
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.

a. Adult Entertainment Activity Regulations.

- (1) Purpose. In adopting these regulations it is recognized that certain types of adult entertainment activities possess objectionable operational characteristics which, when concentrated, have a deleterious effect upon adjacent areas. It is also recognized that locating adult entertainment activities in the vicinity of facilities frequented by minors will cause the exposure of adult material to minors who, because of their immaturity, may be adversely affected by them. Special regulations of sex-oriented, adult entertainment businesses is necessary to insure that adverse effects will neither contribute to the blighting or downgrading of surrounding neighborhoods nor have an adverse effect on minors.
- (2) Definitions. For the purpose of these regulations, certain terms and words shall have the following meanings:
 - (a) Adult Entertainment Activity. An activity which is characterized by an emphasis on depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." Said term includes, by way of illustration only, the following:
 - (i) Adult Arcade. An establishment where one or more motion picture projectors, slide projectors or similar machines, for viewing by five or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
 - (ii) Adult Bookstore. An establishment having as a substantial or significant portion of its stock-in-trade, and offers for sale one or more of the following: books, magazines, and other periodicals which are substantially devoted to the depiction of "specified sexual activities" or "specified anatomical areas."
 - (iii) Adult Gift Store. An establishment having as a substantial or significant portion of its stock in trade, and offers for sale one or more of the following: instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities" (i.e., "adult gifts.")
 - (iv) Adult Motion Picture Theater. An enclosed building used for presenting material in the form of motion picture film, video tape or other similar means, and in which a substantial portion of the total presentation time is devoted to the depiction of "specified sexual activities" or "specified anatomical areas" for observation by persons therein.
 - (v) Adult Theater. A theater, concert hall, auditorium or similar establishment in which a substantial portion of the total presentation time is devoted to live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

-
- (vi) Sexual Encounter Establishment. An establishment which provides a place where two or more persons may congregate, associate or consort in connection with "specified sexual activities" or the exposure of "specified anatomical areas." This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the State of California engages in sexual therapy.
- (b) Specified Sexual Activities. This term shall be used herein to mean:
 - (i) Human genitals in a state of sexual stimulation or arousal;
 - (ii) Acts of human masturbation, sexual intercourse or sodomy;
 - (iii) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 - (c) Specified Anatomical Areas. This term shall be used herein to mean:
 - (i) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
 - (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (3) Location. No person shall place, maintain, own or operate any adult entertainment activity, as herein defined, in the following locations:
 - (a) Within 500 feet of any parcel of real property zoned primarily for residential use; or
 - (b) Within 500 feet of any parcel of real property on which is located any of the following facilities:
 - (i) A school primarily attended by minors;
 - (ii) A church which conducts religious education classes for minors;
 - (iii) A public park, playground or other recreational facility;
 - (iv) A museum;
 - (v) A library.
 - (c) Within 500 feet of any other adult entertainment activity as herein defined.
 - (4) Public Display of Certain Matter Prohibited. No person shall place, maintain, display or exhibit any material in a manner which exposes to public view photographs or illustrations of "specified sexual activities" or of poses which emphasize or direct the viewer's attention to "specified anatomical areas." As used herein, "exposes to public view" means exposes to the view of persons outside the building in which said material is placed, maintained or displayed.
 - (5) Discontinuance of Nonconforming Activities. No later than September 19, 1980, all adult entertainment activities made nonconforming by reason of the provisions hereof, except those activities rendered nonconforming because of being within 500 feet of any other adult entertainment activity, shall be discontinued or shall be brought into full conformance with the provisions hereof, except that such activities may be allowed to continue for an additional period upon the approval of a variance with the finding that the activity is obligated by written lease entered into before the effective date of this section for a period exceeding two years from such effective date, or that the activity involves investment of money in leasehold or improvements of such that a longer period is necessary to prevent undue financial hardship.

-
- b. Catering Truck Standards. All catering truck operations shall comply with the following standards:
- (1) Catering trucks shall only park on private property with the permission of said property owner(s).
 - (2) Catering trucks shall not park on any City streets, rights-of-way or property.
 - (3) Catering trucks shall not be located on a single parcel more than 20 minutes at a time.
 - (4) Catering trucks shall not be located within 300 yards of a food vendor as defined in this Ordinance.
 - (5) Catering trucks shall not return to the same location within less than two hours.
 - (6) Catering trucks shall obtain all necessary approvals for the County Health Department and City of Hayward Police Department.

~~c. Christmas Tree and Pumpkin Patch Lot Regulations. All Christmas tree and pumpkin patch lots shall comply with the following standards:~~

- ~~(1) Pumpkin Patch lots shall not be established before October 1 of each year and Christmas tree lots shall not be established before November 22 of each year. Annual permits must be obtained from the Fire Department and the Building Division.~~
- ~~(2) Prior to opening for business, all Fire Department and the Building Division permits shall be obtained. The lot shall be maintained and operated in compliance with all Fire Department and the Building Division requirements.~~
- ~~(3) No merchandise, equipment, vehicles, refuse, or other material associated with the proposed lot shall block circulation or parking aisles outside fenced areas.~~
- ~~(4) No aspect of the proposed operation shall impede access to any public driveway, nor any parking areas required for the operation of surrounding uses.~~
- ~~(5) All parking and loading must be done on the lot and not on any public street. Parking areas shall be surfaced to prevent mud or dust from being tracked onto the public right-of-way.~~
- ~~(6) An electrical permit must be obtained prior to installation of any lighting.~~
- ~~(7) Fencing around the premises shall be properly stabilized.~~
- ~~(8) Signs shall be confined to the designated lot area only and must not obstruct vision of motorists.~~
- ~~(9) If sawdust or other similar material is used to cover the lot, it shall be kept moist.~~
- ~~(10) A minimum of one employee shall be on the premises at all times to insure compliance with the conditions of approval.~~
- ~~(11) All trees or pumpkins, merchandise, debris, fences, poles, hay or sawdust and other evidence of the use must be removed within 7 days after the Halloween or Christmas Holiday. To the maximum extent possible, all wood products must be recycled. While other recycling facilities may be used, it is preferred that all wood products such as trees, tree stands, and sawdust (but not including flock and tinsel) be recycled by drop-off at the City of Hayward Water Pollution Control Facility.~~
- ~~(12) Notices must be conspicuously posted on the lot and distributed to customers at the point of sale providing information about the City of Hayward Christmas tree Recycling Program provided by the Office of Solid Waste Management.~~

cd. Cannabis, Personal Cultivation and Commercial Cannabis. Refer to Section 10-1.3600, Cannabis.

d. Data Centers

(1) Additional Submittal Requirement

- (a) Community Benefits Plan. Summary of community benefits to be provided to the community that would not otherwise be required of the project;

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

(1) Location and Design Criteria.

- (a) 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.
- (b) 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, 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.

(2) 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.

- (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) 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 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 when abutting or adjacent to residential zones.

