



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**CITY COUNCIL AGENDA**  
**MARCH 24, 2015**

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**MAYOR BARBARA HALLIDAY**  
**MAYOR PRO TEMPORE GREG JONES**  
**COUNCIL MEMBER FRANCISCO ZERMEÑO**  
**COUNCIL MEMBER MARVIN PEIXOTO**  
**COUNCIL MEMBER AL MENDALL**  
**COUNCIL MEMBER SARA LAMNIN**  
**COUNCIL MEMBER ELISA MÁRQUEZ**

## Table of Contents

Agenda . . . . .	3
Overview of Performance Measurement Systems and Tools (Report from Director of Finance Vesely and Assistant City Manager McAdoo)	
Staff Report . . . . .	8
Cast Iron Water Pipeline Replacement Project: Approval of Plans and Specifications, and Call for Bids	
Staff Report . . . . .	10
Attachment I Resolution. . . . .	13
Attachment II Project Location Map. . . . .	15
Wells B and D2 Evaluation and Repairs: Authorization for the City Manager to Execute a Professional Services Agreement	
Staff Report . . . . .	16
Attachment I Resolution. . . . .	19
Adoption of a Resolution Authorizing the City Manager to Execute a Memorandum of Understanding Between the City and the Association of Bay Area Governments (ABAG) and Corridor Jurisdictions for the East Bay Corridors Initiative	
Staff Report . . . . .	21
Attachment I - Resolution. . . . .	25
Attachment II - East Bay Corridors Initiative Draft MOU . . . . .	27
Attachment III - Hayward PDAs Map . . . . .	32
Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2015	
Staff Report . . . . .	33
Attachment I. . . . .	36
Attachment II . . . . .	38
Discussion of Proposed Amendments to Hayward’s Sign Regulations (Chapter 10, Article 7 of the Hayward Municipal Code) (Report from Development Services Director Rizk)	
Staff Report . . . . .	46
Attachment I - Draft Sign Regulations. . . . .	52
Attachment II - Draft Fee Schedule . . . . .	112
Attachment III - Sign Corridor Overlay District Map. . . . .	113
Attachment IV - Planning Commission Meeting Minutes . . . . .	114
Attachment V - Public Comments. . . . .	120
Establishment of New Regulations for Unattended Collection Boxes and Collection Facilities Requiring Introduction of Ordinances to Amend Chapter 5, Article 7 (Community Preservation and Improvement), and Chapter 10, Article 1 (Zoning Ordinance), of the Hayward Municipal Code; and Adoption of Resolutions to Make Findings Related to Text Amendments and Establishment of New Fees; City of Hayward (applicant) (Report from Development Services Director Rizk)	
Staff Report . . . . .	124
Attachment I Zoning Map with Buffers . . . . .	132
Attachment II Ord Related to HMC Chapter 10 Regs. . . . .	133

Attachment III Ord Related to HMC Chapter 10 Definitions . . . . .	158
Attachment IV Ord Related to HMC Chapter 5 . . . . .	160
Attachment V Reso Adopting CEQA and Findings . . . . .	162
Attachment VI Reso Adopting New Fees . . . . .	166
Attachment VII Draft Planning Commission Meeting Minutes 02.19.15 . . . . .	173
Attachment VIII West Properties Letter 02.10.15 . . . . .	181
Attachment IX USAgain Letter 02.18.15 . . . . .	182
Attachment X Tenax Law Group Letter 03.09.15 . . . . .	195
Attachment XI USAgain Letter 03.17.15 . . . . .	199
Adoption of Ordinance Adding Article 20 to Chapter 8 of the Hayward Municipal Code Relating to Establishment of Community Benefit Districts (Re-introduced on March 17, 2015)(Report from City Clerk Lens)	
Staff Report . . . . .	202
Attachment I Summary of Notice. . . . .	204
Attachment II Revised Ordinance . . . . .	205
Interstate 880 Express Lane Implementation by Metropolitan Transportation Commission (Report from Engineering and Transportation Director Fakhrai)	
Staff Report . . . . .	211
Attachment I. . . . .	214



CITY OF  
**HAYWARD**  
HEART OF THE BAY

CITY COUNCIL MEETING FOR MARCH 24, 2015  
777 B STREET, HAYWARD, CA 94541  
[WWW.HAYWARD-CA.GOV](http://WWW.HAYWARD-CA.GOV)

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**STUDY SESSION**

**Conference Room 2A – 4:00 PM**

1. Overview of Performance Measurement Systems and Tools (Report from Director of Finance Vesely and Assistant City Manager McAdoo)  
[Staff Report](#)
  2. Adjourn to Closed Session meeting
- 

**CLOSED SESSION**

**Closed Session Room 2B – 5:00 PM**

1. **PUBLIC COMMENTS**
  2. Public Employment  
Pursuant to Government Code 54957
    - Performance Evaluation  
City Clerk
  3. Conference with Labor Negotiators  
Pursuant to Government Code 54957.6
    - Lead Negotiators: City Manager David; City Attorney Lawson; Assistant City Manager McAdoo; Finance Director Vesely; Public Works-Engineering & Transportation Director Fakhrai; Human Resources Director Collins; Senior Human Resources Analyst Lopez; Assistant City Attorney Vashi; Community and Media Relations Officer Holland; Jack Hughes, Liebert, Cassidy and Whitmore  
Under Negotiation: All Groups
  4. Conference with Legal Counsel  
Pursuant to Government Code 54956.9
    - Pending Litigation
      - C.E.W., et. al. v. City of Hayward, et. al., United States District Court, Case No. CV 13-4516 (LB)
      - Russell City Energy Company, LLC v. City of Hayward, Alameda County Superior Court, No. RG14752278
  5. Conference with Property Negotiators  
Pursuant to Government Code 54956.8
    - Under Negotiation: South Hayward BART Land Purchase and Acquisition  
Lead Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, Development Services Director Rizk, Finance Director Vesely, and Heather Gould and Rafael Yaquian from Goldfarb Lipman (Outside Legal Counsel)
  6. Adjourn to City Council meeting
-

**CITY COUNCIL MEETING  
Council Chambers – 7:00 PM**

**CALL TO ORDER** Pledge of Allegiance Council Member Zermeño

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PRESENTATIONS**

- American Red Cross Month 2015
- Certificate of Commendation Presented to Chabot Women’s Basketball Team

**PUBLIC COMMENTS**

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*The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.*

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**ACTION ITEMS:** *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council Member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

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**CONSENT**

1. Cast Iron Water Pipeline Replacement Project: Approval of Plans and Specifications, and Call for Bids  
[Staff Report](#)  
[Attachment I Resolution](#)  
[Attachment II Project Location Map](#)
2. Wells B and D2 Evaluation and Repairs: Authorization for the City Manager to Execute a Professional Services Agreement  
[Staff Report](#)  
[Attachment I Resolution](#)

March 24, 2015



3. Adoption of a Resolution Authorizing the City Manager to Execute a Memorandum of Understanding Between the City and the Association of Bay Area Governments (ABAG) and Corridor Jurisdictions for the East Bay Corridors Initiative

[Staff Report](#)

[Attachment I - Resolution](#)

[Attachment II - East Bay Corridors Initiative Draft MOU](#)

[Attachment III - Hayward PDAs Map](#)

4. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2015

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)

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**NON-ACTION ITEMS:** *(Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.)*

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#### **WORK SESSION (60-Minute Limit)**

5. Discussion of Proposed Amendments to Hayward's Sign Regulations (Chapter 10, Article 7 of the Hayward Municipal Code) (Report from Development Services Director Rizk)

[Staff Report](#)

[Attachment I - Draft Sign Regulations](#)

[Attachment II - Draft Fee Schedule](#)

[Attachment III - Sign Corridor Overlay District Map](#)

[Attachment IV - Planning Commission Meeting Minutes](#)

[Attachment V - Public Comments](#)

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*The following order of business applies to items considered as part of Public Hearings and Legislative Business:*

- *Disclosures*
  - *Staff Presentation*
  - *City Council Questions*
  - *Public Input*
  - *Council Discussion and Action*
- 



## **PUBLIC HEARING**

6. Establishment of New Regulations for Unattended Collection Boxes and Collection Facilities Requiring Introduction of Ordinances to Amend Chapter 5, Article 7 (Community Preservation and Improvement), and Chapter 10, Article 1 (Zoning Ordinance), of the Hayward Municipal Code; and Adoption of Resolutions to Make Findings Related to Text Amendments and Establishment of New Fees; City of Hayward (applicant) (Report from Development Services Director Rizk)

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[Attachment V Reso Adopting CEQA and Findings](#)

[Attachment VI Reso Adopting New Fees](#)

[Attachment VII Draft Planning Commission Meeting Minutes 02.19.15](#)

[Attachment VIII West Properties Letter 02.10.15](#)

[Attachment IX USAgain Letter 02.18.15](#)

[Attachment X Tenax Law Group Letter 03.09.15](#)

[Attachment XI USAgain Letter 03.17.15](#)

## **LEGISLATIVE BUSINESS**

7. Adoption of Ordinance Adding Article 20 to Chapter 8 of the Hayward Municipal Code Relating to Establishment of Community Benefit Districts (Re-introduced on March 17, 2015)(Report from City Clerk Lens)

[Staff Report](#)

[Attachment I Summary of Notice](#)

[Attachment II Revised Ordinance](#)

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*Information items are presented as general information for Council and the public. Should Council wish to take action on any of the "information" items, they will direct the City Manager to bring them back on a future Council agenda as an Action Item.*

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## **INFORMATION ITEMS**

8. Interstate 880 Express Lane Implementation by Metropolitan Transportation Commission (Report from Engineering and Transportation Director Fakhrai)

[Staff Report](#)

[Attachment I](#)

## **CITY MANAGER'S COMMENTS**

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

March 24, 2015



## COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items.

### ADJOURNMENT

#### NEXT REGULAR MEETING – 7:00 PM, Tuesday, April 7, 2015

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**PUBLIC COMMENT RULES:** *The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

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**PLEASE TAKE NOTICE** *that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing.*

**PLEASE TAKE FURTHER NOTICE** *that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.*

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**\*\*\*Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4<sup>th</sup> Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. \*\*\***

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*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.*

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**Please visit us on:**





CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** March 24, 2015

**TO:** Mayor and City Council

**FROM:** Assistant City Manager  
Director of Finance

**SUBJECT:** Overview of Performance Measurement Systems and Tools

During the FY2015 budget preparation and adoption process, the City Council expressed a strong interest in incorporating more meaningful performance measures to allow staff, the Council, and the public to better monitor organizational effectiveness and achievement of Council priorities. To that end, a staff working group has been meeting over the past few months to discuss how to best accomplish this. One key element of the implementation of performance measures in the organization is to develop shared expectations and common vocabularies around these tools.

