

ORDINANCE NO. 25-____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1, SECTIONS 10-1.845 (MINIMUM DESIGN AND PERFORMANCE STANDARDS), 10-1.1952 (AT-C USES PERMITTED) AND 10-1.1953 (AT-C CONDITIONALLY PERMITTED USES) OF THE HAYWARD MUNICIPAL CODE UPDATING THE REGULATIONS GOVERNING RESTAURANTS AND COFFEE SHOPS WITH DRIVE-THROUGH FACILITIES ON PROPERTIES LOCATED WITHIN THE (AT-C) AIR TERMINAL – COMMERCIAL ZONING DISTRICT

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

Section 1. Provisions. The City Council incorporates by reference the findings contained in Resolution No. 25-__ approving the Zoning Text Amendments included as Exhibits A, B and C in this Ordinance to the Hayward Municipal Code.

Section 2. Chapter 10, Article 1, Subsections 10-1.845 (Minimum Design and Performance Standards), 10-1.1952 (AT-C Uses Permitted), and 10-1.1953 (AT-C Conditionally Permitted Uses) of the Hayward Municipal Code are hereby amended to read as shown in Exhibits A, B and C to this Ordinance, below, with all added text shown as underlined and all deleted text shown as ~~stricken through~~.

Section 4. Severance. Should any part of this Ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this Ordinance, which shall continue in full force and effect, provided that the remainder of the Ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 5. Effective Date. In accordance with the provisions of Section 620(f) of the City Charter, the Ordinance shall become effective upon adoption since it relates to the zoning or rezoning of the City or portions thereof.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the 3rd day of June, 2025, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of _____ 2025, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

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

SEC. 10-1.845 MINIMUM DESIGN AND PERFORMANCE STANDARDS.

The City recognizes that high-quality design of commercial structures can contribute to a positive appearance of commercial districts and neighborhoods and improve the overall character of the community. This Section establishes design and performance standards that shall apply to the construction of residential and commercial buildings and certain commercial uses in the CN District, including but not limited to cultural, educational, religious or recreational facilities. The development of CN-zoned properties in the South of Route 92 planning area is also subject to the provisions of the South of Route 92/Oliver and Weber Properties Specific Plan and the Development Guidelines for the South of Route 92 Oliver/Weber Properties.

Commercial Buildings and Uses.

For commercial buildings (including second story residential uses) refer to the design criteria contained in the City of Hayward Design Guidelines, the Hillside Design and Urban/Wildland Interface Guidelines and the following specific criteria and standards.

a. through i. – no changes

j. Drive-in Establishments - Special Standards and Conditions.

(1) Location and Design Criteria. In addition to the minimum Commercial Development Standards, the following requirements shall apply:

- (a) Use permit applications for drive-in establishments in addition to standard requirements shall include the following information: a map and brief description of similar uses within a one-mile radius of the site; number and location of similar uses, indicating the location of all uses under the same brand name or franchise.
- (b) Drive-in uses shall not be located across a street from residential zoning districts, unless at least one street abutting the site is an arterial or major street and pedestrian safety measures are provided as determined necessary. This provision does not apply to commercial off-street parking lots.
- (c) Access to drive-in uses shall not be located next to the access to schools, parks, playgrounds, libraries, churches and other public and semi-public uses if pedestrian safety hazards would result.
- (d) Exterior storage and display of goods for sale or rent is not allowed.
- (e) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a planter at least 10 feet wide shall be installed parallel to the street right-of-way or precise plan line except where the use is a drive-in restaurant, then a 15-foot-wide landscaped setback is required.
- (f) A minimum of 20 percent of the total site area shall be landscaped.