(3) Automobile Service Stations – Additional Design Criteria.

- (a) Minimum facilities required:
- (i) One restroom open to the public
 - (ii) Window washing equipment and towels.
- (b) 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: 20 feet measured from the street right-of-way or precise plan line.

(4) 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 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 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
 - (iii) 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) Minimum building site (lot area or lease area) shall be 25,000 square feet in area, unless adequate access and cross-parking is provided.
- ~~(a)~~(g) 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.

f. Food Vendor Permit.

- (1) Permit Required.
 - (a.) No vending of food or food products shall be permitted unless a food vendor's permit has first been obtained.
 - (b.) A separate food vendor's permit shall be obtained for each approved location.
- (2) Permitted Locations. Food Vendors are permitted as specified in Zoning Districts, subject to the permit requirements and standards set forth below. Definitions. This Section shall apply to any mobile unit (as defined below) designed or used for the vending of food or food products from a fixed or stationary location on private property. This Section shall not apply to Catering Truck operations as defined in subsection (b) of this Section or Sidewalk Vendors, as defined in Section 6-16.30(B) of the Hayward Municipal Code.

-
- (a.) Approved Location - A site approved by the Planning Director from which a vendor operating from a mobile unit may sell their products.
 - (b.) Mobile Unit - Any trailer, cart, wagon, conveyance or structure not permanently fixed to a permanent foundation and which may be moved under its own power, pushed or pulled by hand, towed by a motor vehicle or carried upon or in a motor vehicle or trailer.
 - (c.) Vending - The business of selling or causing to be sold for cash or consideration of any of the following items: food or food products whether hot, cold, freshly prepared, or packaged, such as hot dogs, sandwiches, and burritos, to be consumed for a meal or snack. This definition includes an offer for sale. All items sold shall be capable of being consumed on site without preparation or cooking other than done by the vendor.
 - (d.) Vending Equipment - Tools, umbrellas, and chair for vendor only. No accessory equipment for dining at the site is permitted. Food or food products, etc., related to vending and approved by the Planning Director.
 - (e.) Vendor - A person who is in the business of vending or their employee(s).

(3) Application.

- (a.) An application for food vendor's permit to vend food products shall be submitted to the Planning Director on a form provided for such purpose, accompanied by payment of the fee set by Resolution of the City Council.
- (b.) The application shall include the signature of the owner of the property upon which the applicant proposes to locate their mobile unit indicating the property owner's permission to use the site for the purpose set forth in the application.
- (c.) In addition to the completed application, the following information shall be submitted on a form acceptable to the Planning Director:
 - (i.) Proposed location of a mobile unit plotted on a map drawn to a scale of one-inch equals 20 feet or larger, which indicates the distance to adjacent landscaping, parking stalls, buildings driveways, signs, fences, utility poles, transformers, hydrants, etc., located within 50 feet of the location of the proposed mobile unit.
 - (ii.) Plans for provisions to collect and store litter and dispose of it.
 - (iii.) Scaled drawing or manufacturers information indicating the size of the mobile unit and vending equipment the applicant proposes to use.
 - (iv.) Location where vendor intends to park personal motor vehicle, location of customer parking spaces, and location where vendor intends to store overnight mobile unit.
 - (v.) Description of the nature of the business and the goods to be sold.
 - (vi.) Any other information deemed necessary by the Planning Director to adequately review the application, for example, photograph or rendering of mobile unit.

(4) Standards. All applications for food vendor's permit shall comply with the following standards:

-
- (a.) Approved locations for food vending shall not be located within 300 yards of any school.
 - (b.) All mobile units shall be set back from the public street right-of-way or a private street or driveway. A food vendor shall not locate a mobile unit or vending equipment or merchandise offered for sale in such way as to block or impede or any way hamper pedestrian or vehicular movement or to cause a hazard to any pedestrian or vehicle.
 - (c.) Mobile units and vending equipment shall be self-supporting and shall not be attached temporarily or permanently to trees, hydrants, utility poles or transformers, or other vertical structures or benches.
 - (d.) All mobile units with ventilating equipment shall be located 10 feet away from all buildings unless otherwise approved by the Planning Director.
 - (e.) A food vendor shall not sell any food or food products between the hours of 7:00 p.m. and 7:00 a.m. unless otherwise authorized by the Planning Director.
 - (f.) No food vendor shall use, play or employ any sound, outcry, amplifier, loudspeaker, radio or any other instrument or device for the production of sound where said sound exceeds the background noise levels for adjacent uses.
 - (g.) A food vendor shall not store overnight any vending equipment or food products other than in a commissary approved by the Alameda County Department of Environmental Health Services.
 - (h.) A food vendor shall not display any signs or similar devices unless approved by the Planning Director. Signs painted on a mobile unit shall be approved by the Planning Director, and any other sign or device(s), for example, flag, pennant, balloon, may be approved at the discretion of the Planning Director if he/she finds that such sign or device does not create a safety hazard or is not aesthetically detrimental or incompatible with surrounding uses.
 - (i.) Any exterior lighting shall be approved by the Planning Director and shall not create a safety hazard and shall be shielded or deflected away from adjacent properties.
 - (j.) A food vendor shall maintain their approved location in a clean and hazard-free condition. The vendor shall provide at least one 30-gallon garbage container with a swing top nearby the mobile unit for public use and shall pick up all litter generated from his or her operation within a radius of 100 feet of the approved location. A vendor shall empty the garbage container(s) daily, or more often if necessary; disposal of garbage or trash into public trash containers is prohibited.
 - (k.) The food vendor at all times shall be in compliance with all regulations of the Health Officer of Alameda County regarding operation of this use and all other applicable rules and regulations.
 - (l.) Location of a mobile unit and vending equipment shall not reduce the number of parking spaces below which are required for the permitted primary or conditional use.

(5) Permit Issuance.

(a.) A food vendor's permit shall be issued if the applicant satisfies the above standards and the Planning Director finds that said application complies with all pertinent regulations administered by these officials.

(b.) A food vendor's permit is not transferable and shall remain valid until the vendor ceases operations at the permitted location for a period of 6 months or longer or the permit is revoked.

(6) Permit Revocation.

(a.) A food vendor's permit shall be subject to revocation if the conditions of the permit or the regulations set forth or incorporated herein are violated.

(b.) Before taking any action to revoke a permit, the Planning Director shall give notice to the permittee in writing of the proposed revocation, the reasons therefor, and the time and place the permittee will be given an opportunity to show cause to the Planning Director why the permit should not be revoked. The written notice may be served personally upon the permittee or mailed to the permittee at the address shown on the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing, the Planning Director may revoke the permit upon finding non-compliance with the conditions of the permit or the regulations herein.

(c.) The Planning Director's decision revoking a permit may be appealed in writing to the Planning Commission stating the reasons why the Planning Director's decision was incorrect. The Planning Commission shall schedule a hearing within 30 days of said appeal, and its decision shall be final. Said appeals shall be filed in the Planning Division.

