

**CITY OF HAYWARD  
PROPOSED WINE SHOP (OFF-SALE RETAIL ESTABLISHMENT)  
LOCATED AT 1013 "B" STREET  
CONDITIONAL USE PERMIT APPLICATION NO. 201903274**

**DRAFT CONDITIONS FOR APPROVAL**

1. The approval of Conditional Use Permit No. 201903274 shall allow the operation of a winery with ancillary wine tastings (Alcoholic Beverage Control License Type 02) within an existing 975 square-foot tenant space located at 1013 "B" Street, Assessor Parcel No. 428-0066-024-00.

Permitted winery operations at the site are to include on-site fermentation, bulk aging, storage, bottling, incidental instructional wine tasting, and wine sales consistent with the privileges granted by the Type 02 ABC License, unless otherwise further restricted by the Conditions of Approval herein.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. All outstanding fees owed to the City, including staff time spent processing this application, shall be paid in full prior to issuance of a building permit
4. The proposed winery shall conform to these conditions of approval and the narrative/plans on file with the Planning Division stamped "Exhibit A".
5. Any proposal for modifications to the proposed site plan and/or design, which does not require a Variance to any zoning code, shall be approved by the Planning Director prior to implementation. Modifications may be required to be reviewed by the Planning Commission.
6. A copy of these conditions of approval shall be scanned and included on a separate full-sized sheet(s) within the plan check review set submitted to the Building Division.
7. A copy of the Conditions of Approval for the Conditional Use Permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by the public.
8. Prior to final inspection of all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director, Building Official, Police Chief, and Fire Chief.
9. This approval shall be void three years after the effective date of approval unless a building permit application with plans matching the approved plans have been submitted and accepted for processing by the Building Official.
10. The applicant shall be required to obtain and maintain a current valid business license in the City of Hayward at all times of operation.

11. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission. Violation of any of the conditions of approval of this conditional use permit may constitute grounds for revocation pursuant to the Zoning Ordinance.

## **PLANNING**

12. The applicant shall maintain their winery license (Type 02) in good standing with the California Department of Alcoholic Beverage Control (ABC). Failure to maintain the license in good standing may cause the revocation of this Conditional Use Permit. Modification in the type of ABC license required and/or requested by the applicant shall require the modification of this Conditional Use Permit and review by the Planning Commission.
13. The winery shall be limited to the sales and tasting of wine. The sale and/or tasting of other alcohols including, but not limited to beer, brandy, liquors, distilled spirits (e.g. whiskey, tequila, vodka), or sake shall be prohibited.
14. The establishment and/or any portion thereof shall not be rented out to third-party organizations for private events unless the business owner is present for instructional and/or educational classes or tastings.
15. The facility shall not charge a cover or similar fee for entrance, and there shall be no minimum drink purchase requirement.
16. The establishment shall be prohibited from operating as an On-Sale Alcohol-Related Establishment (i.e. bar, tavern) where alcoholic beverages sold at the premises are intended to be consumed at the premises except for incidental instructional pours and/or tastings of wine.
17. Customers of legal age shall be limited to no more than one (1) series of tastings, which consists of no more than three, one (1) ounce servings of wine per person per day. No reduced-price and/or no-cost alcoholic beverage tasting promotion shall be permitted.
18. Instructional pours and tastings shall only be furnished as incidental to the operation of the business as a winery (off-sale retail establishment). Alcoholic beverages shall only be served in recyclable and/or reusable containers but shall not be served within the original bottle or can.
19. The total occupancy for the establishment shall be limited **48 persons** (including staff and patrons) as established by the licensed architect and approved by the City Building Official per the California Building and Fire Codes. The occupancy shall be clearly posted and enforced by the establishment staff to not exceed the limit.