Staff has invited a consultant from the Government Finance Officers Association (GFOA) to work with Council and the staff as we initiate this process. He will be presenting to the Executive Team and City Council on March 24 and will then engage in a more in-depth workshop with the Executive Team and key budget staff from each department on March 25 as we begin the process of developing our performance measures. The intent of this study session is to provide the City Council with an overview of performance measurement systems and tools as well as examples from other cities that have been recognized as leaders in utilizing performance measures. The anticipated outcomes for the study session include:

- Obtain an understanding of what performance management is and how it typically works
- Gain a general understanding of how cities are utilizing performance metrics as part of their budgets and operations management.
- Develop a common language for use as part of Hayward's performance management system

Attachment I to this report is a background reference document from the National Performance Management Advisory Commission (of which GFOA is a member) that provides some helpful context about performance measurement. This is a lengthy document, so per previous discussions with Council, staff is providing the hyperlink and not the physical document. Much of this information will be covered in executive summary format during Tuesday's study session, and other materials will be available as handouts. Staff is providing this in case Councilmembers would like to dive deeper into the topic of performance measurement.

*Prepared and Recommended by:* Kelly McAdoo, Assistant City Manager  
Tracy Vesely, Director of Finance

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: National Performance Management Advisory Commission, *A Performance Management Framework for State and Local Government*, 2010:  
[http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca032415-Attachment-I-Performance\\_Management\\_Framework\\_Report.pdf](http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2015/CCA15PDF/cca032415-Attachment-I-Performance_Management_Framework_Report.pdf)

**DATE:** March 24, 2015  
**TO:** Mayor and City Council  
**FROM:** Director of Utilities & Environmental Services  
**SUBJECT:** Cast Iron Water Pipeline Replacement Project: Approval of Plans and Specifications, and Call for Bids

**RECOMMENDATION**

That Council adopts the attached resolution approving the plans and specifications for the Cast Iron Water Pipeline Replacement Project and calls for bids to be received on April 28, 2015.

**BACKGROUND**

This project is part of a continuing program to maintain and upgrade the City's water distribution system. The City has approximately 346 miles of water distribution pipeline, of which approximately 21 miles (6%) is cast iron (CI) pipe that was installed between 1926 and 1992. CI pipe has a design life of roughly 50 years, depending upon when it was manufactured and the soil conditions where it is installed. In addition, the joints of old CI pipes can fail due to movement caused by seismic movement, the forces of water flowing in the pipe, and seasonal changes in the surrounding soil.

Staff prioritized water mains for replacement by rating pipe segments based on age, adequacy of size and flow, the number of leaks or failures that have occurred, and the difficulty to repair the pipe if it failed considering location and traffic conditions. The CI pipes to be replaced at this time were also selected based on their location depth and proximity such that most of the replacement work will occur in one area of the City. As shown on Attachment II, the CI water mains selected by staff to be replaced at this time are Dean Street (Sutro Street to D Street), Lucien Way, Orchard Avenue (Lucien Way to Tioga Road), Park Street (Winton Avenue to Meek Avenue), Park Street/Glade Street, and Pleasant Way Easement.

A previous version of this project that included a large section of old twelve inch CI pipe in West Jackson Street (from Santa Clara Street to Diadon Drive) was put out for bid in May of 2014. The bid prices submitted for the work in West Jackson Street (and other areas) far exceeded the Engineer's Estimate for the work due in part to timing and an unfavorable bidding environment. On June 24, 2014, City Council rejected all bids as recommended by staff. The current project scope does not include replacing the twelve inch CI water main in West Jackson Street. In an attempt to lessen the impact of the disruption related to a break at this location, staff is currently installing additional valves in the subject water main so that in the event of pipe failure, the flow of water can be stopped, the main break isolated, flow restored quickly, and the duration and extent of water

service outage can be minimized. The West Jackson CI segment will be re-evaluated for inclusion in a separate project at a future date.

## **DISCUSSION**

Water main replacement is done in segments to minimize the impact to customers. The work generally involves excavating a trench two to three feet in width and five to six feet deep parallel to the water main to be replaced, typically eight feet or more away from the existing water main. After a segment of new water main has been installed and tested, service connections are expeditiously transferred from the old water main to the new one such that water service is typically restored within two hours. After all services have been transferred to the new water main, the remaining portions of the old water main are abandoned in place.

This project will replace and upgrade water mains with new PVC or Ductile Iron (DI) water mains and new service connection pipes at the locations shown on Attachment II. The pipeline replacements on this project consist of replacing 960 feet of twelve inch CI pipes with new twelve inch pipes and replacing 4550 feet of substandard four inch and six inch CI pipes with new eight inch water mains to improve reliability, fire flow, and minimize future maintenance needs. Future projects will gradually replace the remaining twenty miles of less critical CI pipelines.

## **ENVIRONMENTAL REVIEW**

This pipeline replacement project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA). The Public Resources code states that CEQA does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, replacement, removal, or demolition of an existing pipeline.

## **FISCAL AND ECONOMIC IMPACT**

The estimated project costs are as follows:

Design and Construction Administration – City Staff	70,000
Construction Contract	1,379,000
Inspection and Testing	<u>40,000</u>
Total	\$1,489,000

The FY 2015 Capital Improvement Program includes \$1,988,000 for the “Cast Iron Water Pipeline Replacement” project in the Water System Replacement Capital Improvement Fund.

## **PUBLIC CONTACT**

Prior to and during construction, notices will be provided to affected residents, property and business owners to inform them of the nature and purpose of the work, potential impacts, work schedule and City contact for additional information. In addition, staff will separately contact any large employers and schools (i.e., John Muir School on Orchard Avenue) that may be affected by the project and coordinate work in order to minimize impact. Water customers shall be notified of

temporary water service interruption both three days and at least one hour prior to shutdown of water service.

**SCHEDULE**

Open Bids	April 28, 2015
Award Contract	May 19, 2015
Begin Work	June 2015
Complete Work	October 2015

*Prepared by:* Rod Schurman, P.E., Associate Civil Engineer

*Recommended by:* Alex Ameri, Director of Utilities & Environmental Services

Approved by:



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Fran David, City Manager

Attachments:

- Attachment I      Resolution
- Attachment II     Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE  
CAST IRON WATER PIPELINE REPLACEMENT PROJECT, PROJECT NO.  
07005, AND CALL FOR BIDS

BE IT RESOLVED by the City Council of the City of Hayward as follows:

1. That those certain plans and specifications for the Cast Iron Water Pipeline Replacement Project, Project No. 07005, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project;
2. That the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law;
3. That sealed bids therefor will be received by the City Clerk's office at City Hall, 777 B Street, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday, April 28, 2015, and immediately thereafter publicly opened and declared by the City Clerk in Conference Room 4D, City Hall, Hayward, California;
4. That the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.
5. That this project qualifies for a categorical exemption pursuant to CEQA Guidelines (Pub. Res. Code § 21080.21) any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, replacement, removal, or demolition of an existing pipeline.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

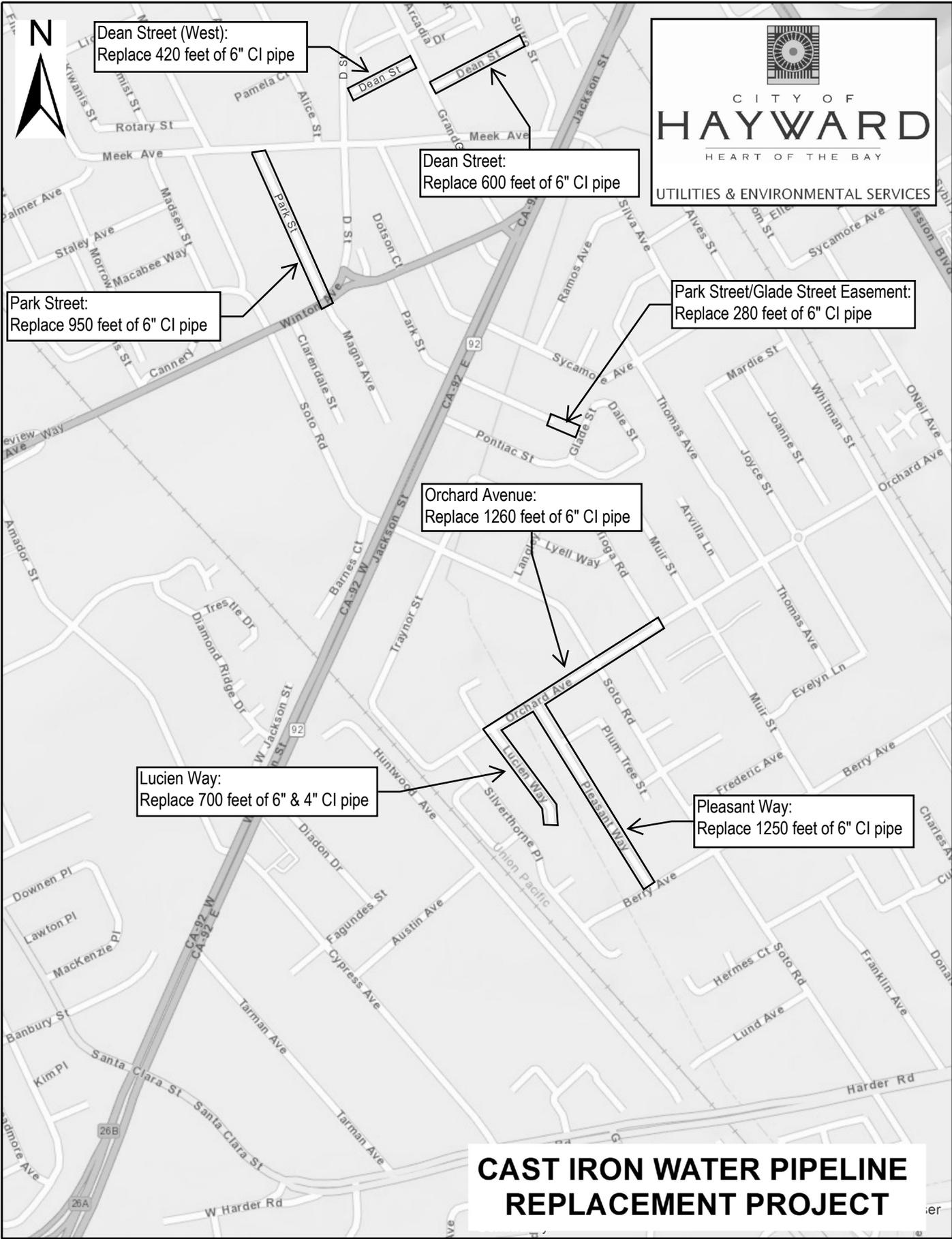
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward





**DATE:** March 24, 2015

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT:** Wells B and D2 Evaluation and Repairs: Authorization for the City Manager to Execute a Professional Services Agreement

### **RECOMMENDATION**

That Council adopts the attached resolution authorizing the City Manager to execute a Professional Services Agreement with Stantec Consulting Services, Inc., to provide hydrogeologic and engineering services for the emergency water supply Wells B and D2 Evaluation and Repairs Project, in an amount not to exceed \$145,000.

