

SEC. 10-1.2735 - SPECIAL STANDARDS AND CONDITIONS FOR CERTAIN USES.

Special standards and conditions as set forth below are applicable to uses enumerated in this Section and listed in the individual districts. Departure or variation from these standards is permitted only when it can be established by the applicant that the intent and purpose of the district or the necessary findings for permit approval, as specified in this ordinance, are not compromised. Where warranted by ordinance regulations or to implement official City policy, standards of development may be required that exceed those listed in this Section.

j. ~~Recycling Facilities and~~ Small Recycling Collection Facilities and Unattended Collection Boxes.

(1) Purpose and Intent.

- (a) The purpose of the sub-section related to facilities accepting recyclable material is to make redemption and recycling of reusable materials convenient to the consumer in order to reduce litter and increase the recycling of reusable materials in accordance with the 1986 California Beverage Container Recycling and Litter Reduction Act of 1986 (Pub. Res. Code § 14500, et seq.).
- (b) The purpose of the sub-section related to unattended collection boxes is to:
 - i. Promote community health safety and welfare by regulating the placement of unattended collection boxes for clothing and other salvageable personal property throughout the city;
 - ii. Recognize that placement of unattended collection boxes in a variety of conveniently accessible locations throughout the city encourages individuals to recycle textile goods rather than placing those items in the waste stream.
 - iii. Ensure that unattended collection boxes and the contents thereof do not pose a hazard or nuisance to pedestrian or vehicular traffic;
 - iv. Ensure that material is not allowed to accumulate outside of the unattended collection boxes where it may be scattered by adverse weather conditions, animal contact, or human activities; and,
 - v. Establish criteria that avoid attracting vermin, unsightliness and public health or safety hazards or nuisances.

(2) Definitions.

- (a) Recyclable Material: "Recyclable materials" or "recyclables" are discarded materials that are collected, separated, and processed and that can be used as raw materials in the manufacture of new products. Recyclable materials are collected and treated in a manner different from refuse. Material including but not limited to metals, glass, plastic, and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material may include used motor oil collected and transported in accordance with sections 25250.11 and 25143.2 et. seq. of the California Health and Safety Code, as amended from time to time.
- (b) Small Recycling Facility: A center for the collection and/or processing of recyclable materials. Small recycling facilities shall not exceed 500 square feet and shall be incidental to a primary use on the site (i.e. shopping center). Such facilities collect non-hazardous recyclable materials directly from the public by donation, redemption, or purchase. Small recycling facilities generally do not use power-driven processing equipment, except for reverse vending machines, and may include mobile recycling units, bulk reverse vending machines, kiosk type units, and/or unattended containers placed for the donation of recyclable materials (such as aluminum, glass, plastic, and bimetal for recycling). This definition does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that

residential property, business or manufacturer. A certified recycling facility or certified processor ~~is means a recycling facility~~ certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. ~~A recycling facility~~ Recycling facilities may include the following:

~~A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public. Such a facility does not use power-driven processing equipment except for reverse vending machines. Collection facilities may include the following:~~

- ~~a. Reverse vending machine(s) occupying an area of less than 50 square feet;~~
- ~~b. Small collection facilities which occupy an area of not more than 500 square feet, and may include:

 - ~~aa. A mobile unit;~~
 - ~~bb. Bulk reverse vending machines or a grouping of reverse vending machines occupying more than 50 square feet.~~~~
- ~~c. Large collection facilities which may occupy an area of more than 500 square feet and may include permanent structures.~~

~~(ii) Reverse Vending Machine(s):~~

- ~~a. An automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to, aluminum cans, glass and plastic bottles, and issues a cash refund or a redeemable credit slip with a value not less than the container's redemption value as determined by the state. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.~~
- ~~b. A bulk reverse vending machine is a reverse vending machine that is larger than 50 square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.~~

~~(iii) Mobile Recycling Unit: An automobile, truck, trailer or van, licensed by the Department of Motor Vehicles which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans, or trailers, and used for the collection of recyclable material.~~

