



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 07/03/01  
AGENDA ITEM 3  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council  
**FROM:** Director of Community and Economic Development  
**SUBJECT:** Text Change Application 01-140-03 - Initiated by the Planning Director - Request for an Amendment to the Zoning Ordinance to Limit Window Coverage in Connection with Retail Establishments

**RECOMMENDATION:**

The Planning Commission and staff recommend that City Council approve the findings and introduce an ordinance amending the Zoning Ordinance relative to window coverage for retail commercial establishments. Staff recommends providing for exceptions cited herein.

**DISCUSSION:**

It is apparent that some retail establishments in Hayward have stacked merchandise against windows or have otherwise covered their windows, in effect, blocking vision into the stores. A major feature of a vibrant retail establishment is the view into the store that reveals an attractive display of merchandise and customer activity. Engaging displays and customer activities serve to entice pedestrians as well as persons in vehicles to patronize the store. These features also contribute to a more engaging streetscape. Open windows also provide safer environments in which to work and shop since police are able to observe activities in the stores. City Sign Regulations prohibit signs from covering more than 25 percent of the window area in order to sustain an attractive physical image; however, there are no performance standards that prohibit blocking windows using other methods. For the reasons stated above, the following performance standard is proposed to be added to the Hayward Zoning Ordinance.

*Transparent windows and doors of buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale or goods being stored shall be located no closer than 5 feet from a transparent window or door. This section shall not apply to signs or retail goods that are presented within or adjacent to a window that are part of a decorative window display, as determined by the Planning Director.*

Business owners who choose to stack merchandise against windows often claim that this practice is necessary because, otherwise, there would be inadequate storage or display areas within their stores. They indicate that with less stock their sales would be reduced even though attractive window displays is an effective marketing tool for luring customers into stores.

The issue of restricting window coverage in retail establishments was brought to the Chamber of Commerce Downtown Committee. All who attended the meeting were enthusiastic about the measure and spoke to the need for attractive window displays. They also indicated that there are instances when exceptions should be made to the ordinance. For example, one of the issues they discussed relates to how some businesses might attractively cover some of their windows when there are many more windows than they need in a retail building. This may occur when businesses occupy buildings that were not specifically designed for their needs, especially corner buildings having numerous windows. Chamber members indicated that in these instances, there may be attractive ways of covering windows, such as providing shallow display cases behind the windows or filling them in with building materials that match the remainder of the building. Staff is supportive of these suggestions under limited circumstances and at the discretion of the Planning Director. Another consideration for exceptions may be where there have been significant structural changes to the building that block windows. If the City Council is supportive of providing exceptions to the Ordinance, the following wording is offered for consideration.

*Where the number of windows in a retail establishment exceeds the number of windows necessary to provide an attractive storefront, and where it can be shown that an unnecessary hardship would exist if the windows were free of coverings and materials, the Planning Director may approve an exception. Exceptions may be granted only where it can be shown that an attractive storefront would result following implementation of a plan for covering the window(s). Examples of alternative methods of covering windows include, but are not limited to spandrel glass, faux windows with display, filling in the window(s) with building materials that match the remainder of the building, and attractive window dressings.*

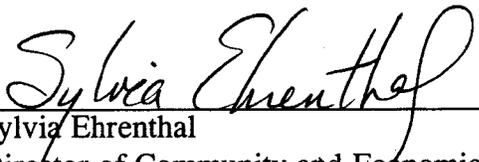
The Planning Commission was also supportive of the proposed ordinance, but did not suggest providing opportunities for exceptions to it. No members of the public spoke at the hearing, and staff has not received any telephone calls regarding the ordinance. Along with the requisite newspaper notice, notices were sent to major retailers and small markets. If the City Council introduces the ordinance, staff will initiate a campaign effort to inform Hayward retailers about the new ordinance.

Because there is no potential for causing a significant effect on the environment, the activity is not subject to CEQA.