### **BACKGROUND**

The City of Hayward obtains its water supply from the San Francisco Public Utility Commission (SFPUC) Hetch-Hetchy System at two turnouts located in Fremont and Newark. Water is then delivered to the City by two City-owned large diameter transmission pipelines (24-inch and 42-inch.) The distribution system consists of eight main pressure zones (zones 250, 330, 500, 630 (Garin Hill), 750, 1000, 1285 and 1530,) approximately 380 miles of pipelines, thirteen water storage tanks, seven pump stations delivering water to the upper pressure zones, five emergency supply wells, transmission system pressure reducing valves, many zonal pressure reducing valves, and two booster pump stations (Decoto PS, and Hesperian PS). The water system serves residential customers and commercial/industrial users with a current average daily demand of fourteen million gallons per day (mgd) and a maximum daily demand of twenty-four mgd.

The City used groundwater as its exclusive or partial water supply up until 1963, after the City entered into a water supply contract with SFPUC. After the 1989 Loma Prieta Earthquake, the City refurbished two existing groundwater wells and developed three new ones for use during emergencies. These groundwater wells are currently certified by California Department of Public Health (CDPH) for short duration emergency use only. The City's existing emergency water supply wells are located in the flatlands (Zone 250), and pump groundwater from the East Bay Plain Subbasin. The combined design pumping capacity of five wells is approximately 9,400 gallons per minute (gpm) or nearly 13.6 mgd.

During the routine maintenance operation, staff found two of these wells, Wells B located on Hesperian Blvd. at Industrial Blvd. and D2 located at the Hayward Airport, have experienced sand intrusion problems that have resulted in the failure of the pumps and pump column requiring replacement and/or repair. In order to fully address the challenges of the existing maintenance issues and preventing failure from occurring in the future, a comprehensive evaluation of existing wells and

maintenance program is required. The evaluation will include dynamic video inspection, sand intrusion assessment, assessment of geological changes or formation impact to the existing wells, and development of the cost-effective solution for pump system repairs.

## **DISCUSSION**

Staff reviewed the qualifications of nine consultants and issued a request for proposal to five qualified firms with significant relevant experience. Three of the five invited firms submitted proposals for the City's consideration: Infrastructure Engineering Corporation, Luhdorff & Scalmanini Consulting Engineers, and Stantec Consulting Services, Inc.

A selection panel consisting of departmental Utilities Operation and Maintenance and Engineering staff reviewed the proposals received and interviewed the candidate consultants. The following factors were considered for each firm: 1) the relevant experience of the firm and its sub-consultants; 2) the experience and qualifications of the project manager and professional team; 3) understanding of the City's specific issues of concern; 4) demonstrated ability to meet the City's needs within the defined budget and schedule; and 5) innovative proposal components that would add value to the project above and beyond the standard tasks. All of the proposals were judged good with each firm having particular areas of strength.

While each of the three firms is well qualified and assembled very strong teams for the City's projects, Stantec Consulting Services, Inc., (Stantec) demonstrated the best combination of qualifications and responsiveness to the City's requirements. Stantec achieved higher rating in the selection criteria by providing a solid and innovative approach to the evaluation and possible repair solutions of wells, and proposing a knowledgeable and experienced project team. Stantec indicated a very good understanding of the City's needs and has performed well on other Bay Area water well systems.

Cost was not a deciding factor in staff's recommendation, as the total proposed costs for each firm were very comparable. Stantec has proposed a reasonable number of labor hours and competitive hourly rates, and as part of the selection process, staff further negotiated and lowered the fees. Staff believes that the final negotiated not-to-exceed cost of \$145,000 is reasonable for the scope of services required.

## **ECONOMIC IMPACT**

The Wells B and D2 Evaluation and Repairs will not have an additional fiscal impact on water customers as the project is funded in the Water System Replacement Fund. The FY 2015 Capital Improvement Program includes \$400,000 for the Wells B and D2 Evaluation and Repairs in the Water System Replacement Capital Improvement Fund.

## **FISCAL IMPACT**

The estimated project costs are as follows:

Hydrogeologic and Engineering Services – Consultant	\$ 145,000
Preliminary Estimated Repair Cost for Wells B and D2	\$ 235,000
Project Administration – City Staff	20,000
Total:	<hr/> \$ 400,000

A total of \$400,000 is appropriated for this project in the Water System Capital Improvement Fund in the FY 2015 Ten-Year Capital Improvement Program.

**PUBLIC CONTACT**

No public contact is planned for this project. The evaluation and repairs for the Well System are highly technical and will not cause an impact to customers.

**ENVIRONMENTAL REVIEW**

This project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 (Existing Facilities). Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that exists at the time.

**SCHEDULE**

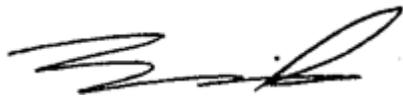
The estimated schedule for this project is summarized as follows:

Execute Professional Service Agreement	March 2015
Complete Evaluation and Recommendation	July 2015
Completion of Repair Work	December 2015

*Prepared by:* Henry Louie, Senior Utilities Engineer

*Recommended by:* Alex Ameri, Director of Utilities & Environmental Services

Approved by:



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Fran David, City Manager

Attachments:

- Attachment I      Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO.15-\_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH STANTEC CONSULTING SERVICES, INC. FOR THE EMERGENCY WATER SUPPLY WELLS B AND D2 EVALUATION AND REPAIRS, PROJECT NO. 07056

WHEREAS, the City used groundwater as its exclusive or partial water supply up until 1963, after the City entered into a water supply contract with San Francisco Public Utility Commission; and

WHEREAS, After the 1989 Loma Prieta Earthquake, the City refurbished two existing groundwater wells and developed three new ones for use during emergencies; and

WHEREAS, During the routine maintenance operation, staff found two of these wells, Wells B located at Hesperian Blvd. at Industrial Blvd., and D2 located at the Hayward Airport, have experienced sand intrusion problems that have resulted in the failure of the pumps and pump column, requiring the replacement and/or repair; and

WHEREAS, in order to fully address the challenges of the existing maintenance issues and preventing failure occurring in the future, a comprehensive evaluation of existing wells and maintenance program is required; and

WHEREAS, staff reviewed the qualifications of nine consultants for the purpose of identifying a consultant to evaluate the existing well system and develop the cost-effective solution for pump system repairs; and

WHEREAS, staff invited five consultants to submit proposals for the required engineering services; and

WHEREAS, staff has determined that Stantec Consulting Services, Inc. is the most qualified of the consultants that were interviewed;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a Professional Services Agreement with Stantec Consulting Services, Inc., for the Wells B and D2 Evaluation and Repairs, Project No. 07056, in an amount not to exceed \$145,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**DATE:** March 24, 2015

**TO:** Mayor and City Council

**FROM:** Director of Development Services

**SUBJECT:** Adoption of a Resolution Authorizing the City Manager to Execute a Memorandum of Understanding between the City and the Association of Bay Area Governments (ABAG) and Corridor Jurisdictions for the East Bay Corridors Initiative

### **RECOMMENDATION**

That the Council adopts the attached resolution approving of the City's Participation in the East Bay Corridors Initiative, and authorizing the City Manager to sign the Memorandum of Understanding between the City, the Association of Bay Area Governments (ABAG), and the other Corridor Jurisdictions for the East Bay.

### **SUMMARY**

In concert with East Bay corridor cities, ABAG seeks to implement the East Bay Corridors Initiative (Initiative) to create a regional and coordinated approach to planning and investment along major transit-oriented areas, including along Mission Boulevard, in cities and unincorporated areas within Alameda and Contra Costa counties. There are two major corridors under the Initiative: the Oakland-Union City Corridor, to which Hayward would belong, and the San Pablo Corridor. The Oakland-Union City Corridor includes Oakland, San Leandro, Hayward, and Union City, as well as Alameda County. The San Pablo Corridor includes Oakland, Emeryville, Berkeley, Albany, El Cerrito, Richmond, San Pablo, Pinole, Hercules and Contra Costa County. Jurisdictions that have signed off on the MOU are Albany, El Cerrito, Richmond, San Leandro, and San Pablo; and those planning to do so are Alameda County, Berkeley, Contra Costa County, Oakland and Union City.

The purpose of the Memorandum of Understanding (MOU) (Attachment II) is to define and formalize the working relationship among regional and local agencies. No funding commitment from participants is required to join the Initiative.

### **BACKGROUND**

ABAG and the Metropolitan Transportation Commission (MTC) adopted the region's Sustainable Communities Strategy and Regional Transportation Plan, called *Plan Bay Area*, in

the summer of 2013. *Plan Bay Area* is an integrated land use and transportation strategy to accommodate the region's projected population, housing and job growth between 2010 and 2040 to achieve State targets for reductions in greenhouse gas emissions. *Plan Bay Area* is based primarily on encouraging housing and job growth in Priority Development Areas (PDAs) in the nine county San Francisco Bay Region. PDAs relate to locally-driven land use planning programs administered by ABAG for sustainable development near transit-oriented areas.

*Plan Bay Area* projects that PDAs along major corridors will grow at a faster rate than the region as a whole. Many of the investments included in *Plan Bay Area* connect and/or serve the cities and counties within the East Bay Corridor. In addition, regional and State community development and transportation funding, such as One Bay Area Grant (OBAG) funds, and resources have been, and continue to be, prioritized for PDAs throughout the State to further the Plan's goals.

Between 2000 and 2014, Hayward and other localities, such as Alameda, Albany, Berkeley, El Cerrito, Emeryville, Hayward, Hercules, Oakland, Pinole, Richmond, San Leandro, San Pablo, Union City, Alameda County and Contra Costa County, adopted twenty-five land use plans to establish ABAG/MTC certified PDAs. All of these PDAs are located within the East Bay Corridor. Hayward has five PDAs: Downtown; Cannery Area, South Hayward BART Mixed Use, South Hayward BART Urban, and the Mission Corridor (see Attachment III).

As Council knows, Hayward is developing a new Downtown Specific Plan funded by a grant from the Alameda County Transportation Commission, and has recently adopted a new specific plan and two form-based codes for the areas along Mission Boulevard.

## **DISCUSSION**

In September 2013, the East Bay Corridor Initiative was presented to ABAG's Executive Board as a top implementation strategy for realizing Plan Bay Area. Since 2013, staff from East Bay Corridor jurisdictions, including Hayward, and ABAG have met to identify 1) obstacles to achieving the level and quality of growth planned for PDAs in their jurisdictions and 2) preliminary inter-jurisdictional strategies for implementing local PDAs and regional planning objectives for each segment of the corridor.

Pursuant to the MOU, beginning in 2015, participating jurisdictions, ABAG and other public agencies will engage to solidify these mutually determined preliminary strategies. This will set the stage for further engagement with municipal leadership, development of partnerships with the non-profit and business communities, and obtaining funding, including Cap and Trade funding, to carry out the strategies.