- (c) Responsible Party: Responsible Party shall mean the owner of the Unattended Collection Box, the operator of the Unattended Collection Box, and the owner of the property upon which the Unattended Collection Box is placed,
- (d) Unattended Collection Box: Unattended collection box shall mean any unstaffed drop-off container, receptacle or similar device that is located on any lot within the city that is used for soliciting and collecting donations of clothing and other salvageable personal property. This term does not include recycle bins for the collection of recyclable material and facilities described in (2)(b) above, or any unattended collection box located within a building.
- ~~(e) Inventory of Unattended Collections Boxes: The City's list of unattended collection boxes existing in the City of Hayward at the time of adoption of these regulations.~~

(3) Permit Issuance.

- (a) Reverse Vending Machine(s) located within commercial buildings, or which are located upon commercial or industrial zoned property within a ½ mile radius of each supermarket which conducts \$2 million or more in sales a year, and meet the following criteria are primary uses and do not require permits by the City of Hayward.
- (i) The reverse vending machine(s) is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986;
 - (ii) The reverse vending machine(s) is established in conjunction with a commercial use, community service facility, or industrial use provided the property is in compliance with the zoning, building and fire codes of the City of Hayward;
 - (iii) The reverse vending machine(s) does not obstruct pedestrian or vehicular circulation, including the pathway required for the handicapped access;
 - (iv) The reverse vending machine(s) does not occupy parking spaces required by the primary use;
 - (v) The reverse vending machine(s) does not occupy more than 50 square feet of floor space per installation, including any protective enclosure, and is no more than 8 feet in height;
 - (vi) The reverse vending machine(s) is clearly marked to identify the type of material to be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative;
 - (vii) The reverse vending machine(s) is maintained in a clean, litter-free condition on a daily basis;
 - (viii) The operating hours are at least the operating hours of the host use;
 - (ix) The area is illuminated to ensure comfortable and safe operation if operating hours are between dusk and dawn;
- (b) An administrative use permit for Small Recycling Facility ~~collection facilities~~ located in commercial or industrial areas and within a ½ mile radius of each supermarket which conducts \$2 million or more in sales a year, shall be issued if the applicant shows that the following conditions have been met:
- (i) The small collection facility shall be established in conjunction with an existing commercial use, community service facility, or industrial use which is in compliance with the zoning, building, and fire codes of the City of Hayward;
 - (ii) The small collection facility shall be no greater than 500 square feet and occupy no more than 5 parking spaces not including space that will be periodically needed for removal of materials or exchange of containers;
 - (iii) The small collection facility shall be set back at least 200 feet from any property line adjacent to property developed with residential uses and shall not obstruct pedestrian or vehicular circulation. A smaller separation between a proposed facility and residential uses may be permitted with submittal of a noise study and installation of noise reducing equipment, to the satisfaction of the Planning Director or his/her designee;
 - (iv) The small collection facility shall accept only glass, metals, plastic containers, papers and reusable items, not including motor oil;
 - (v) The small collection facility shall use no power-driven processing equipment except for reverse vending machines;
 - (vi) The small collection facility shall be secured from unauthorized entry or removal of material, and a collection schedule shall be posted;