- (g) Except for driveways, corner lots shall have a landscaped triangular area formed by the street right-of-way lines and a line connecting them at points 30 feet from the rear or projected point of intersection of the street right-of-way line. (See Article 9, Hayward Traffic Code for visibility requirements.)
 - (h) Fencing and Screening - Except for areas used for traffic circulation, or except where the drive-in functions as part of a larger development, for example, a shopping center where there is shared parking or access, a uniformly painted fence or masonry wall shall be maintained along all interior lot lines. Where any interior lot line abuts an R, A, MH, OS, or residential PD District, or a lot with residential uses, a masonry wall shall be constructed. The wall shall be at least 6 feet high but not exceed 8 feet, except within the required yard area abutting a right-of-way or precise plan line, in which case it shall not exceed four feet in height at grade measured on either side of the fence.
 - (i) Where a drive-through aisle is located between the right-of-way and the primary structure, low shrubs and/or berms shall be installed within the landscape setback for visual buffering.
- (2) Requirements for Existing Drive-In Uses. An operator of an existing drive-in use who applies for a new use permit or modifications to an existing use permit shall conform to as many of the design and site plan standards for new uses as possible within the limits of the existing site layout and structural location.
- (3) Performance Standards for Drive-In Uses. Drive-in uses shall be operated in a manner which does not interfere with the normal use of adjoining properties. If in the opinion of the Planning Director the provisions of this paragraph are being violated, the violations shall be grounds for reopening use permit hearings and adding conditions to control the violation. Performance standards include, but are not limited to, the following considerations, which, where appropriate, shall be incorporated as conditions of approval in all use permits as determined by the Planning Commission:
- (a) Noise levels measured at the property line shall not exceed the level of background noise normally found in the area or 65 decibels, whichever is greater. Loud speakers shall not be audible from residentially zoned and developed properties.
 - (b) The premises shall be kept clean, and the operator shall make all reasonable efforts to see that no trash or litter originating from the use is deposited on adjacent properties. For drive-in restaurants or other uses which typically generate trash or litter, adequate trash containers, as determined by the Planning Director, shall be required and employees shall be required daily to pick up trash or litter originating from the site upon the site and within 300 feet of the perimeter of the property.
 - (c) Hours of operation, including deliveries to the site, shall be compatible with the needs and character of the surrounding neighborhood. For

purposes of this section, the usual operating hours shall be considered to be between 6.30 a.m. and 11.00 p.m. on weekdays and 7:00 a.m. to 1:00 a.m. on weekends.

- (d) No undesirable odors shall be generated on the site.
 - (e) The on-site manager of the use shall take whatever steps are deemed necessary to assure the orderly conduct of employees, patrons, and visitors on the premises.
 - (f) A copy of these performance standards and all conditional use permit conditions of approval shall be posted along side the necessary business licenses and be visible at all times to employees.
- (4) Automobile Service Stations - Additional Design Criteria.
- (a) The following operations are prohibited in conjunction with the operation of an automobile service station: auto body repair, major mechanical repair, and outside display of new or used vehicles or parts for sale.
 - (b) Exterior display of goods for sale or rent is not permitted, except the following uses which are subject to design and location approval:
 - (i) Vending machines.
 - (ii) Oil display cabinets.
 - (iii) Tire displays.
 - (c) Entry to lubrication bays and/or service areas shall be designed to minimize the impact on adjacent residential uses.
 - (d) Minimum facilities required:
 - (i) Two restrooms open to the public, one for each sex;
 - (ii) Equipment and storage area adequate to provide for operation and maintenance of station;
 - (iii) Minimum of one air and water outlet and window washing equipment and towels.
 - (e) Minimum Site Requirements:
 - (i) Building site: 20,000 square feet.
 - (ii) Frontage on one street: 140 feet. In the case of corner lots, frontage will be measured to the extension of the intersecting property lines
 - (iii) Setback for fuel pump islands: a distance equal to 15 percent of the depth of the lot, or 20 feet, whichever is less, measured from the street right-of-way or precise plan line.

(f) Automobile service stations engaged in the concurrent sale of fuel and alcoholic beverages shall be permitted only with approval of a Conditional Use Permit, and shall comply with the following standards:

- (i) There shall be no display of alcoholic beverages within five feet of the cash register unless in a permanently affixed cooler.
- (ii) Advertising of alcoholic beverages at motor vehicle fuel island is prohibited.
- (iii) There shall be no sale of alcoholic beverages from a drive-in window.
- (iv) Alcoholic beverages shall not be displayed or sold from an ice tub.
- (v) Advertising of liquor on motor fuel island is prohibited.
- (vi) Self-illuminated advertising for liquor on buildings or windows is prohibited.
- (vii) Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least 21 years of age to sell alcoholic beverages.

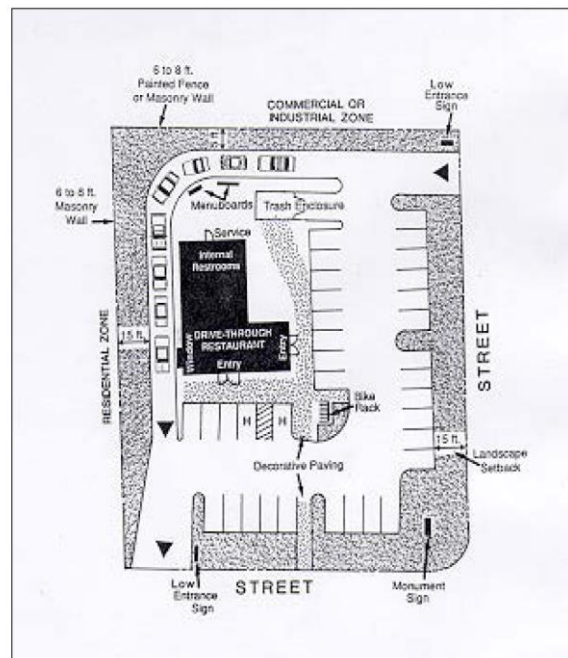
(5) Drive-Through Restaurants.

