



Memorandum

TO: RULES & OPEN GOVERNMENT
COMMITTEE

FROM: Councilmember Raul Peralez

SUBJECT: Undue Concentration
Criteria Update

DATE: July 15, 2019

Approved by:

Date: 07/15/19

RECOMMENDATION

Direct the City Manager to report back to City Council with recommendations to create a local set of criteria regarding on-premise alcohol sales for both crime index and undue concentration in the Downtown Entertainment Zone (EZ), alternative to what is defined in the Business and Professions (B&P) Code Section 23958 (c).

BACKGROUND

Per B&P Code Section 23958, the State of California Department of Alcohol Beverage Control (ABC) shall deny an ABC Application for an ABC License if the issuance of that license would tend to create a law enforcement problem or if it would result in or add to an undue concentration of ABC Licenses, as described in B&P Sections 23958.4 (a)(1) and 23958.4(a)(2).

According to B&P Code Section 23958, high crime index and undue concentration respective means:

1. The applicant premises are located in a crime reporting district that has a 20 percent greater number of reported crimes, as defined in subdivision (c), than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.
2. As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of on-sale retail licenses to population in the county in which the applicant premises are located.

3. As to off-sale retail license applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

However, there is discretion if the local governing body of the area is able to make a determination that public convenience or necessity would be served by the issuance of a license.

DISCUSSION

Downtown is currently in a renaissance of exciting food and entertainment concepts, with more potential businesses looking to plant roots in. New establishments are making their way into our entertainment zone, invigorating our urban life. From the city's first arcade bar to successful public market models, we are seeing a positive presence in our food and entertainment community, creating unprecedented economic benefits such as attracting more hotels, businesses and residential uses. However, blanket state policies have constrained our police department from being able to permit these projects when their professional input is requested by either the planning department or ABC.

The current threshold as defined in the B&P code does not account for the urban nature of a growing downtown. General Plan Major Strategy #9 - Destination Downtown defines Downtown as a "a vibrant urban center for living, working, [and] entertaining", and should boast diverse food and entertainment options including on-sale alcohol sales in restaurants and public drinking establishments. Furthermore, the growth of a downtown should be coupled with the growth of more food and entertainment venues. Downtown's footprint of three square miles with a much smaller footprint of the EZ should warrant flexibility in the number of public drinking establishment compared to other less dense areas of the city.

Let us be clear. We are not asking for the floodgates to open and allow Downtown to suddenly become the wild west of bars and nightclubs. On the contrary, SJPd should continue to exercise their professional opinion when scrutinizing a potential operation. However, I understand that in the spirit of consistency, they should also be given an additional tool to allow for positive business operations that will continue to improve downtown life.