- (vii) All recyclable materials shall be stored in containers or in the mobile unit vehicle, and materials shall not be left outside of containers when attendant is not present;
- (viii) The small collection facility shall be maintained free of litter and any other undesirable materials, and the area about the machines shall be swept and cleared each day. Mobile facilities, at which truck or containers are removed at the end of each collection day, shall be swept at the end of each collection day;
- (ix) The small collection facility shall not exceed noise levels of 60 DBA as measured at the property line of residentially zoned or occupied property, other sites shall not exceed 70 DBA;
- (x) Attended facilities located within 100 feet of a property zoned or occupied for residential use shall operate only during the hours between 9:00 a.m. and 7:00 p.m.;
- (xi) Containers for the 24-hour donation of materials shall be at least 50 feet from any property zoned or occupied for residential use unless waived by the Planning Director;
- (xii) Containers shall be clearly marked to identify the type of material which may be deposited; the facility shall be clearly marked to identify the name and telephone number of the facility operator and the hours of operation, and display a notice stating that no material shall be left outside the recycling enclosure or containers;
- (xiii) Signs for recycling facilities may be provided as prescribed in Chapter 10, Article 7, Sign Regulations, of the Hayward Municipal Code;
- (xiv) The small collection facility shall not impair the landscaping required by the City for any concurrent use;
- (xv) No additional parking spaces will be required for customers of a small collection facility located at the established parking lot of a host use. One space shall be provided for the attendant, if needed;
- (xvi) Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present;
- (xvii) Occupation of parking spaces by the facility and by the attendant may not reduce available parking spaces below the minimum number required for the primary host use unless all of the following conditions exist:
 - aa. The facility is located in a convenience zone or a potential convenience zone as designated by the California Department of Conservation;
 - bb. A parking study shows that existing parking capacity is not already fully utilized during the time the recycling facility will be on the site;
 - cc. The permit shall be reconsidered at the end of 18 months;
 - dd. A reduction in available parking spaces in an established parking facility may then be allowed as follows:
 - For a commercial or industrial host use:

No. of Available Parking Spaces	Maximum Reduction
0—25	0

26—35	2
36—49	3
59—99	4
100+	5

- For a community facility host use:

A maximum of five spaces reduction will be allowed when not in conflict with parking needs of the host use.

(xviii) The area is illuminated to ensure comfortable and safe operation if operating hours are between dusk and dawn;

- (c) Unattended Collection Box. A zoning conformance permit is required prior to placement of an unattended collection box on a property that is zoned General Commercial, Neighborhood Commercial, Mission Boulevard Form-Based Code (MB-T4 and MB-T5) and South Hayward BART Form-Based Code (S-T4 and S-T5) districts. An unattended collection box owned, operated and maintained by a currently operating primary or permitted use engaged in the collection of used textiles and that is located on the site of that use shall not require zoning conformance permit approval. However, such box shall meet all other requirements and standards as set forth in this sub-section.

Approval of a zoning conformance permit for an unattended collection box shall be contingent upon fulfillment of the following requirements and standards:

- (i) Unattended collection boxes shall be placed on a site of an existing primary use that is in compliance with zoning, building and fire code of the City of Hayward.
- (ii) Unattended collection boxes shall be a minimum distance of 1,000 feet from any other permitted unattended collection box, unless of the following exceptions apply:
 - a. The unattended collection box owned, operated and maintained by a currently operating primary or permitted use engaged in the collection of used textiles and that is located on the site of that use; or
 - b. The unattended collection box is included on the Inventory of Unattended Collection Boxes referenced in subsection (e)(i) below; or
 - c. The unattended collection box has been approved as second box on the same parcel, pursuant to subsection (x).
- (iii) Unattended collection boxes are prohibited on the site of solely residential development.
- (iv) Unattended collection boxes shall be maintained in good condition, free of graffiti, with no structural damage, holes or visible rust.