Fg. Garage Sales. Garage sales, also referred to as yard sales, shall not create a public nuisance as defined herein, and shall be limited to a maximum of four times per year per dwelling for single-family homes, and four times per year per development for multi-family areas.

Gh. Limited Entertainment Permit.

(1) Limited Entertainment Permit Required. Any person providing live entertainment using amplified sound indoors or outdoors on a private patio connected to an establishment shall first obtain a Limited Entertainment Permit by filing an application with the Development Services Department.

(a) Application requirements. A Limited Entertainment Permit application shall include the following:

(i) The name and address of the business, location or venue where the proposed entertainment will occur;

(ii) The date(s) and time(s) that the proposed entertainment activity will occur;

(iii) A description of the business where the proposed entertainment will occur;

(iv) A description of the entertainment activity, including the nature and type of sound amplification; the number of people anticipated to attend; and

(v) Any other information associated with the proposed entertainment activity, as required by the Development Services Department.

(2) Limitations on Limited Entertainment Permits.

(a) The entertainment activity(ies) must be incidental to the principal use of a site.

-
- (b) Permit may cover up to one year of recurring events.
 - (c) Activities and events that are presented as live entertainment for an audience of more than 100 people shall require a Cabaret License pursuant to Section 6-2.10 of the Hayward Municipal Code, instead of a Limited Entertainment Permit.
 - (d) Bars, nightclubs, adult-only activities, and other similar uses as determined by the Planning Director are prohibited from obtaining a Limited Entertainment Permit and shall require a Cabaret License to allow live entertainment activities, pursuant to Section 6-2.10.
 - (e) Outdoor gatherings as defined in Section 10-1.2735(m) shall require approval of a Minor Temporary Use Permit instead of a Limited Entertainment Permit.
 - (f) Outdoor gatherings as defined in Section 10-1.2735(n) shall require approval of an Administrative Use Permit instead of a Limited Entertainment Permit.
 - (g) Outdoor gatherings in public spaces shall require approval of a Special Event Permit instead of a Limited Entertainment Permit.
- (3) Entertainment Permit Performance Standards
- (a) All live entertainment activities must end by 11pm;
 - (b) Live entertainment activities must be open to all ages;
 - (c) Live entertainment activities shall be limited to audiences of between 10 and 100 patrons per event or to the maximum capacity allowed by the building occupancy, whichever is less; and
 - (d) Each Limited Entertainment Permit is non-transferable and shall be used only at the specific premises and on the specific dates for which the entertainment permit was issued.
- (4) The Development Services Department Director may deny a Limited Entertainment Permit application for any of the following reasons:
- (a) The applicant provides false information in the application submitted for a Limited Entertainment Permit.
 - (b) The business or premises for which the Limited Entertainment Permit is requested is found to be out of compliance with applicable City, state and/or federal laws, ordinances and codes.
- (5) Revocation of a Limited Entertainment Permit.
- (a) The Development Services Director shall have the authority to revoke or suspend a Limited Entertainment Permit under this Division, pursuant to the procedures of Section 10-1.2845 of the Hayward Municipal Code. The suspension or revocation of a Limited Entertainment Permit shall be based on one or more of the following:
 - (i) Any of the criteria established for the denial of a Limited Entertainment Permit in Section 10-1.2735(h)(4), above.
 - (ii) The proposed entertainment activity results in a high volume of calls for service to the Police Department and/or the Code Enforcement Division.
 - (iii) The entertainment event or activity for which the permit was issued violates one or more of the conditions imposed upon the approved Entertainment Permit or the requirements of this Division.

(b) In the event the Development Services Director revokes a Limited Entertainment Permit pursuant to this Ordinance, no other Entertainment Permit shall be issued to the same applicant within a minimum of five years from the date that the denial or revocation is final.

(c) The Development Services Director's decision revoking a permit may be appealed in writing to the Planning Commission stating the reasons why the Director's decision was incorrect. The Planning Commission shall schedule a hearing within 30 days of said appeal, and its decision shall be final. Said appeals shall be filed with the Planning Division.

i.f. Livestock, Apiaries, and Household Pets.

- (1) Minimum Lot Area. The minimum lot area for any lot used to maintain livestock and other animals, except for household pets, whether a temporary use or principal use of the property, shall be the lesser of either the minimum lot area specified in the zoning district in which the property is located or the area hereinafter specified:
 - (a) For large and medium livestock, the minimum lot area shall be 20,000 square feet;
 - (b) For exotic animals, poultry or other birds, the minimum lot area shall be 4,000 square feet, or greater, depending on the species of the animal, as determined by the Planning Director;
 - (c) For apiaries, the minimum lot area shall be 4,000 square feet.
- (2) Maximum Number of Animals. The maximum number of livestock or any other animals allowed pursuant to this section is subject to a determination by the Planning Director that the site is suitable, including consideration of size, configuration and location, and can support the number of livestock or other animals without creating nuisance problems for surrounding residential properties. The following limits shall apply:
 - (a) Livestock: In no case shall the number of livestock, as defined herein, kept or maintained on any lot exceed one large livestock for each 20,000 square feet of land contained in such parcel, or one medium livestock for each 10,000 square feet of land contained in a minimum 20,000 square foot parcel.
 - (b) Fowl: In no case shall hens, ducks, pigeons, or other small fowl be kept on a parcel that is less than 4,000 square feet in size.
 - (c) Apiaries: For apiaries, in no case shall the number of hives exceed two for a parcel which is less than 40,000 square feet in size or zero for a parcel which is less than 4,000 square feet in size.
 - (d) Duration of Limit: Once a permit is granted establishing the maximum number of animals allowed on a property, the permittee is entitled to maintain that maximum number of animals indefinitely as long as an animal(s) has existed continuously, in that six months have not passed where there were no animals on the property.
- (3) Minimum Available Open Area. All livestock or other animals shall be provided with the minimum available open area specified below (such area may include barns, stables, sheds or similar structures used to house animals):
 - (a) For large livestock, the minimum available open area per animal shall be 5,000 square feet;
 - (b) For medium livestock, the minimum available open area per animal shall be 2,500 square feet;
 - (c) For poultry, the minimum available open area per animal shall be 36 square feet;