Participants will undertake the following activities under the MOU:

1. Continue to coordinate with city and county staff the development of multi-jurisdictional strategies to create a network of thriving neighborhoods and downtowns within the East Bay Corridor;
2. Identify and develop funding sources to implement agreed upon strategies; and

3. Endorse joint applications by participants for grants and other funding that support agreed upon multi-jurisdictional strategies.

Staff will seek formal Council authorization prior to supporting any items or actions through the Initiative involving resource commitments or land use policy that affect Hayward, including those associated with housing and infrastructure priorities that will be developed to address common challenges and capitalize on shared opportunities to implement PDA plans. Draft priorities that have been suggested are:

- Catalyst Projects – to include strategically important housing and mixed-use developments;
- Neighborhood Infrastructure – related to investments that expand critical services and amenities available to corridor residents and workers;
- Innovation and Opportunity – entailing partnerships to integrate innovative technologies, workforce training, and small business expansion in PDAs;
- Resilience and Community Stability – involving programs to retrofit vulnerable homes for earthquakes and other natural hazards, improve energy efficiency and air quality, and reduce displacement risk to residents and businesses; and
- Funding – for projects and programs prioritized by corridor cities, including California Cap and Trade proceeds.

ABAG will coordinate the East Bay Corridors Initiative. However, each participating jurisdiction will assign a representative to the Initiative Steering Committee under the MOU to implement the Initiative, which, for Hayward, will be a staff member appointed by the City Manager.

### **ECONOMIC IMPACT**

There are no anticipated direct economic impacts known at this time associated with joining the Initiative, and could result in funding to promote planned growth along Hayward’s Mission Boulevard Corridor, including in Downtown.

### **FISCAL IMPACT**

There is no funding commitment required for the City to enter into and participate in the proposed activities under the MOU. There are minimal impacts to the City’s General Fund related to this item, associated with minimal staff time in participating in Initiative Steering Committee meetings.

### **NEXT STEPS**

If Council adopts the attached resolution, the City Manager will execute the MOU with ABAG and participating jurisdictions, and staff will participate in the Steering Committee meetings. As noted above, staff will seek Council authority for committing any resources or involving land use policies.

*Prepared and Recommended by:* David Rizk, Development Services Director

Approved by:



---

Fran David  
City Manager

Attachments:

- Attachment I: Draft Resolution
- Attachment II: Memorandum of Understanding – East Bay Corridors Initiative
- Attachment III: Map showing Hayward’s Five Priority Development Areas

## HAYWARD CITY COUNCIL

## RESOLUTION NO 15-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG) AND CORRIDOR JURISDICTIONS RELATED TO THE EAST BAY CORRIDORS INITIATIVE

WHEREAS, the City of Hayward (City) had applied to the Association of Bay Area Governments (ABAG), the Council of Governments for the San Francisco Bay Area, for designation of the following neighborhoods in the City as Priority Development Areas (PDAs): Downtown; Cannery Area, South Hayward BART Mixed Use Neighborhood, South Hayward BART Urban Neighborhood, and the Mission Boulevard Corridor; and

WHEREAS, ABAG has designated these neighborhoods as PDAs and adopted Plan Bay Area, an integrated land use and transportation strategy to accommodate the region's projected population, housing and job growth between 2010 and 2040 based on the PDAs; and

WHEREAS, the City of Hayward and the Jurisdictions of Alameda, Albany, Berkeley, El Cerrito, Emeryville, Hercules, Oakland, Pinole, Richmond, San Leandro, San Pablo, Union City, Alameda County, and Contra Costa have PDAs within their communities that form a geographical and land use alignment referred to as the East Bay Corridor, as shown in the map included in Exhibit A that is attached to this resolution; and

WHEREAS, the staffs of the Corridor Jurisdictions and ABAG have been collaborating to identify a preliminary set of inter-jurisdictional strategies for implementing local and regional planning objectives for each segment of the corridor in an effort referred to as the East Bay Corridor Initiative; and

WHEREAS, the staffs of the Corridor Jurisdictions and ABAG recommend that the Corridor Jurisdictions and ABAG continue to coordinate on the development of multi-jurisdictional strategies to create a network of thriving neighborhoods and downtowns in Corridor PDAs, including but not limited to the subgroups that comprise the Oakland-Union City Corridor and the San Pablo Corridor; and

WHEREAS, the staffs of the Corridor Jurisdictions and ABAG recommend that the Corridor Jurisdictions and ABAG enter into a Memorandum of Understanding for the East Bay Corridors Initiative (MOU), a draft copy of which is attached as Exhibit A, to (1) continue the development of multi-jurisdictional strategies to create a network of thriving neighborhoods and downtowns in Corridor PDAs, (2) identify and develop funding sources to implement agreed upon strategies and (3) endorse joint applications by one or more Corridor Jurisdictions for grants and other funding that support agreed upon multi-jurisdictional strategies; and

WHEREAS, the MOU does not require the City to expend any funds or endorse any or support any pre-determined project or strategy, except as commonly agreed upon among the Corridor Jurisdictions and ABAG.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager, or his/her designee, to execute a Memorandum of Understanding for the East Bay Corridors Initiative in substantial compliance with the attached Exhibit A..

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

DRAFT

**MEMORANDUM OF UNDERSTANDING  
- EAST BAY CORRIDORS INITIATIVE -**

This Memorandum of Understanding (“MOU”) is entered into by and between the following participating entities (Participant; collectively, Participants):

Association of Bay Area Governments (ABAG)

City of Alameda (Alameda)

City of Albany (Albany)

City of Berkeley (Berkeley)

City of El Cerrito (El Cerrito)

City of Emeryville (Emeryville)

City of Hayward (Hayward)

City of Hercules (Hercules)

City of Oakland (Oakland)

City of Pinole (Pinole)

City of Richmond (Richmond)

City of San Leandro (San Leandro)

City of San Pablo (San Pablo)

City of Union City (Union City)

County of Alameda (Alameda County)

County of Contra Costa (Contra Costa)

A. Purpose. The activities undertaken under this MOU will constitute the East Bay Corridor Initiative (Initiative). The purpose of this MOU is to define and formalize the working relationship among regional and local agencies whose geographical boundaries include a portion or all of the East Bay Corridors, as further described below. This MOU defines the shared goals and objectives of these local and regional agencies working collaboratively to enhance livability, mobility and economic prosperity within the Corridors, and establishes the necessary administrative and governance structure to promote a cooperative relationship and for ensuring success of the Initiative.

B. Background. Plan Bay Area is an integrated land use and transportation strategy to accommodate the region’s projected population, housing and job growth between 2010 and 2040 which, if implemented, would achieve State targets for reductions in greenhouse gas emissions. Plan Bay Area is based primarily on the PDAs in the nine county San Francisco Bay Region, including those in the East Bay Corridor (Corridor PDAs). ABAG and the Metropolitan Transportation Commission (MTC) adopted Plan Bay Area in 2013. The strategy for implementation of Plan Bay Area includes investment of existing and anticipated resources in PDAs.

Reflecting strong transit access and a local commitment to planning and investment, Plan Bay Area projects that Corridor PDAs will grow at a faster rate than the region as a whole. Many of the investments included in Plan Bay Area connect and/or serve the cities and counties within the Corridor (Corridor Jurisdictions).

Compared to the region as a whole, residents of Corridor PDAs have lower household incomes; suffer more from poor air quality and other adverse environmental impacts; are at a higher risk during natural disasters; and are subject to displacement risk from rising housing costs. Many Corridor PDAs face obstacles to realizing the development envisioned in adopted plans. These range from limited local resources to build infrastructure and public spaces to a lack of funding for affordable housing and difficulties attracting private investment. At the same time, the Corridor PDAs are located in close proximity to jobs and institutions of higher education. Further, numerous economic clusters appear to be growing in, or near the Corridor PDAs. Given this opportunity, the potential positive impact of a complementary approach to planning and investment is substantial, and can potentially provide a model for other Bay Area sub-regions with similar challenges.

Between 2000 and 2014, Alameda, Albany, Berkeley, El Cerrito, Emeryville, Hayward, Hercules, Oakland, Pinole, Richmond, San Leandro, San Pablo, Union City, Alameda County and Contra Costa (Corridor Jurisdictions) have adopted 25 land use plans for Priority Development Areas (PDAs), a locally-driven land use planning program of ABAG for sustainable development. All of these PDAs are located within the geography of East Bay Corridor (see Attachment 1).

In September 2013, the East Bay Corridors Initiative was presented to ABAG's Executive Board as a top implementation strategy for realizing Plan Bay Area. Between September and November 2013, staff from Participants, ABAG, and other public agencies met to identify obstacles to achieving the level and quality of growth planned for PDAs in these jurisdictions. To develop strategies, the group divided the East Bay Corridor into two segments: the Oakland-Union City Corridor and the San Pablo Corridor (see Attachment 1). The Oakland-Union City Corridor includes Oakland, San Leandro, Hayward, and Union City, as well as the Alameda County. The San Pablo Corridor includes Oakland, Emeryville, Berkeley, Albany, El Cerrito, Richmond, San Pablo, Pinole, Hercules and Contra Costa.

During 2014, staff from Participant jurisdictions, ABAG and other public agencies held workshops to identify a preliminary set of inter-jurisdictional strategies for implementing local PDAs and regional planning objectives for each segment of the corridor. In 2015, Participants, ABAG and other public agencies will engage in working groups to solidify these strategies. This will set the stage for engagement with city leadership, development of partnerships with the non-profit and business communities, and obtaining funding to carry out the strategies.

C. Proposed Activities. The Participants will undertake the following activities.

1. Continue to coordinate with Planning and Community Development Directors the development of multi-jurisdictional strategies to create a network of thriving neighborhoods and downtowns in Corridor PDAs. This coordination can include all Participants or subgroups, including but not limited to the subgroups that comprise the Oakland-Union City Corridor and the San Pablo Corridor.
2. Identify and develop funding sources to implement agreed upon strategies.
3. Endorse joint applications by Participants for grants and other funding that support agreed upon multi-jurisdictional strategies.

D. Responsibilities. Each Participant will have the following responsibilities:

1. Each Participant will assign a representative to the Steering Committee.
2. Each Participant will participate in the development and/or review of relevant multi-jurisdiction strategies.
3. ABAG will coordinate the East Bay Corridors Initiative. This will not limit or supersede any other activities undertaken collaboratively by Participants.

E. Structure and Governance. For ease of formation and administration and to maintain flexibility, the East Bay Corridor Initiative is structured as an unincorporated association of local and regional public entities. The Participants agree that this MOU is independent of any other contract(s) or agreement(s) between or among the Participants, or the contract(s) or agreement(s) between or among any Corridor Jurisdiction that are promulgated to implement a grant or local PDA plan.

A Steering Committee made up of one representative from each Participant will coordinate activities undertaken pursuant to this MOU. Every Participant will appoint as its representative(s) to the Steering committee or any subcommittee, a staff person with expertise and experience land use planning and development, presumably the local Planning Director. The Steering Committee may establish subcommittees to undertake activities that advance the East Bay Corridor Initiative that affect less than all Participants.