20. The hours of the operation for the establishment shall be limited from 10 a.m. to 8 p.m., seven days a week.
21. Patrons eligible for wine tasting and/or purchasing wine for off-site consumption shall be limited to those individuals 21 years of age and older. Minors under the age of 21 shall not be permitted within the premises.
22. All promotional and/or permanent signage for the establishment shall be required to obtain a sign permit by Planning and Building Divisions. The proposed signs shall comply with Chapter 10, Article 7 (Sign Ordinance) of the Hayward Municipal Code.
23. All tenant improvements, except for business signage, shall be limited only to the interior of the commercial tenant space and building. Any exterior modifications to the building shall be submitted for review to the Planning Division to evaluate compliance with Chapter 10, Article 11 (Historic Preservation Ordinance) of the Hayward Municipal Code and the executed Mills Act contract between the City of Hayward and property owner.
24. The permittee shall maintain compliance with all local, County, State, and Federal laws for the production, storage, fermentation, distribution and sale of wine. The permitted shall maintain compliance with the City's Zoning Ordinance, Alcoholic Beverage Outlet Ordinance and the Hayward Municipal Code, as applicable.

## **POLICE DEPARTMENT**

### General Operations

25. The premises shall be kept in a clean, well-maintained condition. Paint and windows shall be kept clean and cracked or broken glass shall be replaced promptly. The licensee(s) shall be responsible for removing graffiti from the premises under the control of the licensee(s) within 48 hours. Public sidewalks adjacent to the establishment shall be cleaned daily. The management shall ensure that no trash or litter originating from the establishment is deposited on neighboring properties or the street.
26. One information sign with a maximum area of six square feet providing hours of operation, emergency contact information, etc. may be placed on the exterior and interior of the establishment. The storefront glass shall not be tinted or clouded to reduce transparency into the establishment.

### Police Department and Safety

27. The occurrence of more than two critical incidents during business hours of the establishment within a one-year period may constitute grounds for revocation of this permit.
  - a. "Critical Incident" is defined as any event in the sole discretion of the Police Chief that results in a crime of violence or large unruly gathering necessitating a police response of five or more police officers. Crimes of violence may include but are not limited to discharge of firearms, robbery, physical assault or assault with a deadly weapon.

- b. "Premises or its adjoining grounds" will include within the structure of 1013 B Street, the sidewalk where queuing for admission occurs, the area to the rear of the building, including any parking lots within 50 feet of the building.

Nothing in this condition restricts the authority of the City to seek revocation of this permit for a single incident of extreme severity.

- 28. If an undue demand is put on police resources, as determined by the Chief of Police, then such determination would be grounds for revocation of the Conditional Use Permit.
- 29. Commission of a criminal offense by the permittee or any employee of the permittee of which the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and such criminal offense is found to be detrimental to public health, safety, or general welfare shall be independent grounds for revocation of this permit.
- 30. The business operator shall be responsible to reimburse the City Police Department for calls for service in response to events that are determined to be a demand on police resources as determined by the Chief of Police. Failure to pay costs within 30 days of billing for the Hayward Police Department response to the incident may constitute grounds for revocation of this use permit.
- 31. All employees and the permittee of the establishment shall work collaboratively with the Hayward Police Department, with the goal of maintaining a safe, secure facility. The permittee and employees will call the Hayward Police Department as needed to work with intoxicated, uncooperative, or disruptive patrons. Failure to work collaboratively with the Hayward Police Department or to reasonably call for assistance, as needed, may result in revocation of this permit.
- 32. The permittee shall take all necessary steps to ensure that permittee's patrons and visitors refrain from incidents of violence, intoxication, and/or loud or obnoxious behavior that adversely impact the safety and welfare of patrons in the facility and citizens in the surrounding area and the community.
- 33. A fully enhanced operating/recording digital video surveillance system with retrievable memory and containing points of entry/exit, sales of food/beverages (cash registers), locations of cash/monies storage (Safes/Manager's Office), and overall locations of where alcoholic beverages may be consumed within the property. Recordings of this system shall be available to law enforcement upon demand and as a condition of operating. The applicant shall check the digital video surveillance system daily and keep a daily log to ensure that the digital video surveillance system and remote access is operable.
- 34. Interior illumination shall allow for the unaided inspection of personal identification by members of the Hayward Police Department while inside premises.