Prepared by:

  
\_\_\_\_\_  
Dyana Anderly, AICP  
Planning Manager

Recommended by:

  
\_\_\_\_\_  
Sylvia Ehrenthal  
Director of Community and Economic Development

Approved by:

  
\_\_\_\_\_  
Jesús Armas, City Manager

Attachments:

- A. Findings of Approval of Amendment
- B. Draft Ordinance

6/27/01

## EXHIBIT A

FINDINGS FOR APPROVAL  
AMENDMENT TO ZONING ORDINANCE,  
SECTIONS 10-1.845, 10-1.1445, 10-1.1555, 10-10.1645, and 10-1.1985  
MINIMUM DESIGN AND PERFORMANCE STANDARDS  
TEXT CHANGE NO. 01-140-03

- A. Approval of Text Change Application No. 01-140-03 is exempt from environmental review in accordance with Section 15061(b)(3) of the California Environmental Quality Act Guidelines.
- B. That substantial proof exists that the proposed text change relative to window coverage of retail businesses where windows are visible to the public will promote the public health, safety, convenience, and general welfare of the residents and business operators in Hayward by ensuring a more vibrant retail experience and by providing for greater opportunities for surveillance by police of activities within the retail stores;
- C. That the proposed text change is in conformance with the purposes of this Ordinance and all applicable, officially adopted policies and plans in that the General Policies Plan endorses attractive and successful commercial centers and indicates that these assets should be fostered in land use decisions, and the *Commercial Design Manual* for downtown businesses in the Hayward Downtown Historic Rehabilitation District states that "*filled in or covered windows should be opened and re-glazed*";
- D. That streets and public facilities existing or proposed will not be impacted and will continue to be able to serve all structures that would be impacted by adoption of this ordinance; and
- E. That providing for visibility into retail stores by the general public will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations in that currently covered windows, particularly display windows, do not provide an attractive retail experience, do not attract customers, and are an impediment to police surveillance of activities within retail buildings.

**DRAFT ZONING ORDINANCE AMENDMENT  
TEXT CHANGE NO. 01-140-03**

**SEC.10-1.845 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

**w. Window Coverage**

Transparent windows and doors and buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director.

**SEC.10-1.1045 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

**v. Window Coverage**

Transparent windows and doors and buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director.

**SEC.10-1.1445 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

**d. Window Coverage**

Transparent windows and doors and buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or

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SEC.10-1.1555 MINIMUM DESIGN AND PERFORMANCE STANDARDS FOR CC-C, CC-R AND CC-P SUBDISTRICTS

Non-Residential Buildings and Uses

z. Window Coverage

Transparent windows and doors and buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director.

SEC.10-1.1645 MINIMUM DESIGN AND PERFORMANCE STANDARDS

w. Window Coverage

Transparent windows and doors and buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director.

SEC.10-1.1985 MINIMUM DESIGN AND PERFORMANCE STANDARDS

dd. Window Coverage

Transparent windows and doors and buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views

into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director.

**DRAFT**



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ADDING VARIOUS SUBSECTIONS TO  
CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL  
CODE RELATING TO WINDOW COVERAGE FOR RETAIL  
COMMERCIAL ESTABLISHMENTS**

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS  
FOLLOWS:

Section 1: The following subsections are hereby added to Chapter 10,  
Article 1 of the Hayward Municipal Code to read as follows:

**SEC. 10-1.845 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

"w. Window Coverage

Transparent windows and doors of buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public right-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director."

**SEC. 10-1.1045 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

"v. Window Coverage

Transparent windows and doors of buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public right-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a

window and that are a part of a decorative window display, as determined by the Planning Director."

**SEC. 10-1.1445 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

"d. Window Coverage

Transparent windows and doors of buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended for sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public right-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director."

**SEC. 10-1.1555 MINIMUM DESIGN AND PERFORMANCE STANDARDS FOR CC-C, CC-R AND CC-P SUBDISTRICTS**

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**SEC. 10-1.1645 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

"w. Window Coverage

Transparent windows and doors of buildings occupied by businesses engaging in retail

sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended or sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public right-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director."

**SEC. 10-1.1985 MINIMUM DESIGN AND PERFORMANCE STANDARDS**

"dd. Window Coverage

Transparent windows and doors of buildings occupied by businesses engaging in retail sales, all or a portion of which are within 5 vertical feet of the floor and which are visible from public rights-of-way or pedestrian walkways or are otherwise visible by the general public from the exterior, shall remain free of coverings and materials that prevent views into or out of the stores. Retail goods intended or sale, or goods being stored, or other coverings or materials shall be located no closer than 5 feet from a transparent window or door, unless they are located beneath or above a window and are not visible from public right-of-way or pedestrian walkways or are otherwise visible by the general public. This section shall not apply to signs or retail goods that are presented within or adjacent to a window and that are a part of a decorative window display, as determined by the Planning Director."

Section 2. In accordance with the provisions of section 620 of the City Charter, this ordinance shall become effective from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_ day of \_\_\_\_\_, 1999, by Council Member \_\_\_\_\_ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_\_ day of \_\_\_\_\_, 1999, by the following votes of members of said City Council.

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward