

CITY OF
HAYWARD
HEART OF THE BAY

**City Council
Work Session
December 17, 2013**

Tobacco Retail Sales Regulations

Planning Division, Linda Ajello, AICP, Associate Planner
Development Services Department



Tobacco Regulations

Purpose:

- To establish regulations pertaining to retail sales of tobacco and tobacco-related products in effort to reduce sales of said products to youths.



Background:

- Tobacco retail sales and tobacco products currently not defined in Zoning Ordinance.
- Staff directed by City Council to develop tobacco regulations (2011/2012).
- Draft regulations presented to Planning Commission May 31, 2012.



Tobacco Regulations

Background (con't)

Hayward's Grade

- Overall = C
- Reducing Sales of Tobacco Products = D



State of Tobacco Control 2013 – California Local Grades

ALAMEDA COUNTY

	Alameda	Albany	Berkeley	Dublin	Emeryville	Fremont	Hayward	Livermore	Newark	Oakland	Piedmont	Pleasanton	San Leandro	Union City	County Unincorporated
Overall Tobacco Control Grade	B	A	B	A	C	B	C	D	D	B	F	D	C	A	C
Total Points	9	11	9	12	5	8	5	3	4	10	0	4	6	12	5
Smokefree Outdoor Air	A	A	A	A	B	A	A	D	C	B	F	C	A	A	B
Dining	2	2	4	4	4	4	4	2	4	4	0	4	4	4	4
Entryways	4	4	4	4	4	4	4	2	4	4	0	2	4	4	4
Public Events	4	4	4	2	0	4	2	0	0	0	0	0	4	4	0
Recreation Areas	4	4	3	4	4	4	4	2	0	4	0	0	4	4	4
Service Areas	4	4	4	4	4	4	4	0	4	4	0	4	4	4	4
Sidewalks	1	1	1	0	0	1	1	0	0	0	0	0	0	0	0
Worksites	1	1	1	0	1	1	0	0	0	0	0	0	1	1	0
Total Points	20	20	21	18	17	22	19	6	12	16	0	10	21	21	16
Smokefree Housing	A	B	D	A	D	B	F	D	D	B	F	D	D	A	D
Nonsmoking Units	4	0	0	4	0	0	0	0	0	0	0	0	0	4	0
Nonsmoking Common Areas	4	4	2	4	4	4	0	2	2	4	0	2	2	4	2
Disclosure	4	4	0	3	0	3	0	0	0	4	0	0	0	3	0
Nuisance	0	0	0	1	0	1	0	0	0	0	0	0	1	1	0
Housing Authority Units	1	n/a	0	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	1	n/a	n/a	0
Total Points	13	8	2	12	4	8	0	2	2	8	0	3	3	12	2
Reducing Sales of Tobacco Products	D	A	A	A	D	D	D	D	D	A	F	D	D	A	D
Tobacco Retailer Licensing	0	4	4	3	0	0	0	0	0	4	0	0	0	4	0
Sales near Schools and Parks	1	1	1	1	0	0	0	0	0	1	0	0	1	1	0
Sales in Pharmacies	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sampling of Tobacco Products	0	0	1	1	1	1	1	1	1	1	0	1	0	1	1
Total Points	1	5	6	5	1	1	1	1	1	6	0	1	1	6	1