(a) Drive-in or drive-through restaurants shall be prohibited within ½-mile radius of one another as measured from the building walls of existing or proposed buildings, unless all the following required findings are met:

- i. The drive-in or drive-through restaurants are located within one-half mile from the Interstate 880 (Nimitz Freeway) or State Route 92 (Jackson Freeway) rights-of-way as measured by the existing roadway network, or on any parcel located within the AT-C zoning subdistrict;
- ii. The location of the drive-in or drive-through restaurants will not have a substantial adverse effect on vehicular (including bicycle), pedestrian circulation and safety, or transit accessibility;
- iii. The drive-in or drive-through restaurants will not conflict with City adopted goals and policies including, but not limited to, the General Plan and Bicycle Master Plan; and
- iv. The site is suitable and adequate for the proposed use because the drive-in or drive-through restaurant lanes and service windows will be located at least seventy-five (75) feet away from residential uses and residentially zoned properties.

(b) For each drive-in restaurant a bicycle rack shall be installed with a capacity for at least five bicycles.

- (c) Drive-through lanes installed in connection with drive-in restaurants shall have a capacity for at least eight vehicles, at 20 feet per vehicle, unless adequate access and circulation is provided to minimize spillover onto public property.
- (d) Pedestrian circulation areas located within drive-in restaurant developments with drive-up windows shall consist of decorative paving such as brick, paving stones, or Bomanite.



- (e) Access to bathroom facilities located within drive-in restaurant developments shall be from within the structure, with no direct access from the parking area.
- (f) Roof lights, refrigeration units or other extraneous features which are not integral parts of the main structure, inflexible building prototypes which result in an ability to meet setback and compatibility requirements, and unattractive building elevations visible to customers or passersby are prohibited.
- (g) Identification signs for drive-in restaurants (excluding directional signs and the menu board) shall be limited to one monument sign not to exceed 10 feet in height and 36 square feet per face and two wall signs with letters not to exceed 18 inches in height. Total area for wall signs may include logos not to exceed 24 inches in height.
- (h) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a landscaped setback at least 15 feet wide shall be installed parallel to the street right(s) of way or precise plan line(s) and on interior property lines where drive-through aisles abut residential zoning districts.

- (i) Minimum building site (lot area or lease area) shall be 25,000 square feet in area, unless adequate access and cross-parking is provided.
 - (j) Drive-through aisles shall not be located between the building and the right-of-way and pick-up windows shall not face the right-of-way unless their visibility is minimized through the use of innovative building architecture and mounded or bermed landscaping to minimize their visual impact from the street. Menu board shall be placed so as to not be visible from the street.
 - (k) Drive-through restaurants shall have an architectural theme that is unique for a given area as specified by City standards and policies or as determined by the Planning Director; franchise architecture shall be avoided where possible.
- (6) Drive-Through Coffee/Esspresso Shops
- (a) Drive-through coffee/esspresso shops shall be prohibited within ½-mile radius of one another as measured from the building walls of existing or proposed buildings, unless all the following required findings are met:
 - i. The drive-through coffee/esspresso shops located within one-half mile from the Interstate 880 (Nimitz Freeway) or State Route 92 (Jackson Freeway) rights-of-way as measured by the existing roadway network, or on any parcel located within the AT-C zoning subdistrict;
 - ii. The location of the drive-through coffee/esspresso shops will not have a substantial adverse effect on vehicular (including bicycle), pedestrian circulation and safety, or transit accessibility;
 - iii. The drive-through coffee/esspresso shops will not conflict with City adopted goals and policies including, but not limited to, the General Plan and the Bicycle Master Plan; and
 - iv. The site is suitable and adequate for the proposed use because the drive-through coffee/esspresso shop lanes and service windows will be located at least seventy-five (75) feet away from residential uses and residentially zoned properties.
 - (b) Drive-through coffee/esspresso shop buildings shall not exceed ~~500~~ 2,500 square feet in area.
 - (c) Drive-through lanes for drive-up windows shall have a capacity for at least two vehicles, at 20 feet per vehicle, unless adequate access and circulation is provided to minimize spillover onto public property.
 - (d) Drive-through lanes shall consist of decorative paving such as brick, paving stones, or Bomanite.