-
- (d) For exotic animals, the minimum available open area per animal shall be as determined by the Planning Director, based on the species of the animal.
- (4) Buildings and Structures. All animals shall be provided with adequate shelter or other protection from the elements. Shelter may be provided through the construction of a coop, stable, or other structure, as appropriate for the species of animal and as determined by the Planning Director. Buildings and structures used for the housing of animals shall be located behind the principal structure on the lot. Such buildings and structures may be located elsewhere on the lot due to topography or other special characteristics of the lot, subject to approval of the Planning Director. Such structures shall be large enough and designed such that all animals may lie down, stand up, fully extend their limbs and turn around freely, as required by the section 1350 of Title 3 of the California Code of Regulations, as may be amended from time to time. Hives and accessory structures for the keeping of livestock or household pets shall not be located in front of a primary structure.
- (5) Maximum Height of Structures. No building or structure used for the housing of animals shall be erected or maintained on any lot to a height greater than that permitted for accessory structures in the respective zoning district. For small livestock and household pets, the maximum height of an enclosure shall be six feet, except for beehives. For beehives, the maximum height shall be limited to four feet. A greater height may be permitted based on consideration of special characteristics of the lot, including, but not limited to, topography, lot size, and building placement, and subject to approval of the Planning Director.
- (6) Minimum Setback Requirements. All barns, stables, and other structures used for the housing of animals, except for household pets, on any lot shall be located not less than 20 feet from any property line and not less than 40 feet from any dwelling on the same or adjoining lot. Beehives and all structures for the housing of household pets, including chicken coops, shall be located not less than 5 feet from any property line and not less than 6 feet from any dwelling on the same or adjoining lot. The distances as specified in this subsection may be reduced or waived upon the finding that such distances are not necessary for the protection of nearby residences.
- (7) Fence Requirements. All areas containing livestock or other animals shall be enclosed by fences which are good, strong, substantial, and sufficient to prevent the ingress and egress of livestock or other animals. Such fences shall be designed and constructed of appropriate materials and be of an adequate height so as to control and contain such animals at all times, while avoiding injury to such animals, preventing such animals from reaching across any property lines, and of a design that does not detract from the appearance of the site or surrounding area. Where bees are proposed to be kept, a solid fence of at least six feet in height shall be erected along all property lines within ten feet of the hive. Hives shall not be located in areas where this requirement cannot be met due to height limitations for fences.
- (8) Maintenance of Livestock and Other Animals. All livestock and other animals shall be kept or maintained so as to minimize and prevent production of flies, excessive odor, dust, noise, or other conditions detrimental to the community health and welfare, by applying the following minimum requirements:
- (a) Manure must be removed daily from the corral, stable, paddock, or other holding areas and stored in fly-tight containers, cans or holding boxes, until disposal; roosts, lofts, and rabbit hutches must be cleaned daily unless worm beds are maintained under the rabbit hutches. Composting or similar treatments may be permissible if performed to appropriate standards so as not to constitute a nuisance, as determined by Planning Director.
- (b) Watering troughs must be so constructed and located that they do not overflow excessively in the stall, corral or paddock area, as to promote mosquito larvae growth.

-
- (c) Hay must be stored in such a manner so as not to become a nesting place for rodents, i.e., stored in rodent-proof buildings or off the floor and away from walls, other material or equipment.
 - (d) Grain feeds shall be stored in rodent-proof containers or buildings, i.e., metal cans or rodent-proof feed cribs; all other feed must be stored in vermin-proof containers.
 - (e) The entire area set aside for the animals shall be cleared of all rubbish and debris.
 - (f) Livestock shall not be abandoned on any property or right-of-way in the City of Hayward. Any application for a permit to keep livestock shall include a preliminary plan for the eventual discontinuation of the keeping of livestock on the site, including a method for the relocation of livestock.
 - (g) Where apiaries are proposed to be sited within one hundred feet of any residence, a person responsible for management of the hives must reside on the property.
- (9) Livestock as a Legal, Nonconforming Use. Livestock existing as a legal, nonconforming use may continue indefinitely as long as (1) the livestock have existed continuously in that six months have not passed when there were no livestock on the site, (2) the maximum number of livestock established as a nonconforming use is not increased, and (3) as long as there is no intensification of livestock, e.g., legal, nonconforming medium livestock may not be intensified by replacing them with large livestock. The burden of proof for establishing the legal, nonconforming status of livestock rests with the property owner subject to the endorsement of the Planning Director.
- (10) Permit Required. As provided in the Zoning Ordinance, a Zoning Conformance Permit is required prior to the establishment of household pets or apiaries as a secondary use. This requirement shall be waived for household pets where the enclosure is located at least forty feet from any residence, and for apiaries where the hives are located at least one hundred feet from any residence. An application for a Zoning Conformance Permit shall be reviewed by the Planning Director or their designee and shall be approved if all of the standards of this section are met.
- (a) Household Pets: A Zoning Conformance Permit is required for the establishment of the following household pets: Hens, ducks, pigeons, rabbits and other similar small animals, as determined by the Planning Director, where the proposed total number on a property does not exceed four (4) of such animals. An application for a Zoning Conformance Permit shall be submitted on a self-certification form, wherein an applicant shall acknowledge with their signature or initials that they understand the requirements of the Hayward Municipal Code with respect to the maintenance and management of the animals that are proposed. Where the City determines that compliance with such standards is impossible given the characteristics of the site where the animals are kept, then the permit shall be deemed null and void.
 - (b) Apiaries: An application for a Zoning Conformance Permit for beekeeping shall require noticing of all property owners within one hundred feet of the property where the bees are proposed to be kept. Such notice shall be mailed within five business days of receipt of such application. If the City receives notification and documentation acceptable to the Planning Director (such as a doctor's note) that an individual who is allergic to bees resides within one hundred feet of the property where bees are proposed, the application shall be denied. Such notification and documentation may be received from any person who received an official notice from the City or from any person who can establish that they reside within one hundred feet of the property where bees are proposed to be kept. If no notification is received within thirty calendar days of the mailing of the official notice, and if the application meets all other city design criteria, the permit shall be issued.

~~i.g.~~ Manufactured Housing Regulations. Manufactured housing to be installed on a lot shall have been constructed after July 1, 1976, and shall bear an insignia of approval under the National Mobile Home Construction and Safety Standards Act of 1974 and shall be erected in compliance with the following:

- (1) Shall be attached to a permanent foundation pursuant to Health and Safety Code Section 18551, and shall have all utility connections conform to all requirements of the City's Building, Plumbing, Electrical, and Mechanical Codes.
- (2) Shall be a minimum of 20 feet wide.
- (3) Shall have a roof constructed of asphaltic, wooden, glass fiber or tile materials.
- (4) Shall have wood, masonry or stucco siding which will extend to the ground (except when a solid masonry perimeter foundation is used, the siding need only extend to the top of the foundation).
- (5) Shall have an overhang or eave extending a minimum of 14 inches from the wall.
- (6) Shall have a floor height no more than 30 inches above the finished grade of the building pad.
- (7) Shall include a minimum 20-foot-wide garage (interior dimension) and/or landscaping where necessary to make the house compatible with surrounding residential development.
- (8) Shall conform with Hillside Design and Urban/Wildland Interface Guidelines.