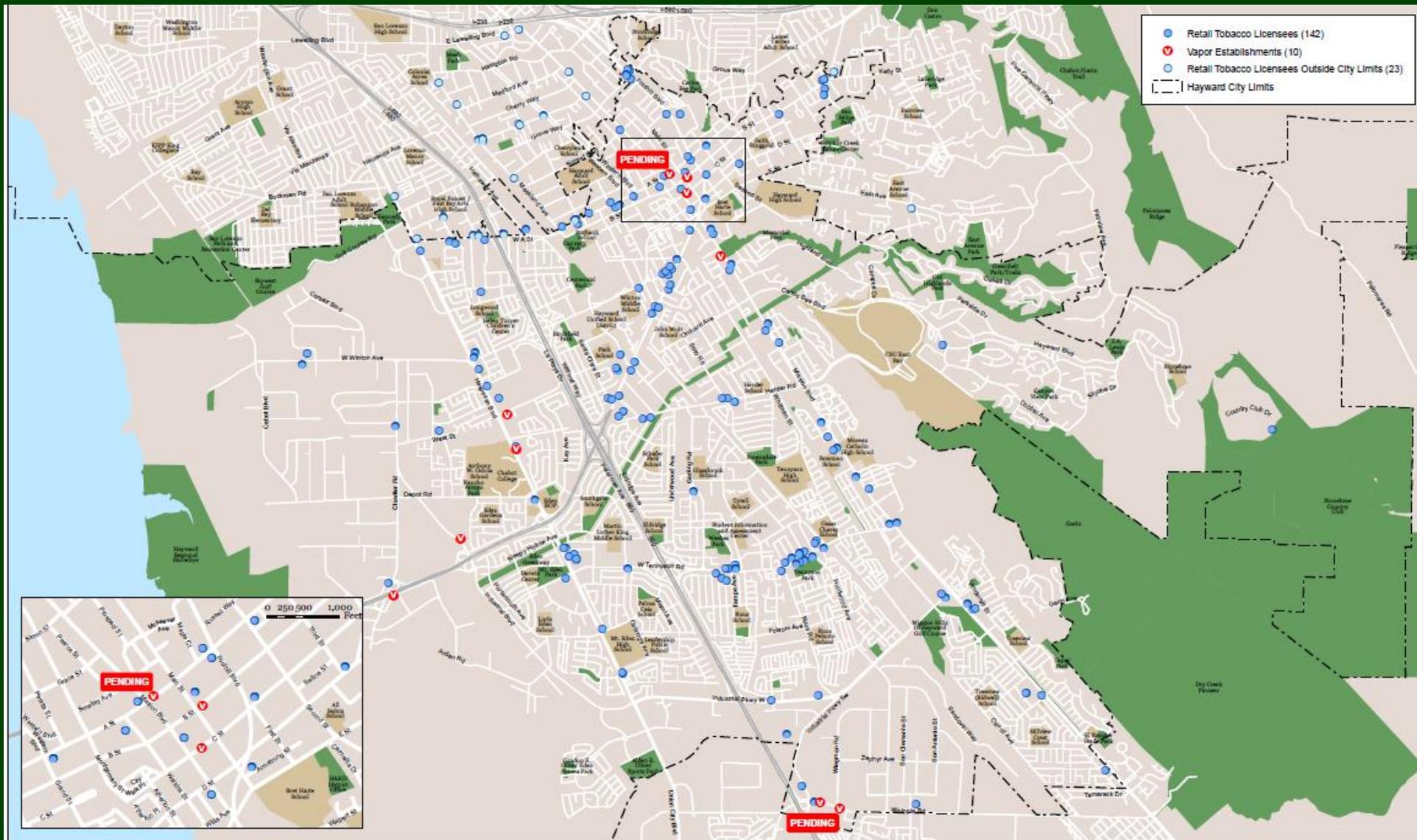
Tobacco Regulations

Tobacco Retailer Density by Jurisdiction

Local Lead Agency	Zip Code	2012 Census County Population Estimate	Tobacco Retailer Count	Retailers Per 1,000 Population	Percent Retailers w/in 1K ft of a School
Alameda	94501	60099	57	0.95	36.84%
Alameda	94502	13140	6	0.46	16.67%
Albany	94706	19168	11	0.57	45.46%
Berkeley	94707	12191	7	0.57	42.86%
Berkeley	94710	6205	13	2.10	53.85%
Castro Valle	94546	42100	39	0.93	12.82%
Castro Valle	94552	14568	3	0.21	0.00%
Dublin	94568	44101	27	0.61	18.52%
Emeryville	94608	25847	44	1.70	47.73%
Fremont	94536	66617	32	0.48	43.75%
Fremont	94538	60461	67	1.11	34.33%
Fremont	94539	51021	27	0.53	37.04%
Fremont	94555	33656	14	0.42	7.14%
Hayward	94541	59173	64	1.08	25.00%
Hayward	94542	12534	2	0.16	0.00%
Hayward	94544	74499	79	1.06	29.11%
Hayward	94545	28935	22	0.76	27.27%
Newark	94560	42322	45	1.06	26.67%
Pleasanton	94566	40443	23	0.57	17.39%
Pleasanton	94588	29918	23	0.77	4.35%
San Leandro	94577	44521	56	1.26	25.00%
San Leandro	94578	37757	48	1.27	22.92%
San Leandro	94579	20167	15	0.74	13.33%
San Lorenzo	94580	28430	21	0.74	52.38%
Union City	94587	68830	49	0.71	20.41%



Tobacco and Vapor Retailers



Tobacco Regulations

Key Definitions:

- Electronic Smoking Device
- Imitation Tobacco Product
- Smoke
- Tobacco Sales Establishment
- Tobacco Products