Through a unanimous vote of all Steering Committee representatives, the Steering Committee may establish rules related to decision-making for the entire Steering Committee or Subcommittees, including but not limited to voting and participation.

Every Participant also has the right, but not the obligation, to appoint an alternate to the Steering Committee or subcommittee. The alternate may attend any meeting of the Steering Committee or subcommittee. However, the alternate is not included in the quorum count, is not entitled to vote and may not participate in the deliberations of the Steering Committee or subcommittee, except in the absence of the representative for whom he/she is an alternate.

F. Participant Resources. The Participants acknowledge that the East Bay Corridor Initiative is likely to require some investment of resource for it to be effective. Each Participant will assign staff, at no cost, to act as its representative to the Steering Committee and any relevant subcommittee.

G. Other Matters. Each Participant shall indemnify and hold harmless the other Participants from the indemnifying Participant's share of liability, as determined by a court of law, for any and all claims, costs and liability for any damage caused by the negligence or willful misconduct of the indemnifying Participant and its officers, employees or agents in the indemnifying Participant's performance under this MOU. The obligations of the indemnifying Participant under this section shall not apply to any claim, cost or liability caused by the negligence or willful misconduct of any other Participant. Under no circumstances shall the indemnifying Participant be liable to any other Participant or any other person or entity for consequential or special damages, or for any damages based on loss of use, revenue, profits or business

opportunities arising from or in any way relating to performance of the indemnifying Participant under this MOU.

H. Withdrawal and Termination. This MOU will continue until terminated by majority vote of the Steering Committee, but Participants may withdraw from this MOU on 60 days' notice to other Participants. New Participants may be added by majority vote of the current Participants.

I. Amendments. This MOU may be amended by a written agreement executed by the Participant in the same manner as this MOU.

J. Counterparts. This MOU may be executed in counterparts, each of which is an original and all of which constitute one and the same instrument.

K. Effective Date. This MOU is effective upon the date a minimum of nine Participants have executed the MOU.

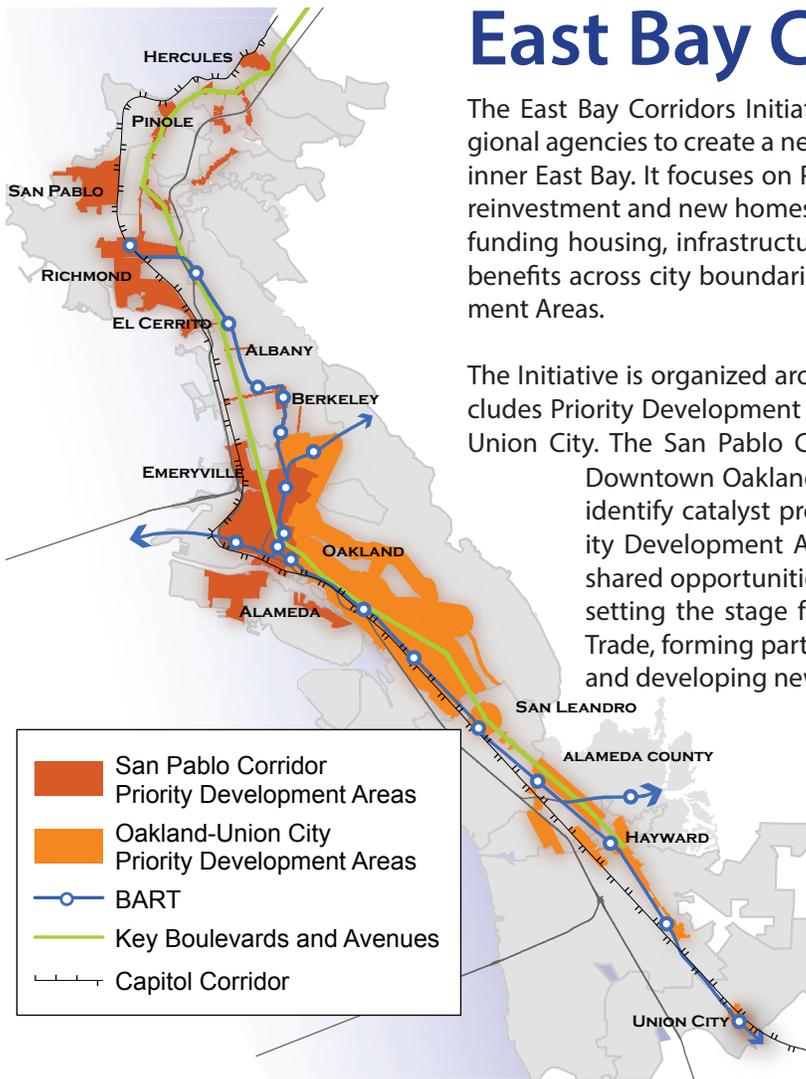
IN WITNESS WHEREOF, the Participants have caused this Memorandum of Understanding to be effective with the approval of their authorized representatives on the dates indicated below.

# East Bay Corridors Initiative

The East Bay Corridors Initiative is a collaboration between cities, counties and regional agencies to create a network of thriving neighborhoods and downtowns in the inner East Bay. It focuses on Priority Development Areas, places planned by cities for reinvestment and new homes and jobs. The Initiative is a platform for prioritizing and funding housing, infrastructure, and community development projects that provide benefits across city boundaries while implementing local plans for Priority Development Areas.

The Initiative is organized around two corridors. The Oakland-Union City Corridor includes Priority Development Areas between International Boulevard in Oakland and Union City. The San Pablo Corridor includes Priority Development Areas between Downtown Oakland and Hercules.

Cities are currently working together to identify catalyst projects that build on the unique assets of corridor Priority Development Areas to address common challenges and capitalize on shared opportunities. During 2015, the Initiative will solidify these projects, setting the stage for pursuing existing funding sources as state Cap and Trade, forming partnerships with the business and non-profit communities, and developing new funding sources.



- San Pablo Corridor Priority Development Areas
- Oakland-Union City Priority Development Areas
- BART
- Key Boulevards and Avenues
- Capitol Corridor

### Timeline

#### 1995-Today

- Corridor jurisdictions adopt plans for 26 Priority Development Areas

#### 2013

- Plan Bay Area adopted, region's first integrated housing, jobs and transportation plan; growth and investment focused in the inner East Bay
- ABAG Executive Board prioritizes implementation of local plans and regional goals in the East Bay Corridors

#### 2014

- Workshops held to identify key challenges and opportunities related to realizing local PDA plans
- Working groups create draft implementation priorities and catalyst projects

### Next Steps

#### Q1 2015

- Solidify priorities and catalyst projects
- Create partnerships and identify funders

#### Q2 2015

- Pursue immediate funding opportunities such as Cap & Trade and federal grants

#### Q3 2015-

- Integrate corridor priorities into regional Land Use Strategy and Plan Bay Area update
- Continue to pursue funding; initiate and complete projects

### Oakland-Union City Corridor Jurisdictions

- Oakland
- San Leandro
- Unincorporated Alameda County (Ashland/Cherryland)
- Hayward
- Union City

### San Pablo Corridor Jurisdictions

- Oakland
- Emeryville
- Berkeley
- Alameda
- Albany
- El Cerrito
- Richmond
- San Pablo
- Pinole
- Hercules
- Unincorporated Contra Costa County

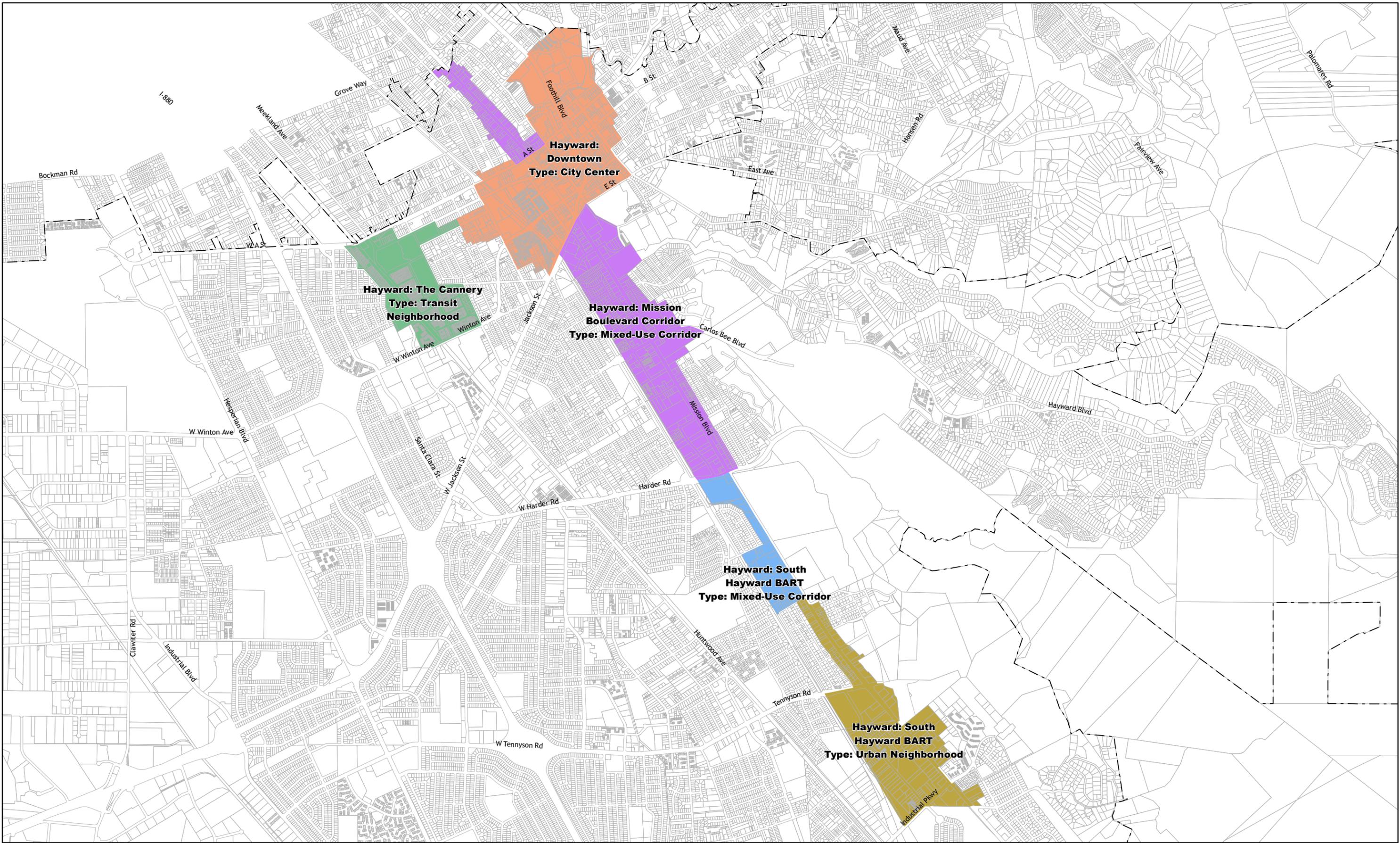
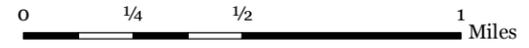
### Regional and County Partners

- Alameda and County Public Health Department
- Alameda and Contra Costa County Transportation Authorities
- Alameda-Contra Costa Transit District (AC Transit)
- Association of Bay Area Governments
- Bay Area Air Quality Management District

- Bay Area Rapid Transit (BART)
- Contra Costa Health Services
- Western Contra Costa County Transit Authority (WestCAT)



# Hayward PDAs



**DATE:** March 24, 2015

**TO:** Mayor and City Council

**FROM:** Director of Human Resources

**SUBJECT:** Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2015

### **RECOMMENDATION**

That the City Council adopts the attached Resolution approving an amendment to the City of Hayward Salary Plan for Fiscal Year 2015 (“FY 2015”), which designates all classifications and the corresponding salary range for employment in the City government of the City of Hayward as of March 12, 2015, superseding Resolution No.15-017 and all amendments thereto.