~~h.i.~~ ~~Outdoor Gatherings.~~

- ~~(1) Permit Required. No outdoor gathering of 275 or more people shall be held unless an administrative use permit has first been obtained.~~
- ~~(2) Outdoor Gathering. Any assembly, music festival, carnival, show, circus, dance, exhibition, lecture, concert, rally, party, celebration, or similar event or activity which is:
 - ~~(a) Open to the public or to which members of the public are invited or admitted either for a charge or free of cost; and~~
 - ~~(b) Held out of doors or other than in a permanent structure that was constructed for the purpose of or constructed so that it can be used for conducting such event or activity; provided, however, that the incidental use of any patio, courtyard, deck, or other area adjacent to and outside a permanent structure (that is authorized as a permitted primary or conditional use) by participants at the event or activity shall be considered use of the permanent structure for the purposes of this provision.~~~~
- ~~(3) Application. An application for an administrative use permit to hold an outdoor gathering shall be submitted to the Planning Director on a form provided for such purpose, setting forth the following:
 - ~~(a) The location and legal owner of the premises on which the outdoor gathering is to be held;~~
 - ~~(b) The number of people the applicant will admit to the outdoor gathering, his plans to limit admittance to the outdoor gathering to such number, and the date(s) and times during which the gathering is to be held;~~
 - ~~(c) The applicant's plans, including facilities for the handicapped where physically feasible, for provisions of potable water, toilet facilities, solid waste disposal, and if required by the Health Officer of Alameda County, emergency medical treatment;~~
 - ~~(d) The applicant's plans for provision of parking spaces, including spaces for the handicapped;~~
 - ~~(e) The applicant's plans for illuminating the premises if any part of the gathering is to be held within one hour before sunset or after dark;~~~~

-
- (f) A description of all sound amplification equipment the applicant plans to use and the intensity in decibels at the property line of the premises upon which the gathering is to be held; and
 - (g) The applicant's plans for provision of fire control devices and method of vehicular and pedestrian access to and from the gathering.
- (4) Permit Issuance. An administrative use permit for an outdoor gathering may be issued if the applicant shows that the following conditions have been met:
- (a) The applicant is the owner of the premises on which the gathering is to be held or the owner of the premises has consented to the use of the premises for the outdoor gathering;
 - (b) The Chief of Police has approved the applicant's plans to limit attendance at the outdoor gathering to the number of people set forth in the application, maintain order, and assure compliance with all applicable laws and regulations, including but not limited to, the provisions of this ordinance and the conditions of the permit under which the outdoor gathering is held. The Chief of Police shall approve the applicant's security plans if one security guard, who may be a peace officer or other person acceptable to the Chief of Police, is provided for every 275 persons expected to attend the outdoor gathering and the sole responsibility of such guard(s) is to limit attendance at the outdoor gathering to the number of people set forth in the permit, maintain order, and enforce all laws, regulations, and permit conditions;
 - (c) The Health Officer of Alameda County has approved the applicant's plans, including facilities for the handicapped where physically feasible, for provisions of potable water, toilet facilities, solid waste disposal, and if required by the Health Officer, emergency medical treatment;
 - (d) The Traffic Engineer has approved the applicant's plans for provisions of parking spaces, including provision for spaces for the handicapped where physically feasible. The Traffic Engineer shall approve the applicant's plans for the provision of parking if finds that parking spaces are provided for one of each four persons the applicant will admit to the outdoor gathering, safe access to and from such parking spaces is provided, and such parking spaces will be graded, marked, and separated by a physical device from all pedestrians;
 - (e) The Public Works Director has approved the applicant's plans for illuminating the premises upon which the outdoor gathering is planned if any part of the gathering is expected to occur within one hour before sunset or after dark. The Public Works Director shall approve illumination plans that provide for safe lighting equipment which illuminates at the following levels:
 - (i) Open areas to be used by attendees at 10-foot candle intensity;
 - (ii) Parking and pedestrian access areas at 5-foot candle intensity; and
 - (iii) Toilet facility areas at 50-foot candle intensity;
 - (f) The Planning Director has approved the applicant's plans for any use of sound amplifying equipment. The Planning Director shall approve sound amplification plans that limit noise levels to no more than 60 L_{dn} or CNEL (db) at the property line of the premises or is lawfully used for residential use or abuts property zoned or lawfully used for residential use and no more than 70 L_{dn} or CNEL (db) at the property line of the premises upon which the gathering is to be held, if such premises is neither zoned nor used for residential use nor abuts property that is zoned or used for residential use; provided, however, that the

~~Planning Director shall not approve any sound amplification plans that call for the use of sound amplification equipment between the hours of 10:00 p.m. and 6:00 a.m.; and~~

~~(g) The Fire Chief has approved the applicant's plans for provisions for fire control devices and plan(s) for vehicular and pedestrian ingress and egress to the site, including emergency vehicles.~~

k.i. Private Street Criteria. Approval of a private way as a private street (not part of a subdivision or other development project) for the purpose of establishing a street frontage for a lot shall be governed by the following:

- (1) Overall, minimum right-of-way shall be 25 feet per the City Standard Design Details, and paved access shall be not less than 10 feet in width for a one-way driveway and 12 feet in width for a two-way driveway. The access may be increased up to 24 feet in width and incorporate a turn-around area, as such is determined to be necessary, giving consideration to traffic volumes, location, land use, and other relevant factors.
- (2) The access strip shall be improved to public street standards. Such improvements shall be installed, or the installation shall be guaranteed to the satisfaction of the City, prior to issuance of a building permit for any use fronting on the private street.
- (3) In the instance that multiple lots are to be served by one private street, the following criteria may apply:
 - (a) Six or fewer lots require a minimum of a 20-foot wide paved private driveway.
 - (b) Seven or more lots require a minimum of a 24-foot wide paved private street.
 - (c) Six or fewer lots may be served by a hammerhead.
 - (d) Seven or more lots shall be served by a cul-de-sac.
- (4) The above requirements may be amended after evaluating the following:
 - (a) Existing and estimated future volume of traffic.
 - (b) Existing, proposed, and potential development to be served by access.
 - (c) Adequacy of drainage facilities.
 - (d) Condition of roadway and provisions for maintenance.
 - (e) Suitability for emergency vehicle access and utility right-of-way.
 - (f) Alignment and grade.
 - (g) Need for off-street parking or pathway to serve adjacent uses.
- (5) Before approving a private street, the Planning Commission shall find that:
 - (a) The private street is physically adequate to provide access for pedestrians and vehicles.
 - (b) There is a right, exclusive or non-exclusive, to use the private street on a permanent basis which is appurtenant to the subject lot(s).
 - (c) The private access will not conflict with the General Plan.
- (6) Requests for approval shall be considered by the Planning Commission which shall recommend approval, conditional approval, or denial. Upon review by the Commission, said request shall be then considered by the City Council which shall approve, conditionally approve, or deny said request. The action of City Council is final.

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

(1) Purpose and Intent.

- (a) The purpose of the subsection 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 subsection 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.
- (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 certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.
- (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.
- (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 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 Code (MB-CN, MB-NN, MB-CC). 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 subsection.

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 (c)(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) [Reserved.]
- (e) Removal of Unattended Collection Boxes and Liability. If an unattended collection box on private or public property 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.

m. Temporary Uses, Minor.