Tobacco Regulations

Proposed Regulations will keep previous key provisions:

- Restrict location allowing sale of tobacco or tobacco-related products to General Commercial (CG) Zoning District;
- Require approval of a Conditional Use Permit (CUP) at all new locations, with some exceptions;
- Allow tobacco sales, as a secondary use, in retail stores over 10,000 square feet in any zoning district;
- Create a definition for tobacco sales, to include regulation of the sale of drug paraphernalia, electronic cigarettes and other specified items



Tobacco Regulations

Proposed Regulations (con't)

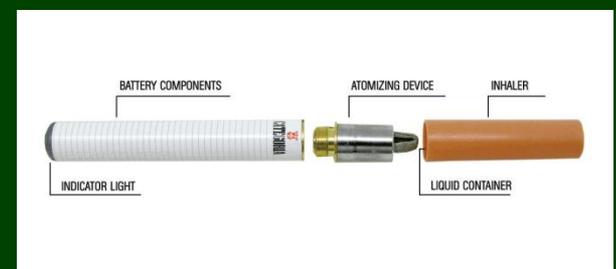
- Require 500 foot separation from sensitive receptors;
- Prohibit any new tobacco retailers from operating within 500 feet of an existing tobacco retailer; and
- Require all new and existing stores selling tobacco and tobacco-related products, including electronic cigarettes, obtain a Tobacco Retailers License (TRL).



Tobacco Regulations

Additional Recommendations:

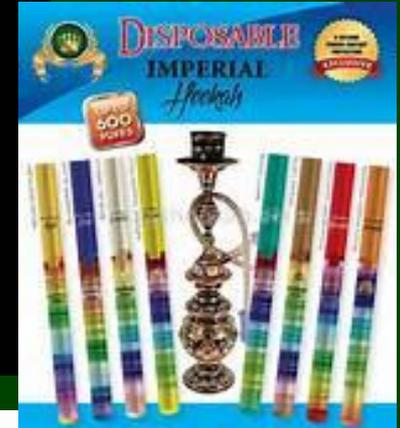
- Establish specific operational standards and enforcement provisions for all new *and* existing establishments;
- Include electronic cigarettes in regulations;
- Create provisions for existing tobacco retail sales establishments considered legal non-conforming (regardless of zoning district); and
- Require ALL tobacco retailers to obtain annual Tobacco Retail License, which would include conformance with all state, federal and local laws, inspections, etc.



Tobacco Regulations

Staff Recommends These Be Considered :

- Prohibit pharmacies from selling tobacco
- Exempt large format retailers from CUP requirement
- Apply over-concentration criteria to smoking lounges (Hookah, tobacco, vapor, etc.)
- Where over-concentration exists use non-conformities rules to phase out stores



Tobacco Regulations

How Regulations Would Impact Existing Tobacco Retailers:

- No CUP requirement.
- Obtain annual Tobacco Retailers License (TRL).
- Comply with all operational and inspection standards.
- Comply with all local, state and federal laws pertaining to tobacco.



Tobacco Regulations

Outreach to Date:

- Council Economic Development Committee (CEDC) –Sept 16, 2013.
- Keep Hayward Clean and Green (KHCG) – Sept 26, 2013.
- Downtown Business Improvement Area (DBIA) - Oct 2, 2013.
- Community Meeting – Oct 28, 2013
- PC Work Session - November 21, 2013



Tobacco Regulations

E-Cigarette Regulations

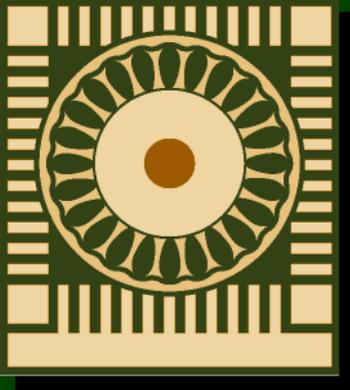
- Currently 59 California cities and counties require e-cigarette retailers to obtain a TRL.
- Electronic cigarette defined as tobacco product in tobacco retailer ordinance.
- Several jurisdictions have moratoriums on electronic cigarettes to allow further study.
- November 26, 2013, Union City City Council passed ordinance prohibiting E-Cigarette bars/lounges, vapor bars/lounges, hookah bars/lounges.



Recommend that the City Council review and provide comment on this report and the staff recommendations for the establishment of regulations related to the sales of tobacco and tobacco-related products, including electronic cigarettes.

Staff hopes to take the Ordinance to the City Council not later than February 18, 2014.





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