, Chief of Police





ABC Retail Licenses in Hayward



See Downtown Inset

- ABC Active Retail Licenses, November 2012 (209 Licenses)**
- Type 20: Off Sale Beer & Wine (29 Licenses)
 - Type 21: Off Sale General (49)
 - Type 40: On Sale Beer (5)
 - Type 41: On Sale Beer & Wine, Eating Place (84)
 - Type 42: On Sale Beer & Wine, Public Premises (1)
 - Type 47: On Sale General, Eating Place (25)
 - Type 48: On Sale General, Public Premises (15)
 - ▲ Misc Licenses (4)
 Type 51: Private Club
 Type 69: On-Sale Beer and Wine for Hospital
 Type 70: On Sale General, Restrictive Service
 Type 89: On-Sale General, Caterer's License

× Licenses with Existing Use Permits (26 Total)



Outline of Presentation

- Overview of Existing Regulations
- Summary of Major Objectives and Proposed Revisions
- Next Steps



Overview of Existing Regulations

- All establishments selling alcohol must have a license from the CA Dept. of Alcohol Beverage Control (ABC)

| | |
|----|---|
| 20 | OFF SALE BEER & WINE - (Package Store) Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises. |
| 21 | OFF SALE GENERAL - (Package Store) Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises. |
| 23 | SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery) Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant. |
| 40 | ON SALE BEER - (Bar, Tavern) Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises. |
| 41 | ON SALE BEER & WINE – EATING PLACE - (Restaurant) Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises. |
| 42 | ON SALE BEER & WINE – PUBLIC PREMISES - (Bar, Tavern) Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required. |
| 47 | ON SALE GENERAL – EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises. |
| 48 | ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required. |



Overview of Existing Regulations

- City's regulations were first adopted in 1993 and revised in 2006
- “To provide for the orderly integration of alcohol-related uses, including the sale of wine and beer.”
- Require all new establishments to operate under a conditional use permit (CUP), except:
 - a) Full-Service Restaurants (ELEPHANT BAR)
 - b) Stores $\geq 10,000$ sf in area where $\leq 5\%$ of area is devoted to alcohol sales, storage, and display (SAFEWAY, LUCKY's)
 - c) Special event functions < 3 days in length (or 5 days per year) (DOWNTOWN SUMMER STREET FAIRS)