(1) A Minor Temporary Use Permit is required for any of the following uses that will operate outdoors for a period of less than six months within a calendar year:

- (a) Carnival/circus
- (b) City sponsored/co-sponsored event
- (c) Concert
- (d) Cultural event
- (e) Food truck/cart court
- (f) Light/drone show
- (g) Pop-up market
- (h) Pop-up playground

(2) Application requirements. A Minor Temporary Use Permit application shall include the following:

- (a) The address of the location where the proposed temporary use will occur;
- (b) The date(s) and time(s) that the proposed temporary use will occur;
- (c) A description of the location where the proposed temporary use will occur;
- (d) A description of the temporary use, including a description of the following if applicable:
 - (i) The number of employees;
 - (ii) The total number of attendees per day - Include estimated attendance during peak and off-peak times;
 - (iii) The nature and type of sound amplification;
 - (iv) Any vehicles stored on-site and their respective quantities and sizes;
 - (v) How trash and recycling will be collected;
 - (vi) If there will be bathrooms on site;
 - (vii) Any food and/or beverages to be served; and

(viii) Any other information associated with the proposed temporary use as required by the Development Services Department.

(3) Limitations on Minor Temporary Use Permits.

- (a) Permit may cover up to six months within each calendar year.
- (b) Non-permanent uses that do not fall under the criteria of this subsection shall require approval of an Administrative Use Permit.
- (c) Pumpkin patch and Christmas tree lots.
 - (i) Pumpkin patch lots shall not be established before October 1 of each year.
 - (ii) Christmas tree lots shall not be established before November 22 of each year.
 - (iii) All trees or pumpkins, merchandise, debris, fences, poles, hay or sawdust and other evidence of the use must be removed within 7 days after the Halloween or Christmas Holiday.

(4) Minor Temporary Use Permit Performance Standards

- (a) Attendance must be limited to between 275 and 1000 participants per day;
- (b) All temporary uses must end by 9pm;
- (c) All temporary uses must be open to all ages;
- (d) No alcohol sales are permitted;
- (e) All parking and loading must be done on the lot and not on any public street. Parking areas shall be surfaced to prevent mud or dust from being tracked onto the public right-of-way.
- (f) All temporary uses shall comply with Airport Safety Zone requirements as defined in Chapter 10, Article 6, including height limitations, for all structures and equipment needed for set up and take down;
- (g) Each Minor Temporary Use Permit is non-transferable and shall be used only at the specific premises and on the specific dates for which the use permit was issued.

(5) The Development Services Department Director may deny a Minor Temporary Use Permit application for any of the following reasons:

- (a) The applicant provides false information in the application submitted for a Minor Temporary Use Permit.
- (b) The business or premises for which the Minor Temporary Use Permit is requested is found to be out of compliance with applicable City, state and/or federal laws, ordinances and codes.

(6) Revocation of a Minor Temporary Use Permit.

- (a) The Development Services Director shall have the authority to revoke or suspend a Minor Temporary Use Permit under this section, pursuant to the procedures of Section 10-1.2845 of Chapter 10 of the Hayward Municipal Code. The suspension or revocation of a Minor Temporary Use Permit shall be based on one or more of the following:
 - (i) Any of the criteria established for the denial of a Minor Temporary Use Permit in subsection (m)(5), above.
 - (ii) The proposed temporary use results in a high volume of calls for service to the Police Department and/or the Code Enforcement Division.

(iii) The temporary use for which the permit was issued violates one or more of the conditions imposed upon the approved permit or the requirements of this subsection.

(b) In the event the Development Services Director revokes a Minor Temporary Use Permit pursuant to this Ordinance, no other temporary use permit shall be issued to the same applicant within a minimum of five years from the date that the denial or revocation is final.

(c) The Development Services Director's decision revoking a permit may be appealed in writing to the Planning Commission stating the reasons why the Director's decision was incorrect. The Planning Commission shall schedule a hearing within 30 days of said appeal, and its decision shall be final. Said appeals shall be filed with the Planning Division.

n. Temporary Uses, Large Outdoor ~~Event~~Gathering.

(1) Administrative Use Permit Required. No outdoor gathering of 1000 or more people shall be held unless an administrative use permit has first been obtained.

(2) Outdoor Gathering. Any assembly, music festival, carnival, show, circus, dance, exhibition, lecture, concert, rally, party, celebration, or similar event or activity which is:

(a) Open to the public or to which members of the public are invited or admitted either for a charge or free of cost; and

(b) Held outdoors or other than in a permanent structure that was constructed for the purpose of or constructed so that it can be used for conducting such event or activity; provided, however, that the incidental use of any patio, courtyard, deck, or other area adjacent to and outside a permanent structure (that is authorized as a permitted primary or conditional use) by participants at the event or activity shall be considered use of the permanent structure for the purposes of this provision.

(3) Application. An application for an administrative use permit to hold an outdoor gathering shall be submitted to the Planning Division, setting forth the following:

(a) The location and legal owner of the premises on which the outdoor gathering is to be held;

(b) The number of people the applicant will admit to the outdoor gathering, plans to limit admittance to the outdoor gathering to such number, and the date(s) and times during which the gathering is to be held;

(c) The applicant's plans, including ADA facilities where physically feasible, for provisions of potable water, toilet facilities, and solid waste disposal;

(d) The applicant's plans for provision of parking spaces, including ADA spaces;

(e) The applicant's plans for illuminating the premises if any part of the gathering is to be held within one hour before sunset or after dark;

(f) A description of all sound amplification equipment the applicant plans to use and the intensity in decibels at the property line of the premises upon which the gathering is to be held; and

(g) The applicant's plans for provision of fire control devices and method of vehicular and pedestrian access to and from the gathering.

o.k. ~~Fence Regulations for Vacant Properties~~ Property Fencing.