### **BACKGROUND AND DISCUSSION**

After a public hearing on March 12, 2015, the Personnel Commission recommends that the City Council adopts an amended FY 2015 Salary Plan. The revised Classification and Salary Plan for the classified service adjusts the salary for the newly created Education Services Manager and Information Technology Manager classifications.

As required by the Municipal Code, the Salary Plan for FY 2015 (Attachment I) has been updated to reflect all of the classifications in the City’s classified service, including the creation of the Education Services Manager and Information Technology Manager classifications. The following changes were made:

1. Education Services Manager – The Education Services Manager is a new classification created to plan and direct the activities and programs of the Education Services Division of the Library and Community Services Department. The Education Services Division develops and administers programs relating to education services, literacy and early childhood education, including the K-12 Tutoring Program, Adult Literary Tutoring, English as a Second Language Training, Early Childhood Education Program, and other related community learning center services. Due to expansion of these programs and the community’s desire for more educational services, the Education Services Manager is needed to oversee and direct the planning, goals and objectives of these programs and future programs. The addition of the Education Services Manager classification is critical to the

efficient management and development of the community education services and will add a level of supervision over the programs, creating a more accountable organizational structure. The salary range for the Education Services Manager was set internally to the Library Operations Manager and Supervising Librarian as the level of responsibility and oversight required of the position is equal. The hourly salary range for Education Services Manager is \$36.01 at Step 1 and \$43.76 at Step 5.

2. Information Technology Manager – The Information Technology Manager is a new classification created to provide operational support for current staff of the Technology Services Department in the functional units of customer support, public safety, and infrastructure. The Information Technology Manager classification is critical to increasing the efficiency and effectiveness of the services provided by the Information Technology Department. Moreover, the classification provides direct supervision of staff, and provides day-to-day oversight of various functional units. Adding the Information Technology Manager also allows the Director of Information Technology to manage large scale strategic implementation and projects, ultimately improving the quality of service to City of Hayward employees. The hourly salary range for Information Technology Manager is \$50.57 at Step 1 and \$61.48 at Step 5.

## **FISCAL IMPACT**

The addition of the Education Services Manager classification will cost the General Fund approximately \$133,500 annually. Funding for this position has been requested and approved as part of the FY 2015 operating budget.

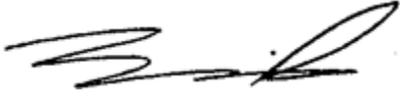
There will be a total of three IT Manager positions added to the IT department. Funding for the additional positions was proposed as part of the mid-year budget adjustment process as follows:

- Add 1.0 FTE IT Manager for Public Safety
- Reclassify 1.0 FTE Data & Systems Coordinator to 1.0 FTE IT Manager-Customer Support
- Reclassify 1.0 FTE Network System Specialist to 1.0 FTE IT Manager-Infrastructure
- Add 1.0 FTE IT Technician I for public safety

The proposed mid-year adjustment will be built into the IT Internal Service Fund and will cost about \$159,168 in FY 2015 and the recurring annual cost will be \$405,918 beginning in FY 2016. The department is engaged in a comprehensive staffing study and additional changes may be proposed in the FY 2016 budget. However, preliminary results of that study clearly indicate the critical need for the above positions.

*Prepared and Recommended by:* Nina S. Collins, Director of Human Resources

Approved By:

A handwritten signature in black ink, appearing to read 'Fran David', written over a horizontal line.

Fran David, City Manager

Attachment I: Resolution Approving Amendment to the FY 2015 Salary Plan

Attachment II: Revised FY 2015 Salary Plan

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING THE AMENDED FISCAL YEAR 2015 SALARY PLAN DESIGNATING POSITIONS OF EMPLOYMENT IN THE CITY GOVERNMENT OF THE CITY OF HAYWARD AND SALARY RANGE; AND SUPERSEDING RESOLUTION NO. 15-017 AND ALL AMENDMENTS THERETO

BE IT RESOLVED by the City Council of the City of Hayward, as follows:

Section 1. That a revised Positions and Salaries Schedule relating to the positions of employment in the City of Hayward, and the hourly rates of pay for those positions, is hereby set forth in Attachment "II," attached hereto and made a part hereof. The positions enumerated under the columns headed "Class Title" are hereby designated as the positions of employment in the City of Hayward, and the hourly rates of pay shown in the columns under the heading "Hourly Salary Range" are the salary rates or the maximum rates of pay for such positions.

Section 2. Salaries paid to occupants of said positions shall be administered in accordance with the Personnel Rules and Memoranda of Understanding and Side Letter Agreements approved by the City Council and currently in effect.

Section 3. All class titles used herein refer to the specifications of the position classification plan as reviewed by the Personnel Commission of the City of Hayward, or as set forth in the City Charter.

Section 4. The City Manager may approve in advance of an established effective date, payment to certain classifications in the Management Unit of all or a portion of a general salary increase previously approved by the City Council. Such advance payments shall be made only for those management classifications where the salary range is less than ten percent above an immediately subordinate classification. The amount of advance payment approved by the City Manager shall not exceed the amount required to establish a ten percent salary differential between the affected classifications. The City Manager shall advise the City Council and each bargaining unit in advance of any payments made pursuant to the provisions of this section.

Section 5. The salary ranges set forth in Attachment "II" shall be revised to reflect salary changes provided in any Memorandum of Understanding, Side Letters of Agreement, or resolution setting forth the wages, hours, and other terms and conditions of

employment for a bargaining unit or group of unrepresented employees of the City. Any revisions made pursuant to the provisions of this section shall be incorporated into a document prepared by the Human Resources Director and distributed to affected employees or their representatives that reflects the date of the revision and cites both the authority provided by this section and the provision of the memorandum or resolution being effectuated by the revision.

Section 6. This resolution supersedes Resolution No. 15-017 and all amendments thereto.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**SALARY PLAN FOR ALL CLASSIFICATIONS  
(PER MUNI CODE SEC.2-4.30)  
FY 2015**

ATTACHMENT II  
Recommended by  
Personnel Commission  
on March 12, 2015  
Approved by Council  
on \_\_\_\_\_, 2015

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
<b>CITY WIDE ADMINISTRATIVE/ANALYTICAL SUPPORT</b>							
ADMINISTRATIVE ANALYST III	42.64	44.77	47.01	49.36	51.83	723	Classified
ADMINISTRATIVE ANALYST II	38.38	40.30	42.31	44.43	46.65	724	Classified
ADMINISTRATIVE ANALYST I	34.90	36.65	38.48	40.40	42.42	744	Classified
EXECUTIVE ASSISTANT	34.79	36.39	38.03	39.66	41.41	1127	Unclassified
ADMINISTRATIVE SECRETARY	30.62	31.89	33.14	34.38	35.76	108	Classified
SENIOR SECRETARY	27.99	29.09	30.27	31.38	32.59	107	Classified
SECRETARY	24.63	25.76	27.05	28.31	29.66	106	Classified
ADMINISTRATIVE CLERK II	22.71	23.63	24.59	25.69	26.95	102	Classified
ADMINISTRATIVE CLERK I	19.99	21.04	22.11	23.28	24.50	101	Classified
ADMINISTRATIVE INTERN				15.00	20.00	907	Classified
MAIL CLERK			12.47	13.12	13.76	134	Classified
<b>CITY WIDE MAINTENANCE</b>							
ELECTRICIAN II	39.14	40.70	42.30	44.09	45.92	329	Classified
ELECTRICIAN I	35.59	37.06	38.53	40.15	41.77	328	Classified
LABORER	22.72	23.56	24.50	25.50	26.42	336	Classified
<b>CITY ATTORNEY DEPARTMENT</b>							
CITY ATTORNEY					88.99	1216	Unclassified
ASSISTANT CITY ATTORNEY	59.90	62.90	66.05	69.35	72.82	1134	Classified
DEPUTY CITY ATTORNEY II	49.50	51.97	54.57	57.30	60.17	1179	Classified
DEPUTY CITY ATTORNEY I	45.01	47.26	49.62	52.10	54.70	1178	Classified
PARALEGAL	31.93	33.53	35.21	36.97	38.82	1130	Classified
LEGAL SECRETARY II	28.89	30.57	32.87	33.56	35.29	416	Classified
LEGAL SECRETARY I	26.02	27.39	28.83	30.38	32.00	415	Classified
<b>CITY CLERK DEPARTMENT</b>							
CITY CLERK					54.84	1225	Unclassified
DEPUTY CITY CLERK	32.63	34.26	35.97	37.77	39.66	747	Classified
<b>CITY MANAGER DEPARTMENT</b>							
<b>OFFICE OF THE CITY MANAGER</b>							
CITY MANAGER					107.04	1297	Unclassified
ASSISTANT CITY MANAGER	78.15	82.06	86.16	90.47	94.99	1122	Unclassified
DEPUTY CITY MANAGER	64.02	67.22	70.58	74.11	77.82	1121	Unclassified
ASSISTANT TO CITY MANAGER	46.10	48.41	50.83	53.37	56.04	1126	Classified
COMMUNITY AND MEDIA RELATIONS OFFICER	40.34	42.36	44.48	46.70	49.04	1103	Classified
MANAGEMENT FELLOW					21.63	1128	Classified
CODE ENFORCEMENT SUPERVISOR	40.37	42.39	44.51	46.74	49.08	786	Classified
SENIOR CODE ENFORCEMENT INSPECTOR	36.71	38.55	40.48	42.50	44.62	687	Classified
CODE ENFORCEMENT INSPECTOR II	33.37	35.04	36.79	38.63	40.56	686	Classified
CODE ENFORCEMENT INSPECTOR I	30.33	31.85	33.44	35.11	36.87	685	Classified
<b>ECONOMIC DEVELOPMENT</b>							
ECONOMIC DEVELOPMENT MANAGER	56.50	59.32	62.29	65.40	68.67	709	Classified
ECONOMIC DEVELOPMENT COORDINATOR	50.82	53.36	56.03	58.83	61.77	711	Classified
ECONOMIC DEVELOPMENT SPECIALIST	40.53	42.57	44.65	46.92	49.21	669	Classified