35. The owner, manager, and employees shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they move loiters who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Signage at the entrances and visible from the outside shall be posted that state "No Loitering." These signs shall be no less than 18" x24" and have 2-inch block lettering.
36. The exterior of the premises, including adjacent public sidewalks and all parking lots under the control of the licensee, shall be illuminated during all hours of darkness during which the premises are open for business in a manner so persons standing in those areas are identifiable by law enforcement personnel. However, the position of such lighting shall not disturb the normal privacy and use of neighboring residences and are subject to approval by the City of Hayward.

Alcohol Sales Procedures

37. Snacks and light refreshments shall be available, either complimentary or for purchase, by patrons at all times. Examples may include, but not be limited to, water, pre-packaged goods including chips, cheeses, popcorn, crackers, fruit, etc.
38. The sale and service of alcoholic beverage to patrons shall be discontinued no later than 15-minutes prior to the closure of the establishment.
39. Patrons shall be prohibited from leaving the establishment with open beverage containers. No tastings of wine shall be permitted outdoors.
40. The establishment's employees, except those employees with no customer contact, shall attend and successfully complete a training class on Responsible Beverage Service within ninety (90) days of being employed. The training class shall be certified by the Department of Alcoholic Beverage Control (ABC). As proof of attending the training, the certificate of completion shall be submitted by the permittee for each employee upon completion of such training to the Hayward Police Department. The applicant may contact Detective Gabrielle Wright at the Hayward Police Department at 510-293-7013 for further information.
41. Pursuant to Section 4-16-.20, it is unlawful for any person to manage, supervise, maintain, provide, produce, possess or use one (1) or multiple simulated gambling devices. Each individual act to manage, supervise, maintain, provide, produce, possess or use a simulated gambling device constitutes a separate violation of this section. Simulated gambling devices shall be prohibited.
42. No billiard tables and/or cabaret entertainment are permitted with the approval of this Conditional Use Permit.

Pre-Operations

43. Not more than 25 percent of the store front windows shall be obstructed to allow a clear view into the establishment.

44. Any work done in the right-of-way (sidewalk, street, partial street closure) requires an encroachment permit from the City.

**BUILDING DIVISION**

45. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures and/or tenant improvements shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
46. Per the California Building Code and Fire Code, occupant load signage shall be installed conspicuously within of the establishment.
47. The bar/counter seating shall comply with 2016 California Building Code Section 11B-226.3. Provide a 60-inch accessible seating section at the bar/counter that is between 28 inches high minimum and 30 inches high maximum above the floor. This code section is intended to allow a person in a wheelchair to sit at the bar with a companion at the same level.
48. Prior to submitting for a building permit application, please submit these plans to the Alameda County Department of Environmental Health for review.

**FIRE DEPARTMENT**

Fire Prevention

49. Fire Sprinkler System Alteration – Fire Sprinkler Alterations required to provide the appropriate fire sprinkler coverage in the new tenant space. (Deferred Submittal by a Licensed C16 Contractor)
50. Fire Alarm System – Fire alarm/notification with audible and visual horn/strobe device activated by water flow of sprinkler system and manual pull stations shall be installed to meet the California Fire Code (CFC), NFPA 72 Standards and ADA requirements. The work shall be performed by qualified persons holding C-7, C-10 electrical contracting licensed. Ventilation system greater than 2,000 CFM shall be connected to the fire alarm system and monitored for integrity. (deferred submittal by Licensed C10 Contractor to provide notification in the tenant space).
51. Portable Fire Extinguishers – Portable fire extinguishers shall be installed throughout in the improvement area at every 30 feet of travel and at each exit from the space. Portable fire extinguishers shall have a minimum rating of 2A:10BC. Signage shall be provided for each portable fire extinguisher and shall be acceptable to the Fire Department.
52. Building Address – Minimum building address shall be 12" high with 1.5" stroke. When building is located greater than 50 feet from street frontage, address shall be minimum 16" high with 1.5" stroke. Tenant space number shall be 6" high with 0.75" stroke on a contrasting background so as to be visible from the street.

