

CITY OF
HAYWARD
HEART OF THE BAY

**Text Amendment and Negative Declaration;
Revisions to Alcohol Beverage Outlet and
Dance/Cabaret Regulations, and Fees**

**City Council Public Hearing
September 24, 2013**

David Rizk, AICP, Development Services Director



Outline of Presentation

1. Background
2. Proposed New Alcohol Beverage Outlet Regulations and New Zoning Ordinance Definitions
3. Proposed New Cabaret/Dance Provisions
4. Proposed New Fees
5. Public Input
6. Planning Commission and Staff Recommendation



Background



Existing Alcohol Regulations

- First adopted in 1993 and revised in 2006
- Require all new establishments to operate under a conditional use permit (CUP), except:
 - a) Full-Service Restaurants
 - 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)
- No specific standards for existing nonconforming establishments



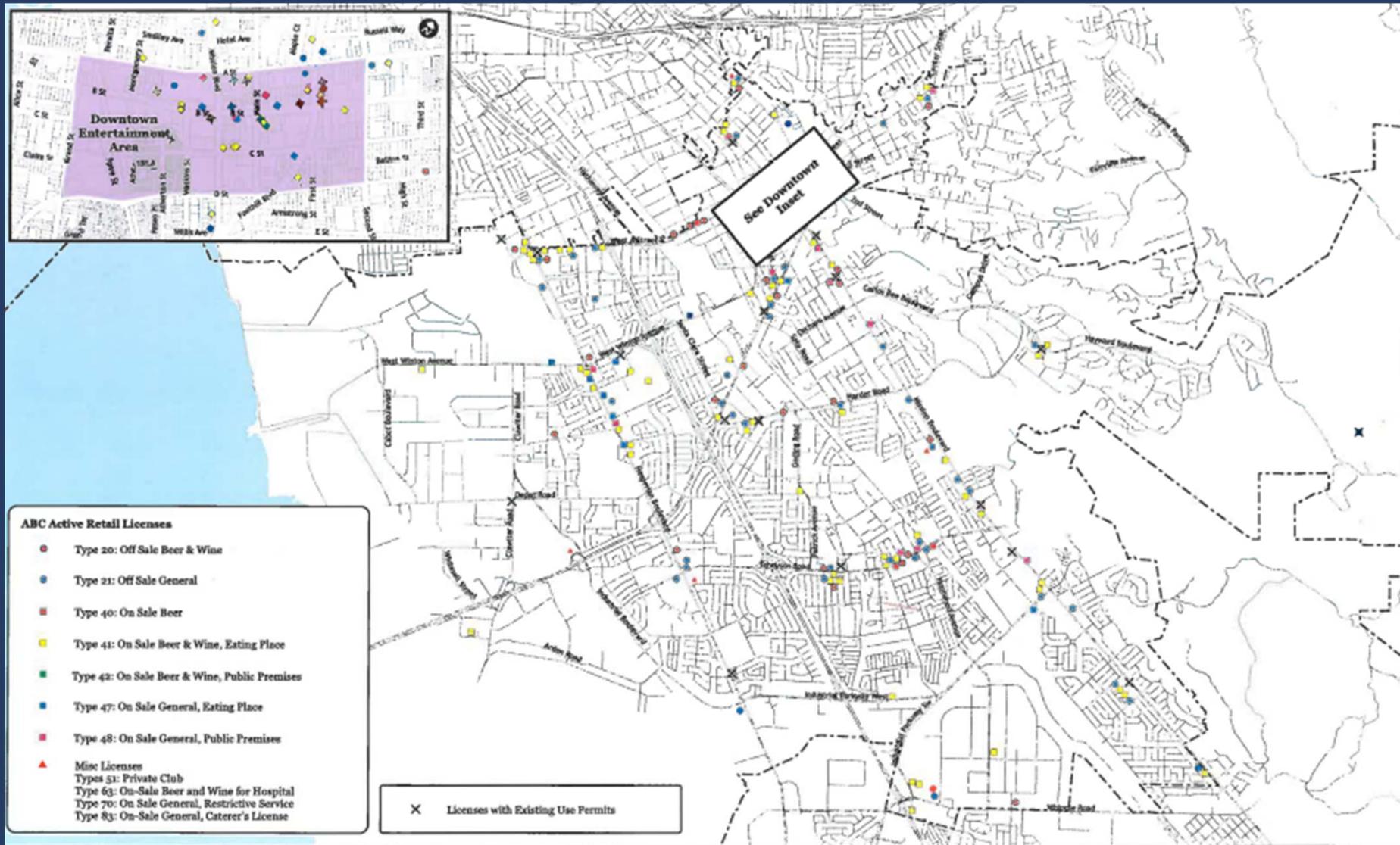
ABC License Types

- 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.



ABC Licensee Locations in Hayward



Major Objectives

- Amend regulations in order to **better promote and attract desirable alcohol-serving businesses**, especially full-service restaurants and boutique specialty shops in

Well-managed and responsible establishments should be given maximum flexibility to operate successfully and poorly managed businesses should be shut down.

- **Provide a funding structure** to support City staff activity associated with enforcement of City regulations associated with alcohol beverage establishments.