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<b>NEIGHBORHOOD PARTNERSHIP SERVICES</b>							
NEIGHBORHOOD DEVELOPMENT MANAGER	56.50	59.32	62.29	65.40	68.67	799	Classified
NEIGHBORHOOD PARTNERSHIP MANAGER	50.82	53.36	56.03	58.83	61.77	703	Classified
<b>HOUSING AUTHORITY</b>							
HOUSING MANAGER	50.82	53.36	56.03	58.83	61.77	726	Classified
HOUSING DEVELOPMENT SPECIALIST	40.53	42.57	44.65	46.92	49.21	674	Classified
HOMEOWNERSHIP COORDINATOR	35.60	37.39	39.19	41.18	43.20	605	Classified
<b>DEVELOPMENT SERVICES DEPARTMENT</b>							
<b>DEVELOPMENT SERVICE ADMINISTRATION</b>							
DIRECTOR OF DEVELOPMENT SERVICES	66.64	69.97	73.47	77.14	81.00	1116	Unclassified
DEPUTY DIRECTOR OF DEVELOPMENT SERVICES	62.14	65.25	68.51	71.94	75.54	1132	Classified
<b>BUILDING DIVISION</b>							
CITY BUILDING OFFICIAL	58.76	61.70	64.79	68.03	71.43	740	Classified
SUPERVISING BUILDING INSPECTOR	47.97	50.37	52.89	55.53	58.31	741	Classified
SENIOR BUILDING INSPECTOR/STRUCTURAL	40.04	42.17	44.30	46.40	48.71	663	Classified
SENIOR BUILDING INSPECTOR/PLUMBING-MECHANICAL	40.04	42.17	44.30	46.40	48.71	659	Classified
SENIOR BUILDING INSPECTOR/ELECTRICAL	40.04	42.17	44.3	46.4	48.71	658	Classified
BUILDING INSPECTOR	34.57	36.19	38.04	39.97	42.59	656	Classified
PLAN CHECKING ENGINEER	46.81	49.08	51.55	54.23	57.00	610	Classified
SUPERVISING PLAN CHECKER AND EXPEDITOR	51.58	54.16	56.87	59.71	62.70	798	Classified
SENIOR PLAN CHECKER	40.04	42.17	44.30	46.40	48.71	611	Classified
PLAN CHECKER	36.41	38.33	40.27	42.19	44.29	609	Classified
SENIOR PERMIT TECHNICIAN	31.66	32.96	34.24	35.74	37.56	179	Classified
PERMIT TECHNICIAN	28.55	29.69	30.88	32.21	33.85	180	Classified
<b>PLANNING DIVISION</b>							
PLANNING MANAGER	56.50	59.32	62.29	65.40	68.67	797	Classified
PRINCIPAL PLANNER	50.82	53.36	56.03	58.83	61.77	720	Classified
SENIOR PLANNER	45.52	47.80	50.19	52.70	55.34	796	Classified
ASSOCIATE PLANNER	40.65	42.64	44.77	47.07	49.32	650	Classified
ASSISTANT PLANNER	33.36	34.99	36.87	38.67	40.65	624	Classified
JUNIOR PLANNER	29.57	31.14	32.60	34.23	35.90	622	Classified
GRAPHICS/PLANNING ILLUSTRATOR	28.12	29.48	31.04	32.59	34.17	627	Classified
DEVELOPMENT REVIEW ENGINEER	49.19	51.65	54.23	56.94	59.79	781	Classified
DEVELOPMENT REVIEW SPECIALIST	35.54	37.27	39.29	41.22	43.32	604	Classified
LANDSCAPE ARCHITECT	45.52	47.80	50.19	52.70	55.34	753	Classified
<b>FINANCE DEPARTMENT</b>							
<b>ADMINISTRATION DIVISION</b>							
DIRECTOR OF FINANCE	73.94	77.64	81.52	85.60	89.88	1118	Unclassified
DEPUTY DIRECTOR OF FINANCE	59.17	62.13	65.24	68.50	71.93	1106	Classified
BUDGET OFFICER	45.34	47.61	49.99	52.49	55.11	700	Classified
FINANCIAL ANALYST	41.22	43.28	45.44	47.71	50.10	712	Classified
FINANCE TECHNICIAN	31.21	32.77	34.41	36.13	37.94	115	Classified

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<b>ACCOUNTING DIVISION</b>							
ACCOUNTING MANAGER	51.48	54.05	56.75	59.59	62.57	730	Classified
SENIOR ACCOUNTANT	41.2	43.26	45.42	47.69	50.07	749	Classified
ACCOUNTANT	33.02	34.67	36.40	38.22	40.13	754	Classified
SENIOR ACCOUNT CLERK	26.11	27.38	28.56	29.95	31.34	156	Classified
ACCOUNT CLERK	23.80	24.84	26.02	27.22	28.58	155	Classified
<b>REVENUE DIVISION</b>							
REVENUE MANAGER	47.23	49.59	52.07	54.67	57.40	729	Classified
FINANCE SUPERVISOR	41.2	43.26	45.42	47.69	50.07	734	Classified
SENIOR CUSTOMER ACCOUNT CLERK	26.11	27.38	28.56	29.95	31.34	130	Classified
CUSTOMER ACCOUNT CLERK	23.80	24.84	26.02	27.22	28.58	125	Classified
<b>PURCHASING DIVISION</b>							
PURCHASING AND SERVICES MANAGER	47.23	49.59	52.07	54.67	57.40	739	Classified
PURCHASING TECHNICIAN	28.39	29.82	31.28	32.83	34.49	110	Classified
MAIL AND PURCHASING CLERK	21.55	22.63	23.69	24.92	26.15	112	Classified
<b>FIRE DEPARTMENT</b>							
<b>SWORN</b>							
FIRE CHIEF	77.25	81.11	85.17	89.43	93.90	1101	Unclassified
DEPUTY FIRE CHIEF (40 HR)	71.47	75.04	78.79	82.73	86.87	1006	Classified
FIRE MARSHAL (40 HR)	64.97	68.22	71.63	75.21	78.97	1003	Classified
FIRE TRAINING OFFICER (40 HR)	64.97	68.22	71.63	75.21	78.97	1007	Classified
BATTALION CHIEF (56 HR)	42.19	44.30	46.51	48.84	51.28	1004	Classified
BATTALION CHIEF (40 HR)	59.06	62.01	65.11	68.37	71.79	1005	Classified
STAFF FIRE CAPTAIN (40 HR)			56.87	59.71	62.70	244	Classified
FIRE CAPTAIN (56 HR)			36.92	38.77	40.71	245	Classified
FIRE CAPTAIN (40 HR)			51.70	54.28	56.99	246	Classified
FIRE PREVENTION INSPECTOR (40 HR)	43.77	45.96	48.26	50.67	53.20	230	Classified
FIRE PREVENTION INSPECTOR (56 HR)	31.28	32.84	34.48	36.20	38.01	231	Classified
APPARATUS OPERATOR (56 HR)	29.62	31.10	32.66	34.29	36.00	220	Classified
APPARATUS OPERATOR (40 HR)	41.43	43.50	45.68	47.96	50.36	221	Classified
FIREFIGHTER (56 HR)	27.91	29.31	30.78	32.32	33.94	215	Classified
FIREFIGHTER (40 HR)	39.09	41.04	43.09	45.24	47.50	216	Classified
FIREFIGHTER TRAINEE (40 HR)	35.54	37.31				973	Classified
<b>PROFESSIONAL STAFF</b>							
HAZARDOUS MATERIALS PROGRAM COORDINATOR	47.97	50.37	52.89	55.53	58.31	705	Classified
FIRE PROTECTION ENGINEER	46.81	49.08	51.55	54.23	57.00	640	Classified
EMERGENCY MEDICAL SERVICES COORDINATOR	43.05	45.20	47.46	49.83	52.32	710	Classified
ENVIRONMENTAL SPECIALIST	41.41	43.48	45.65	47.93	50.33	677	Classified
HAZARDOUS MATERIALS INVESTIGATOR	39.45	41.42	43.49	45.67	47.93	676	Classified
FIRE SERVICES SUPERVISOR	43.05	45.20	47.46	49.83	52.32	701	Classified
FIRE TECHNICIAN II	27.85	29.24	30.70	32.24	33.85	113	Classified
FIRE TECHNICIAN I	25.30	26.57	27.90	29.30	30.77	109	Classified
<b>HUMAN RESOURCES DEPARTMENT</b>							
DIRECTOR OF HUMAN RESOURCES	67.45	70.82	74.36	78.08	81.98	1119	Unclassified
HUMAN RESOURCES MANAGER	45.81	48.10	50.50	53.03	55.68	1156	Classified
SENIOR HUMAN RESOURCES ANALYST	41.64	43.72	45.91	48.21	50.62	1155	Classified
HUMAN RESOURCES ANALYST II	37.86	39.75	41.74	43.83	46.02	1177	Classified
HUMAN RESOURCES ANALYST I	34.42	36.14	37.95	39.85	41.84	1176	Classified
HUMAN RESOURCES TECHNICIAN	27.49	28.86	30.30	31.81	33.40	1174	Classified
HUMAN RESOURCES ADMINISTRATIVE SECRETARY	30.88	32.42	34.04	35.74	37.53	1175	Classified

