

Order of Proceedings

The Planning Commission will consider each Tobacco Retailer's matter separately.

City Presentation of Violations

City staff will present evidence to the Commission about the violations charged against the retailers. The presentation may include inspection reports, citation records, photographs, and other testimonial and documentary evidence. All documentary evidence being presented to the Commission will be included in a Staff Report published one (1) week before the revocation hearing date, accessible to all Retailers at the following link: [Hayward Meeting and Agenda Center](#). Additional information can also be found at the following link: [City of Hayward Planning Commission](#).

Commissioners may ask clarifying questions of staff at the conclusion of the presentation.

Retailer Presentation

The Retailer will have eight (8) minutes to present evidence/argument. The Retailer may use this time to:

- Challenge the accuracy or sufficiency of the evidence;
- Provide context or mitigating circumstances;
- Submit documentary evidence related to the charges;
- Present statements/testimony from the retailer or witnesses.

The Chair of the Planning Commission has the discretion to stop a presentation that exceeds eight minutes.

Commissioners may ask clarifying questions of the Retailer at the conclusion of its presentation.

Commissioner Questions

Following both presentations, the Commission may direct questions to either City staff or the retailer. The Chair may impose reasonable time limits on the question period.

City Staff Response (if needed)

City Staff may briefly respond to any factual matters raised during the Retailer's presentation.

Commission Deliberation, Motion and Vote

The Chair will close the evidentiary record for the item and Commissioners may deliberate and discuss the evidence. After discussion, a Commissioner may make a motion with: (1) to revoke the Tobacco Retail License; (2) to impose a lesser penalty ; or (3) to impose no penalty. The motion should include a brief statement of findings supporting the motion.

The following are examples of findings the Commission may make:

- The Commission may find that the Retailer has committed at least three (3) violations in a five (5) year period and revoke the license;
- The Commission may find that the Retailer has committed at least three (3) violations in a five (5) year period, but that due to evidence presented by the Retailer, a lesser penalty is issued; or
- The Commission may find that the City has not established that the Retailer has committed at least three (3) violations in a five (5) year period and may thus find that no penalty be issued.

General Hearing Rules

- All testimony shall be given under oath or affirmation, if sworn testimony is taken.
- The technical rules of evidence do not strictly apply; however, evidence must be relevant and reliable.
- All materials presented at the hearing become part of the official record.
- The retailer has the right to be represented by legal counsel or another authorized representative.
- Time limits will be enforced. The Chair may extend time in unusual circumstances at their discretion.
- Cross-examination of witnesses will not be allowed.