- (e) Public bathroom facilities shall be provided inside the drive-through building, unless public bathroom facilities are located within 200 feet on the same property and are accessible during coffee shop business hours.
- (f) Roof lights, refrigeration units or other extraneous features which are not integral parts of the main structure, inflexible building prototypes which result in an ability to meet setback and compatibility requirements, and unattractive building elevations visible to customers or passersby are prohibited.
- (g) Identification signs for drive-through coffee/espresso shops shall comply with the Hayward Sign Ordinance and shall be limited to one monument sign not to exceed 6 feet in height and two wall signs with letters not to exceed 18 inches in height. Total area for wall signs may include logos not to exceed 24 inches in height.
- (h) All required yard areas abutting streets and not used for vehicle maneuvering or parking shall be landscaped. In all zoning districts a landscaped setback at least 10 feet wide shall be installed parallel to the street right-of-way or precise plan line and on interior property lines where drive-through aisles abut residential zoning districts.
- (i) Minimum building site (lot area or lease area) shall be sufficient to accommodate the building and required circulation, maneuvering and parking.
- (j) Drive-through aisles and pick-up windows may be located between the building and the right-of-way, but their visibility should be minimized through the use of innovative building architecture and mounded or bermed landscaping to minimize their visual impact from the street. Menu board(s) shall be placed so as to not be visible from the street.
- (k) Drive-through coffee/espresso shops shall have an architectural theme that is unique for a given area as specified by City standards and policies or as determined by the Planning Director; franchise architecture shall be avoided where possible.

k. through w. – no changes.

Exhibit B

SEC. 10-1.1952 AT-C USES PERMITTED.

- a. Primary Uses. The following uses, or uses determined to be similar by the Planning Director, are permitted in the AT-C District, as primary uses.
 - (1) Administrative and Professional Offices/Services.
 - (a) [Reserved.]
 - (b) Architectural service.
 - (c) Banks and financial institutions.
 - (d) [Reserved.]
 - (e) Drafting service.
 - (f) Engineering service.
 - (g) Offices.
 - (h) Travel agency.
 - (2) Automobile Related Uses.
 - Parking lot. (Requires Site Plan Review.)
 - (3) Personal Services.
 - Health club.
 - (4) Residential Uses.
 - None.
 - (5) Retail Commercial Uses.
 - (a) Restaurant. (See Sec. 10-1.1953 for restaurants and coffee/espresso shops with a drive-through facility)
 - (b) Retail sales within a hotel or motel.
 - (6) Service Commercial Uses.
 - (a) Copying or reproduction facility.
 - (b) Hotel or motel.
 - (c) Mailing or facsimile service.
 - (d) Reverse vending machines(s). (When located within a convenience zone.)
 - (7) Other Uses.
 - (a) Broadcasting studio. (Radio and television.)
 - (b) Christmas tree or pumpkin patch lot. (See Section 10-1.2735.c. for standards.)
 - (c) Public agency facilities.

- (d) Research and development.
 - (e) Wholesale sales.
- b. Secondary Uses. The following uses are permitted as secondary or subordinate uses to the uses permitted in the AT-C Subdistrict:
 - (1) Accessory buildings and uses. (See Section 10-1.1985.a.-c.)

Exhibit C

SEC. 10-1.1953 AT-C CONDITIONALLY PERMITTED USES.

- a. Administrative Uses. The following uses, or uses determined to be similar by the Planning Director, are permitted in the AT-C Subdistrict, subject to approval of an administrative use permit:
 - (1) Administrative and Professional Offices/Services.
None.
 - (2) Automobile Related Uses.
Automobile Rental.
 - (3) Personal Services.
None.
 - (4) Residential Uses.
None.
 - (5) Retail Commercial Uses.
Retail sales of retail goods with a regional or sub-regional marketing base, including but not limited to discount retail or warehouse retail, on land not to exceed 8 acres which is visible to Hesperian Boulevard.
 - (a) Apparel.
 - (b) Appliances.
 - (c) Art goods.
 - (d) Bicycles.
 - (e) Cameras.
 - (f) Crafts.
 - (g) Electronics.
 - (h) Hardware.
 - (i) Household furnishings.
 - (j) Office supplies.
 - (k) Sporting goods
 - (l) Similar uses as determined by the Planning Director.
 - (6) Service Commercial Uses.
None.
 - (7) Other Uses.
 - (a) Industrial/Vocational Trade School. (For persons 18 years of age and older)

- (b) Health club. (For persons 18 years of age and older)
 - (c) Temporary use.
- b. Conditional Uses. The following uses, or uses determined to be similar by the Planning Director, are permitted in the AT-C Subdistrict, subject to approval of a conditional use permit:

(1) Automobile Related Uses.

(a) Drive-through Restaurant.

(b) Drive-through Coffee/Espresso Shop.

~~None.~~