- (1) Purpose. The purpose of this section is to set forth design and performance standards for perimeter fencing within required yards of vacant buildings and sites.
 - (a) Vacant buildings and sites provide convenient locations and opportunities for dumping, trespassing and other illegal activities, resulting in public nuisances.
 - (b) Installation of perimeter fencing around vacant buildings and sites discourage potential public nuisances. However, the City must balance the benefit of security and prevention of public nuisances with the aesthetic impact of excessive use of chain link fencing typically utilized to secure vacant property.
 - (c) The City has an interest in ensuring that highly visible perimeter fencing installed along property frontages of vacant buildings and sites is well-designed, durable, and maintained in good condition to discourage blight and trespassing on such properties and to promote the aesthetic character of the city.
- (2) Applicability. These regulations shall apply to all properties that are determined to be vacant as defined in Section 10-1.3500, for a minimum of 30 days.
- (3) Fencing installed pursuant to this section shall comply with the following standards:
 - (a) A perimeter fence may be installed around a building or site that is vacant pursuant to Section 10-1.3500, Definitions.
 - (b) Fencing installed pursuant to this section shall not exceed six feet in height within the required setbacks.
 - (c) Residential, Commercial, Mission Boulevard Code, Open Space and Public Facilities Districts, except Central City Districts: Fences located along front, corner, or street side yards of properties with any frontage along roadways identified as arterial and collector streets in the City of Hayward General Plan shall be composed of wrought iron, chain link with decorative fence screen, wood picket or rail, wood-plastic composite, vinyl clad chain link (black or green), fence lace style or Omega style fencing. Fencing around properties fronting roadways identified as local streets in the City of Hayward General Plan and all interior lot line fencing, regardless of location, may be chain link.
 - (d) Central City Districts and Downtown Development Code: Fences located along property lines that front public right-of-way shall be composed of wrought iron, chain link with decorative fence screen, wood picket or rail, fence lace style or Omega style fencing. Interior lot line fencing that does not front public right-of-way may be chain link.
 - (e) Planned Development (PD) Districts: Fence standards for PD District properties shall be as approved in the PD District. If not specified in the PD District regulations, fence standards for vacant PD zoned properties shall be the same as those of the nearest adjacent zoning district as set forth in c and d above, and f below, as determined by the Planning Director or designee.
 - (f) Industrial and Other Districts: Chain link perimeter fencing may be placed around all sides of vacant properties, including those fronting public right-of-way. Such fences shall be consistent with the fence placement and height standards set forth in this subsection, unless otherwise permitted by the Planning Director or designee.
 - (g) Alternative fencing materials for all zoning districts may be approved by the Planning Director or designee upon finding that the proposed fence material is not chain link, is durable, well-designed, and enhances the aesthetic character of the City.

-
- (4) Maintenance and Performance Standards:
 - (a) Fencing installed pursuant to this section shall be maintained in good condition and appearance with no structural damage, tearing, fading or visible rust, and shall be free of graffiti.
 - (b) Fences posts shall be installed in the ground unless the perimeter of the site is paved in which case fence panel stands may be used. Fence panel stands shall be composed of the same material as the fence, structurally sound, and hold fence panels in a fully erect position.
 - (c) No portion of a temporary fence, including fence panel stands or other posts, shall encroach on City-owned right-of-way, unless permitted by an approved encroachment permit.
 - (d) No portion of a fence installed pursuant to this section shall impair driver visibility or create a traffic hazard or otherwise violate standards set forth in Hayward Traffic Code, Article 9, Obstructions to Visibility at Intersections.
 - (e) Fencing standards set forth above shall not apply to safety or emergency fencing installed on a vacant property when conditions on that property cause or constitute an imminent or immediate danger to the health or safety of the public or a significant portion thereof.
 - (5) Appeals of reviewing authority decisions made pursuant to this chapter shall be filed and processed in accordance with Section 10-1.2845, Appeal and Review Process, of this code.
 - (6) Implementation. All owners of vacant property with perimeter fencing that is located within required front, side and rear yards shall have one year from the effective date of these regulations to remove all non-conforming fencing. However, any non-conforming fencing that is structurally damaged, rusting, fading or tearing shall be removed or replaced within 60 days of adoption of this ordinance.

p. Vehicle Parking, Repair, Display, and Storage Requirements. The term "vehicle" as used in this section shall include an automobile or truck (excluding truck tractor or any vehicle exceeding a maximum gross weight limit of 6,000 pounds of gross vehicle weight) recreational vehicle, trailer, boat mounted on trailer, special interest vehicle, or other vehicle referenced in California Vehicle Code section 5051, and other vehicles of similar kind and use. In all zoning districts, use of any kind of vehicle as defined herein for living or sleeping purposes shall be prohibited except within mobile homes within an approved mobile home park.

- (1) Single-Family Residential Uses.
 - (a) Parking and Storage in Front Yards. Vehicles shall be parked in the required front yard only on the paved driveway which provides direct access to the garage from a public street or an approved private street, perpendicular to the street, or on a curved driveway.
 - (b) Parking or Storage in Other Than Front Yards. Parking or storage of vehicles in areas other than the front yard is permitted subject to the following requirements:
 - (i) No vehicle shall be parked or stored in a required side yard or side-street yard with the following exceptions: recreational vehicles that are not self-propelled, and are less than 6 feet in height, such as a boat, compact trailer tent or similar recreational vehicle can be stored in a required side yard if screened from view from the street by a solid fence.
 - (ii) Parking or vehicle storage areas shall be paved with asphaltic or Portland Cement concrete and conform to City standards. A secondary driveway which

provides access to a recreational vehicle storage area may be constructed with concrete, asphalt, or rock or concrete wheel tracks.

- (iii) Open parking or vehicle storage areas located on lots less than 10,000 square feet in area shall not exceed 500 square feet in area (700 square feet for lots 10,000 feet or larger).
 - (iv) Open or covered parking areas, and garages or carports exceeding 120 square feet in area, shall be located no less than 5 feet from the side or rear property line and shall conform to all other requirements of the Zoning Ordinance and Building Code.
- (2) Multi-Family Residential Uses—Prohibited Vehicles. Parking or storage of truck tractors or vehicles that are not self-propelled (trailers, boats mounted on trailers, and other vehicles or equipment of similar kind and use) are prohibited except within designated storage areas approved as part of the site plan review, use permit, planned development or building permit.
 - (3) Display and Sale of Motor Vehicles. Display for sale of one motor vehicle, boat, trailer, motorhome, or other vehicle is permitted as an accessory residential use, provided said vehicle is registered to a person who currently resides on the property. Display for sale of any vehicle on any property not approved for such use is unlawful, and legal action may be taken against the vehicle owner, property owner, or both.
 - (4) Vehicle and Boat Repair. It shall be unlawful and a public nuisance for any person to engage in, or any property owner to allow to occur, vehicle or boat repair in any residential zone:
 - (a) Upon any vehicle which is not registered to a current occupant of the premises where the work is being performed; or
 - (b) Upon more than two (2) vehicles at one time on the same premises or by the same person; or
 - (c) Outside a fully enclosed structure for uses defined as major automobile repair as defined in Section 10-1.000 of this Ordinance. Minor automobile repair may be performed outside a fully enclosed structure where elapsed time between the beginning and end of the repair does not exceed forty-eight (48) hours. Vehicle painting, other than spot painting, shall not be permitted in residential zones.