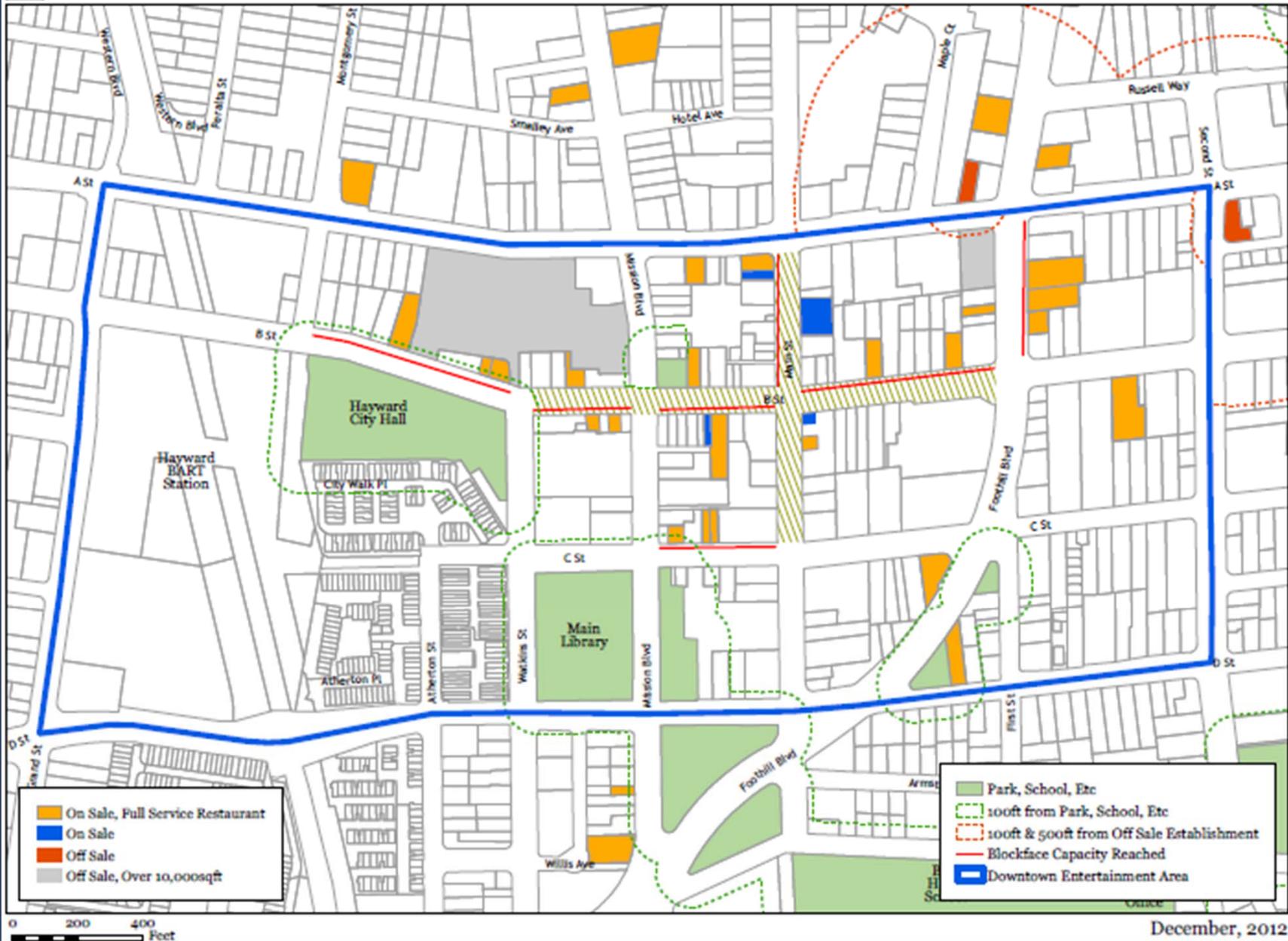
Overview of Existing Regulations

- Provisions provide separation standards for new on-sale establishments in the Downtown and elsewhere in the City and for new off-sale establishments in the Downtown
 - ✓ Note there is no separation standard for Downtown for new off-sale establishments.





Requirements for New On Sale Establishments Downtown



Overview of Existing Regulations

- An existing nonconforming establishment is required to get a CUP if:
 - ABC license type changes; or
 - if establishment substantially changes its mode or character or operation (e.g., expansion of alcohol-related area, cessation of operation >6 months; habitual conduct in violation of laws)



Summary of Major Objectives and Proposed Revisions

- Better promote and attract desirable alcohol-serving businesses;
- Ensure future alcohol-serving uses will be operated in a safe and responsible manner and contribute positively to Hayward;
- Develop more aggressive ways to proactively and immediately shut down undesirable businesses; and
- Provide a funding structure to support City staff activity and costs associated with enforcement of regulations associated with alcohol establishments.



Better promote and attract desirable alcohol-serving businesses

- Full-Service Restaurants - codify trial program to allow happy hours from 4 to 9 pm and music (live or recorded) until midnight and dancing with a dance/entertainment permit from the Chief of Police
- Allow certain new uses to operate with an Administrative Use Permit, versus a Conditional Use Permit (e.g., wine shop, boutique store)
- Add following to purpose section of regulations: “It is also recognized that regulations that promote responsible alcohol sales and consumption can help contribute to economic vitality, particularly in designated areas of Hayward.”



Ensure future alcohol-serving uses will be operated in a safe and responsible manner and contribute positively to Hayward;

- Develop new definition for entertainment establishment
- Update the public dance provisions of the Hayward Code, to include standards (e.g., security and operating requirements)
- Require listed possible conditions for new establishments as required standards (similar to those for full-service restaurants)
- Codify the 2006 Council resolution regarding public convenience and necessity finding for liquor stores and bars



Develop more aggressive ways to proactively and immediately shut down undesirable businesses

- Deemed Approved Provisions
 - All nonconforming uses would be deemed approved and subject to basic operating standards



| ABC License Types | Number of Establishments | Establishments with a CUP or AUP | Approximate Number of Stores >10,000 sf in Size | Assumed Number of Nonconforming Establishments |
|--|--------------------------|----------------------------------|---|--|
| 20,21: Off-Sale (stores) | 78 | 8 | 27 | 43* |
| 41,47: On-Sale (Restaurants) | 106 | 14 | NA | 0* |
| 40, 42, 48: On-Sale (Bars, Nightclubs) | 21 | 4 | NA | 17 |
| 58, 63, 70, 86: On & Off-Sale (Misc-hospitals, etc.) | 4 | 0 | NA | 4 |
| TOTALS | 209 | 26 | 27 | 64 |

**Staff has not conducted a detailed survey to confirm restaurants are operating in compliance with the standards for full-service restaurants and that no more than five percent of the floor areas of stores are being used for alcohol sales, display, and storage. Meeting such standards would eliminate the need for a conditional use permit (CUP) for those establishments.*



Develop more aggressive ways to proactively and immediately shut down undesirable businesses

- Deemed Approved Provisions
 - All nonconforming uses would be deemed approved and subject to basic operating standards
 - Ability for operator to appeal such status to Planning Commission
 - Problematic uses would be required to obtain a CUP via a public hearing

Process would take several months to fully implement and entail allocation of staff resources.



Develop more aggressive ways to proactively and immediately shut down undesirable businesses

- Summary Suspension Provisions
 - Provides ability for quick action by an Executive Team to address situations that represent an imminent threat to public health, safety and welfare (summary suspension of City license or permit)
 - Ability for involved operator to request a hearing before a hearing officer or an appeal of that officer's decision to City Council
 - Strongly supported by the Chief of Police



Provide a funding structure

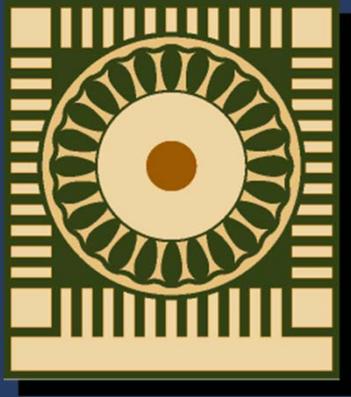
- Fees for Dance/Entertainment Permits (currently is \$42)
- Fees for costs associated with staff activities for establishments (compliance checks by Police Dept., etc.)
- Reimbursement to City for major or repeated events that drain Police Department or City resources
- Staff will return with a full analysis



Next Steps

- Receive input from Council tonight
- December 11: Community Meeting
- December 13: Planning Commission Work Session
- Staff to develop revised recommendations and draft Code language
- Return to Planning Commission and City Council with proposed Code changes at public hearings (or additional work sessions) in the Spring of 2013





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