Hazardous Materials

53. Seismic Restraints - Tanks shall be provided with seismic restraints and meet appropriate requirements of the Hayward Building Department.
54. Flammable liquid transfers – Appropriate grounding and bonding systems shall be required for flammable liquid transfers and movement of vessels.
55. Flammable and Combustible Liquid Storage and Use – The storage and use of flammable and combustible liquids shall meet the requirements of Chapter 57 of the 2016 California Fire Code as adopted by the City of Hayward.
56. Hazardous Materials Limits – Hazardous materials storage shall not exceed the maximum allowable quantities (MAQs) given in Chapter 50 of the 2016 California Fire Code (CFC).
57. Hazardous Materials – The storage and use of hazardous materials shall meet the requirements of Chapter 50 of the 2016 California Fire Code as adopted by the City of Hayward.
58. Chemical Inventory- Chemical Inventory Packet including the hazardous materials/waste stored/used shall be prepared and submitted with building plans to the City of Hayward.
59. Signage and Labeling Requirements – All tanks, containers shall be properly identified with signage stating the contents within the vessel, the hazard identification (as per NFPA 704 Standards). All associated piping leading to and from each of the aboveground tanks (vessels) shall be appropriately labeled with the type of contents and arrows showing the direction of flow of the product. Additional containers and storage areas for hazardous materials shall also be appropriately identified.
60. Placarding – Hazard placards shall be provided for the exterior building per the Guidelines for the Placarding of Hazardous Materials Facilities, which can be obtained by calling the Hazardous Materials Office at (510) 583-4910.

General Requirements

61. Start of Work – The developer or contractor shall not start work on a project without approved plans, unless otherwise specifically allowed by the Fire Chief.
62. Inspections – The developer or contractor shall provide at least a 24-hour notice to the Fire Department to schedule an inspection. Inspection requests shall be made by calling the Fire Marshal's Office at (510) 583-4900 to schedule either a morning inspection (10:00 a.m. to 12:00 p.m.) or an afternoon inspection (1:00 p.m. to 4:00 p.m.). The job copy of APPROVED plans and the job card shall be available on the job site during a scheduled inspection.
63. Additional Fire Inspection Fees – Additional fees will be charged for any requested or required fire inspections beyond the normal number of inspections allowed for the project.

64. Water Supply During Construction – A permanent water source capable of supplying the required fire flow shall be made available as soon as combustible materials accumulate at the site. Hydrants shall be maintained clear of obstructions and accessible for fire protection during construction.
65. Fire Department Permanent Access During Construction – Permanent access to the immediate job site by a heavy fire-fighting apparatus shall be provided at the start of construction. The all-weather road shall be at least twenty (20) feet in width, shall have an unobstructed vertical clearance of at least thirteen feet six inches (13' 6"), and shall be capable of supporting the imposed load of a fire apparatus weighing at least 75,000 pounds (gross vehicle weight).

## **UTILITIES**

66. Existing Water Services. This tenant space shares a 2" domestic water meter with multiple tenant spaces (account 28420). It is anticipated that no modifications to the existing water service will be needed.
67. Sewer Services. The tenant space has an existing permitted sewer capacity of 210 gallons per day of domestic-strength wastewater discharge. Additional information will be required from the applicant to determine the minimum required sewer capacity for the proposed business. The applicant shall complete and return the attached Wastewater Discharge Survey with the plans for the building permit application. Additional sewer capacity may need to be purchased to accommodate any anticipated wastewater discharge over the permitted sewer capacity.

## **SOLID WASTE & RECYCLING**

68. Submit the Construction and Demolition Debris Recycling Statement at the time of your building permit. The applicant shall only need to submit the top "applicant" half of the form during the building permit. The bottom half of the form should be completed upon completion of the project to receive final building inspection approval. The form can be located online at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.
69. Per City Ordinance, all businesses are required to arrange for separate collection of recyclables. In addition, food related businesses are required to separately collect organics (compostable materials). For more information, please visit <http://www.recyclingrulesac.org/city/city-of-hayward/>. Please see Section 2 of attached for capacity needs. Also, see Section 3 of attached for trash enclosure design requirements, should an enclosure be deemed necessary.