~~mn. Food Vendor Permit.~~

~~(1) Permit Required.~~

~~a. No vending of food or food products shall be permitted unless a food vendor's permit has first been obtained.~~

~~b. A separate food vendor's permit shall be obtained for each approved location.~~

~~(2) Permitted Locations. Food Vendors are permitted as specified in Zoning Districts, subject to the permit requirements and standards set forth below. Permits for vendors who are operating at the date of adoption of this regulation, may be renewed pursuant to the provisions of this Section.~~

~~(3) Definitions. This Section shall apply to any mobile unit (as defined below) designed or used for the vending of food or food products from a fixed or stationary location on private property. This Section shall not apply to Catering Truck operations as defined in subsection (b) of this Section or Sidewalk Vendors, as defined in Section 6-16.30(B) of the Hayward Municipal Code.~~

-
- a. ~~Approved Location—A site approved by the Planning Director from which a vendor operating from a mobile unit may sell theirhis or her products.~~
 - b. ~~Mobile Unit—Any trailer, cart, wagon, conveyance or structure not permanently fixed to a permanent foundation and which may be moved under its own power, pushed or pulled by hand, towed by a motor vehicle or carried upon or in a motor vehicle or trailer.~~
 - c. ~~Vending—The business of selling or causing to be sold for cash or consideration of any of the following items: food or food products whether hot, cold, freshly prepared, or packaged, such as hot dogs, sandwiches, and burritos, to be consumed for a meal or snack. This definition includes an offer for sale. All items sold shall be capable of being consumed on site without preparation or cooking other than done by the vendor.~~
 - d. ~~Vending Equipment—Tools, umbrellas, and chair for vendor only. No accessory equipment for dining at the site is permitted. Food or food products, etc., related to vending and approved by the Planning Director.~~
 - e. ~~Vendor—A person who is in the business of vending or theirhis or her employee(s).~~

~~(4) Application.~~

- a. ~~An application for food vendor's permit to vend food products shall be submitted to the Planning Director on a form provided for such purpose, accompanied by payment of the fee set by Resolution of the City Council.~~
- b. ~~The application shall include the signature of the owner of the property upon which the applicant proposes to locate theirhis or her mobile unit indicating the property owner's permission to use the site for the purpose set forth in the application.~~
- c. ~~In addition to the completed application, the following information shall be submitted on a form acceptable to the Planning Director:~~
 - i. ~~Proposed location of a mobile unit plotted on a map drawn to a scale of one inch equals 20 feet or larger, which indicates the distance to adjacent landscaping, parking stalls, buildings driveways, signs, fences, utility poles, transformers, hydrants, etc., located within 50 feet of the location of the proposed mobile unit.~~
 - ii. ~~Plans for provisions to collect and store litter and dispose of it.~~
 - iii. ~~Scaled drawing or manufacturers information indicating the size of the mobile unit and vending equipment the applicant proposes to use.~~
 - iv. ~~Location where vendor intends to park personal motor vehicle, location of customer parking spaces, and location where vendor intends to store overnight mobile unit.~~
 - v. ~~Description of the nature of the business and the goods to be sold.~~
 - vi. ~~Any other information deemed necessary by the Planning Director to adequately review the application, for example, photograph or rendering of mobile unit.~~

~~(5) Standards. All applications for food vendor's permit shall comply with the following standards:~~

- a. ~~Approved locations for food vending shall not be located within 300 yards of any school.~~
- b. ~~All mobile units shall be set back from the public street right of way or a private street or driveway. A food vendor shall not locate a mobile unit or vending equipment or merchandise offered for sale in such way as to block or impede or any way hamper pedestrian or vehicular movement or to cause a hazard to any pedestrian or vehicle.~~

-
- c. ~~Mobile units and vending equipment shall be self-supporting and shall not be attached temporarily or permanently to trees, hydrants, utility poles or transformers, or other vertical structures or benches.~~
 - d. ~~All mobile units with ventilating equipment shall be located 10 feet away from all buildings unless otherwise approved by the Planning Director.~~
 - e. ~~A food vendor shall not sell any food or food products between the hours of 7:00 p.m. and 7:00 a.m. unless otherwise authorized by the Planning Director.~~
 - f. ~~No food vendor shall use, play or employ any sound, outcry, amplifier, loudspeaker, radio or any other instrument or device for the production of sound where said sound exceeds the background noise levels for adjacent uses.~~
 - g. ~~A food vendor shall not store overnight any vending equipment or food products other than in a commissary approved by the Alameda County Department of Environmental Health Services.~~
 - h. ~~A food vendor shall not display any signs or similar devices unless approved by the Planning Director. Signs painted on a mobile unit shall be approved by the Planning Director, and any other sign or device(s), for example, flag, pennant, balloon, may be approved at the discretion of the Planning Director if he/she finds that such sign or device does not create a safety hazard or is not aesthetically detrimental or incompatible with surrounding uses.~~
 - i. ~~Any exterior lighting shall be approved by the Planning Director and shall not create a safety hazard and shall be shielded or deflected away from adjacent properties.~~
 - j. ~~A food vendor shall maintain theirhis or her approved location in a clean and hazard-free condition. The vendor shall provide at least one 30-gallon garbage container with a swing top nearby the mobile unit for public use and shall pick up all litter generated from his or her operation within a radius of 100 feet of the approved location. A vendor shall empty the garbage container(s) daily, or more often if necessary; disposal of garbage or trash into public trash containers is prohibited.~~
 - k. ~~The food vendor at all times shall be in compliance with all regulations of the Health Officer of Alameda County regarding operation of this use and all other applicable rules and regulations.~~
 - l. ~~Location of a mobile unit and vending equipment shall not reduce the number of parking spaces below which are required for the permitted primary or conditional use.~~
- (6) ~~Permit Issuance.~~
- a. ~~A food vendor's permit shall be issued if the applicant satisfies the above standards and the Planning Director finds that said application complies with all pertinent regulations administered by these officials.~~
 - b. ~~A food vendor's permit is not transferable and shall be remain valid for one year from the date of issuance. The Planning Director shall renew said permit for additional periods of one year upon payment of 50 percent of the fee for a new permit if the Planning Director determines that the applicant is then in compliance with all conditions of his or her permit. Applications for renewal must be submitted 30 days prior to expiration of the current permit to qualify for renewal under the provisions of this Section. until the vendor ceases operations at the permitted location for a period of 6 months or longer or the permit is revoked.~~

(7) ~~Permit Revocation.~~

-
- a. ~~A food vendor's permit shall be subject to revocation if the conditions of the permit or the regulations set forth or incorporated herein are violated.~~
 - b. ~~Before taking any action to revoke a permit, the Planning Director shall give notice to the permittee in writing of the proposed revocation, the reasons therefor, and the time and place the permittee will be given an opportunity to show cause to the Planning Director why the permit should not be revoked. The written notice may be served personally upon the permittee or mailed to the permittee at the address shown on the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing, the Planning Director may revoke the permit upon finding non-compliance with the conditions of the permit or the regulations herein.~~
 - c. ~~The Planning Director's decision revoking a permit may be appealed in writing to the Planning Commission stating the reasons why the Planning Director's decision was incorrect. The Planning Commission shall schedule a hearing within 30 days of said appeal, and its decision shall be final. Said appeals shall be filed in the Planning Division.~~

(Amended by Ordinance 17-15, adopted Nov. 28, 2017; amended by Ordinance 19-10, adopted June 4, 2019; amended by Ordinance 20-12, adopted July 14, 2020; Amended by Ordinance 23-08, § 7, adopted October 17, 2023; Amended by Ordinance 24-01, adopted Jan. 23, 2024)