Previous Meetings

- January 24, 2012 Joint Council/Planning Commission Work Session
- June 29, 2012 City Council Meeting (Happy Hour Trial Program)
- December 4, 2012 City Council Meeting (extend Trial Program)
- December 4, 2012 City Council Work Session
- December 11, 2012 Community Meeting
- December 13, 2012 Planning Commission Work Session
- June 18, 2013 City Council Meeting (extend Trial Program)
- July 29, 2013 Community Meeting
- September 5 Planning Commission Public Hearing



New Alcohol Beverage Outlet Regulations and Definitions



Revisions to Alcohol Outlet Regulations

- **Revised definitions** (to allow happy hours and live or recorded music at restaurants); and new definitions for cabarets, critical incidents, and wine shops;
- **Eight new performance standards** applicable to all alcohol beverage sales establishments, similar to the “Deemed Approved” standards;
- **Enhanced noticing requirements** (increasing from 300 to 500 foot radius);
- Codification of language from City Council Resolution No. 06-005 (**No new liquor stores or bars in over-concentrated areas**);



Revisions to Alcohol Outlet Regulations

- New “Summary Suspension” provisions; and
- New “Deemed Approved” provisions applicable to nonconforming uses



New/Revised Definitions

- Full-Service Restaurants: Happy hours allowed from 4 to 9 pm and live music until midnight
- Critical Incident: results in a crime of violence, or large, unruly gathering necessitating a police response of five (5) or more police officers, directly or indirectly resulting from the operation of an alcoholic beverage sales establishment.
- Wine Shop - an alcoholic beverage sales establishment, managed by a certified sommelier or oenologist, primarily for the retail sales of wine from multiple wineries and distributors that involves no sales of liquor or distilled spirits
- Distillery
- Brewery
- Cabaret – live entertainment establishment



Eight New Performance Standards

- No adverse effects to the health, peace or safety of persons residing, visiting, or working in the surrounding area;
- No jeopardizing or endangering the public health or safety of persons residing, visiting, or working in the surrounding area;
- No repeated nuisance activities within the premises or in close proximity of the premises;
- No violations to any applicable provision of any other city, state, or federal regulation, ordinance or statute;
- Upkeep and operating characteristics are compatible with and do not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;
- Employees, except those employees with no customer contact, attend and successfully complete a training class on Responsible Beverage Service (exempting employees at retail stores like large grocery stores);
- Establishment complies with all standards of ABC; and
- No alcohol sales to minors.



Summary Suspension Provisions

Incident

↓ (informal notice by Chief of Police)

Summary Suspension (up to 30 days)

↓

Notice of Suspension

↓ (correction or 30 days)

Appeal of Suspension (filed within 3 days of notice)

↓

Appeal Hearing

↓ (City Manager, Police Chief, City Atty.)

Appeal to Planning Commission

↓

Appeal to City Council



Deemed Approved Provisions

- Applicable to NONCONFORMING uses
- Same basic eight operating standards
- Deemed Approved status can be modified or revoked by the Planning Commission at a public hearing (or by Council on appeal)
- Establishment that has “Deemed Approved” status revoked shall cease operations immediately



New Cabaret/Dance Provisions



New Cabaret/Dance Provisions

- New definitions, including for “cabarets” (essentially where live entertainment, including dancing, is provided);
- Cabaret/Dance **permit** required for a **single event** (up to one per every three months) , including for events at restaurants;
- Cabaret **license** required for **ongoing live entertainment**;
- New operating standards for all cabarets and public dances;
- New security standards (one security officer for every 50 people);
- New “summary suspension” provisions similar to those in the new alcohol regulations; and
- New provisions establishing ability to issue administrative citations and related fines for violators of these provisions (\$100 for first violation; \$200 for second violation, and \$500 for third and each subsequent violation).



New Fees



Recommended New Fees (Attachment V)

- Alcohol Beverage Retail Outlet License Annual Fee:
 - \$280 (LEVEL I FEE: retail stores using $\leq 5\%$ for alcohol, full-service restaurants, and wine shops) or
 - \$1,120 (LEVEL II FEE: all other ABC licensees)
- Cabaret/Dance License and Permit Fee
 - \$42 for single event permit (unchanged)
 - \$103 for annual license (unchanged)
- Critical Incident Fee
 - Time and Motion (actual costs)
- Violations Fines (per incident)
 - \$750 (first incident)
 - \$1,500 (second incident)
 - \$2,500 (third and subsequent incident)



Public Input

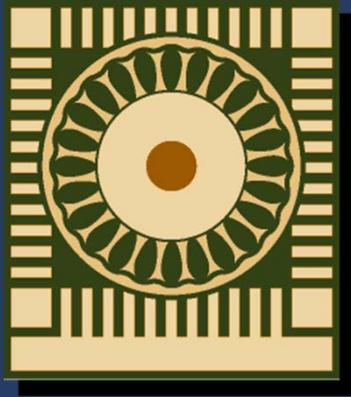


Planning Commission and Staff Recommendation

Introduce the four ordinances and adopt the two resolutions attached to the staff report, related to developing or modifying provisions pertaining to:

- Alcohol Beverage Outlet Regulations,
- Zoning Ordinance Definitions,
- CC-C and CG Zoning Districts,
- Cabaret/Dance Regulations,
- CEQA Document and Findings, and
- Fees





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