- (v) The Responsible Party shall maintain a minimum of twenty feet of area surrounding the unattended collection box free of donated materials, junk, trash and debris or other salvageable personal property placed on the site.
 - (vi) The Responsible Party shall be responsible for abatement and removal of all junk, garbage, trash, debris and other material from the unattended collection box and the immediate twenty feet surrounding the box within 24-hours of written notice from the City of Hayward. If abatement and removal is not accomplished within 24-hours of said notice, the Responsible Party shall be responsible for all costs related to abatement and removal of junk, garbage, trash, debris and other refuse material as defined above.
 - (vii) Unattended collection boxes shall contain the following information in minimum two-inch font visible from the front of each facility: the name, address, telephone number, Internet Web address and email address of the unattended collection box owner and operator; the type of material to be deposited in the box; and, a statement that the collection box is owned by either a for-profit or nonprofit organization. If a nonprofit organization owns the unattended collection box, then the box's front must also display a statement describing the charitable cause that will benefit from the donations.
 - (viii) Unattended collection boxes shall be locked or otherwise secured.
 - (ix) Unattended collection boxes' footprint shall not exceed 25 square feet in size, and shall not be taller than seven feet in height.
 - (x) No more than one unattended collection box may be placed on a parcel. However, an operator with an approved box on a site that is in good standing may apply to amend their zoning compliance permit to allow the installation of a second box on the same parcel if the operator demonstrates that daily collection from the permitted unattended collection box fails to provide adequate storage capacity.
 - (xi) Unattended collection boxes shall not obstruct pedestrian or vehicular circulation and shall not be placed in required parking spaces, setbacks or the public right-of-way as defined in Chapter 10 of the Hayward Municipal Code.
 - (xii) Unattended collection boxes shall be visible from the public right-of way.
 - (xiii) Unattended collection boxes shall be located no further than 10 feet from a continually operating light source of at least one foot candle.
 - (xiv) Unattended collection boxes shall be free of any advertising which is unrelated to the business of the unattended collection box.
 - (xv) Unattended collection boxes shall remain in the exact location for which a permit was issued and shall not be moved unless the box is replaced with an identical box in the same location or removed from the property.
 - (xvi) The owner or operator of a permitted unattended collection box shall report the total number of tons of material collected within the city limits. Such reporting shall be submitted in writing on an annual basis to the City's Utilities and Environmental Services Department. Written reports shall be submitted by March 30 each year for the preceding calendar year.
- ~~(d) Implementation.~~
- ~~i. Inventory of Existing Unattended Collection Boxes: An owner or operator of an unattended collection box on the City's Inventory of Unattended Collections Boxes ("Inventory") shall apply for a zoning compliance permit within thirty (30) days of the effective date of these regulations. Approval of a zoning conformance permit for an existing unattended collection box shall be contingent upon~~

~~fulfillment of the requirements and standards set forth in these regulations, except for the minimum distance requirements.~~

- ~~ii. Inventory of Existing Nonconforming Unattended Collection Boxes: Any unattended collection box on the City's Inventory that is made non-conforming by adoption of these regulations may lawfully remain on the site listed in the Inventory for a period not to exceed twelve (12) months from the effective date of these regulations. However, a zoning conformance permit shall not be approved for such a box.~~
 - ~~a. Notice: Upon adoption of these regulations, the City shall notify the owner or operator of such a box, in writing, that the non-conforming unattended collection box may remain on the site for a period not to exceed twelve (12) months from the effective date of these regulations.~~
 - ~~b. Maintenance: The existing unattended collection box shall be maintained in good condition, free of graffiti, structural damage, holes, visible rust, and the twenty feet of area surrounding the box shall be kept free of donated materials, junk, trash and debris or other salvageable personal property placed on the site.~~
 - ~~c. Replacement: The existing unattended collection box may be replaced with another box by the same owner or operator within the time frame established by this section, provided that the replacement box footprint does not exceed that of the original box.~~
 - ~~iii. New Unattended Collections Boxes: Applications for zoning conformance permits to allow unattended collection boxes that are not included in the City's Inventory shall be accepted commencing sixty (60) days from the effective date of these regulations. Approval of a zoning conformance permit for a new unattended collection box shall be contingent upon fulfillment of all the requirements and standards set forth in these regulations.~~
- (e) Removal of Unattended Collection Boxes and Liability. ~~Notwithstanding the implementation provisions in subsection (e)(ii) below, upon discovering the existence of an~~ If an unattended collection box on private or public property ~~that~~ is lacking the requisite permit, the Planning Director or designee shall have the authority to cause the abatement and removal thereof in accordance with the procedures outlined in Chapter 5, Article 7 (Community Preservation and Improvement) of the Hayward Municipal Code.
 - (f) Nothing in these regulations is intended to diminish or otherwise alter the requirements of any other federal, state or municipal law governing regulation of unattended collection boxes.