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<b>LIBRARY AND COMMUNITY SERVICES DEPARTMENT</b>							
<b>ADMINISTRATION DIVISION</b>							
DIRECTOR OF LIBRARY AND COMMUNITY SERVICES	67.52	70.90	74.45	78.17	82.08	1120	Unclassified
<b>COMMUNITY SERVICES</b>							
COMMUNITY SERVICES MANAGER	51.73	54.32	57.04	59.89	62.88	774	Classified
COMMUNITY PROGRAMS SPECIALIST	37.35	39.29	41.29	43.32	45.44	670	Classified
SENIOR PROPERTY REHABILITATION SPECIALIST	41.08	43.21	45.41	47.64	49.97	673	Classified
PROPERTY REHABILITATION SPECIALIST	37.35	39.29	41.29	43.32	45.44	665	Classified
PARATRANSIT COORDINATOR	35.60	37.39	39.19	41.18	43.20	664	Classified
EDUCATION SERVICES MANAGER	36.01	37.81	39.70	41.68	43.76		Classified
EDUCATIONAL SERVICES COORDINATOR	27.76	29.15	30.61	32.14	33.75	644	Classified
<b>LIBRARY SERVICES DIVISION</b>							
LIBRARY OPERATIONS MANAGER	36.01	37.81	39.70	41.68	43.76	768	Classified
SUPERVISING LIBRARIAN I	36.01	37.81	39.70	41.68	43.76	736	Classified
LIBRARIAN II	30.65	32.18	33.75	35.46	37.13	626	Classified
LIBRARIAN I	27.79	29.19	30.64	32.10	33.75	625	Classified
LEAD LIBRARY ASSISTANT	25.17	26.45	27.71	29.07	30.59	191	Classified
SENIOR LIBRARY ASSISTANT	23.24	24.27	25.39	26.51	27.79	189	Classified
LIBRARY ASSISTANT	21.06	22.04	23.03	24.09	25.22	187	Classified
SENIOR LIBRARY PAGE					16.47	199	Classified
LIBRARY PAGE					15.03	198	Classified
LITERACY PROGRAM COORDINATOR	27.79	29.19	30.64	32.10	33.75	623	Classified
VOLUNTEER PROGRAM ASSISTANT	20.16	21.17	22.23	23.34	24.51		Classified
<b>MAINTENANCE SERVICES DEPARTMENT</b>							
<b>ADMINISTRATION DIVISION</b>							
DIRECTOR OF MAINTENANCE SERVICES	67.62	71.00	74.55	78.28	82.19	1113	Unclassified
<b>FACILITIES MANAGEMENT</b>							
FACILITIES AND BUILDING MANAGER	48.18	50.59	53.12	55.78	58.57	760	Classified
FACILITIES LEADWORKER	43.30	45.02	46.78	48.71	50.79	300	Classified
FACILITIES MAINTENANCE SUPERVISOR	35.68	37.46	39.33	41.30	43.37	792	Classified
HVAC MECHANIC	39.14	40.70	42.30	44.09	45.92	315	Classified
FACILITIES PAINTER II	31.95	33.25	34.55	35.98	37.48	330	Classified
FACILITIES PAINTER I	29.07	30.24	31.47	32.79	34.08	324	Classified
FACILITIES CARPENTER II	31.82	33.08	34.47	35.89	37.39	327	Classified
FACILITIES CARPENTER I	28.94	30.14	31.38	32.65	34.01	326	Classified
STOREKEEPER - EXPEDITER	25.86	26.93	27.94	29.01	30.13	371	Classified
FACILITIES SERVICEWORKER II	23.51	24.45	25.45	26.34	27.39	320	Classified
FACILITIES SERVICEWORKER I	21.42	22.20	23.08	24.03	24.88	318	Classified
<b>FLEET MANAGEMENT DIVISION</b>							
EQUIPMENT MANAGER	48.18	50.59	53.12	55.78	58.57	738	Classified
FLEET MANAGEMENT SUPERVISOR	43.70	45.89	48.18	50.59	53.12	771	Classified
EQUIPMENT MECHANIC II	29.76	31.15	32.73	34.44	36.15	312	Classified

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EQUIPMENT MECHANIC I	27.10	28.46	29.90	31.38	32.92	310	Classified
EQUIPMENT PARTS STOREKEEPER	24.78	26.09	27.35	28.72	30.17	307	Classified
EQUIPMENT SERVICE ATTENDANT	22.86	23.76	24.75	25.58	26.57	308	Classified
<b>LANDSCAPE MAINTENANCE DIVISION</b>							
LANDSCAPE MAINTENANCE MANAGER	48.18	50.59	53.12	55.78	58.57	752	Classified
LANDSCAPE MAINTENANCE SUPERVISOR	43.70	45.89	48.18	50.59	53.12	761	Classified
GROUNDSKEEPER III	32.41	33.72	35.08	36.56	37.99	343	Classified
GROUNDSKEEPER II	28.42	29.55	30.76	31.84	33.07	342	Classified
GROUNDSKEEPER I	25.81	26.84	27.97	28.93	30.08	338	Classified
TREE TRIMMER	29.16	30.32	31.55	32.67	33.95	340	Classified
<b>STREET MAINTENANCE DIVISION</b>							
STREETS MAINTENANCE MANAGER	48.18	50.59	53.12	55.78	58.57	756	Classified
STREETS MAINTENANCE SUPERVISOR	43.70	45.89	48.18	50.59	53.12	764	Classified
SENIOR MAINTENANCE LEADER	33.03	34.35	35.73	37.25	38.71	367	Classified
MAINTENANCE LEADER	29.00	30.13	31.38	32.48	33.73	360	Classified
SWEEPER EQUIPMENT OPERATOR	27.09	28.00	29.12	30.36	31.56	362	Classified
<b>MAYOR AND COUNCIL DEPARTMENT</b>							
MAYOR				Annual Salary:	39,960.00	1300	Unclassified
CITY COUNCIL				Annual Salary:	24,975.00	1301	Unclassified
<b>POLICE DEPARTMENT</b>							
<b>SWORN</b>							
CHIEF OF POLICE	81.92	86.02	90.32	94.84	99.58	1102	Unclassified
POLICE CAPTAIN	65.79	69.08	73.23	76.89	80.73	802	Classified
POLICE LIEUTENANT				66.67	69.91	555	Classified
POLICE SERGEANT			55.06	57.72	60.67	545	Classified
INSPECTOR	47.29	49.65	52.08	54.55	57.22	520	Classified
POLICE OFFICER	41.95	43.96	46.10	48.33	50.62	515	Classified
POLICE OFFICER TRAINEE	29.95	31.44				174	Classified
<b>PROFESSIONAL STAFF</b>							
PERSONNEL AND TRAINING ADMINISTRATOR	54.90	57.65	60.53	63.56	66.74	751	Classified
CRIME ANALYST	42.64	44.77	47.01	49.36	51.83	731	Classified
POLICE PROGRAMS ANALYST	38.38	40.30	42.31	44.43	46.65	704	Classified
<b>SPECIAL OPERATIONS DIVISION</b>							
CRIME PREVENTION SPECIALIST	27.58	28.96	30.41	31.93	33.53	188	Classified
<b>INVESTIGATION DIVISION</b>							
YOUTH AND FAMILY SERVICES ADMINISTRATOR	54.90	57.65	60.53	63.56	66.74	790	Classified
COUNSELING SUPERVISOR	43.05	45.20	47.46	49.83	52.32	737	Classified
FAMILY COUNSELOR I	34.80	36.52	38.36	40.12	42.21	632	Classified
<b>SUPPORT SERVICES DIVISION</b>							
OPERATIONS SUPPORT SERVICES MANAGER	65.79	69.08	73.23	76.89	80.73	1104	Classified
PROPERTY/EVIDENCE ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	725	Classified
PROPERTY AND EVIDENCE SUPERVISOR	38.71	40.65	42.68	44.81	47.05	776	Classified
POLICE ID SPECIALIST	30.68	32.21	33.83	35.53	37.21	652	Classified
CRIME SCENE TECHNICIAN	27.37	28.59	29.91	31.26	32.76	175	Classified
PROPERTY TECHNICIAN	26.23	27.37	28.69	30.00	31.43	170	Classified
ANIMAL SERVICES ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	714	Classified

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SHELTER OPERATIONS SUPERVISOR	28.85	30.14	31.54	32.99	34.56	146	Classified
ANIMAL CONTROL OFFICER	24.81	26.09	27.28	28.56	29.90	185	Classified
ANIMAL CARE ATTENDANT	20.65	21.52	22.38	23.36	24.51	181	Classified
SHELTER VOLUNTEER COORDINATOR	20.65	21.52	22.38	23.36	24.51	192	Classified
COMMUNICATIONS ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	775	Classified
COMMUNICATIONS SUPERVISOR	35.33	37.11	38.96	40.89	42.96	141	Classified
COMMUNICATIONS OPERATOR	30.65	32.21	33.80	35.51	37.30	165	Classified
CALL TAKER	25.50	26.77	28.11	29.52	31.00		Classified
RECORDS ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	707	Classified
RECORDS SUPERVISOR	32.05	33.65	35.33	37.10	38.95	143	Classified
POLICE RECORDS CLERK II	24.92	25.91	26.95	28.14	29.52	120	Classified
POLICE RECORDS CLERK I	21.90	23.04	24.26	25.48	26.84	119	Classified
JAIL ADMINISTRATOR	42.57	44.70	46.94	49.29	51.75	706	Classified
JAIL SUPERVISOR	31.53	32.85	34.44	36.05	37.78	142	Classified
COMMUNITY SERVICE OFFICER	27.54	28.74	30.12	31.50	33.00	169	Classified
<b>PUBLIC WORKS/UTILITIES &amp; ENVIRONMENTAL SERVICES DEPARTMENTS</b>							
<b>ADMINISTRATION DIVISION</b>							
DIRECTOR OF PUBLIC WORKS	74.50	78.23	82.14	86.25	90.56	1111	Unclassified
DEPUTY DIRECTOR OF PUBLIC WORKS	64.13	67.34	70.71	74.25	77.96	1112	Classified
SENIOR UTILITY SERVICE REPRESENTATIVE	32.19	33.79	35.40	37.21	39.03	373	Classified
STOREKEEPER - EXPEDITER	25.86	26.93	27.94	29.01	30.13	371	Classified
<b>AIRPORT DIVISION SUMMARY</b>							
AIRPORT MANAGER	56.50	59.32	62.29	65.40	68.67	713	Classified
AIRPORT OPERATIONS SUPERVISOR	45.23	47.49	49.86	52.35	54.97	732	Classified
NOISE ABATEMENT ANALYST	27.79	29.19	30.64	32.10	33.75	643	Classified
SENIOR AIRPORT MAINTENANCE WORKER	30.35	31.47	32.72	34.06	35.43	302	Classified
AIRPORT MAINTENANCEWORKER	27.57	28.58	29.70	30.94	32.21	303	Classified
AIRPORT ATTENDANT	20.64	21.55	22.34	23.32	24.48	301	Classified
<b>ENGINEERING/TRANSPORTATION DIVISION</b>							
ASSISTANT CITY ENGINEER	56.56	59.39	62.36	65.48	68.75	721	Classified
SENIOR UTILITIES ENGINEER	49.19	51.65	54.23	56.94	59.79	765	Classified
SENIOR CIVIL ENGINEER	49.19	51.65	54.23	56.94	59.79	788	Classified
ASSOCIATE CIVIL ENGINEER	43.75	45.95	48.18	50.63	53.10	606	Classified
ASSISTANT CIVIL ENGINEER	37.69	39.63	41.66	43.68	45.85	602	Classified
REAL PROPERTY MANAGER	41.46	43.53	45.71	48.00	50.40	763	Classified
REAL PROPERTY ASSOCIATE	36.80	38.72	40.67	42.64	44.75	667	Classified
REAL PROPERTY ASSISTANT	31.36	32.92	34.50	36.22	38.05	666	Classified
ENGINEERING TECHNICIAN	29.91	31.35	32.94	34.59	36.24	668	Classified
SURVEY ENGINEER	45.52	47.80	50.19	52.70	55.34	778	Classified
SURVEYOR	35.58	37.34	39.20	41.14	43.21	612	Classified
TRANSPORTATION MANAGER	54.11	56.82	59.66	62.64	65.77	757	Classified
SENIOR TRANSPORTATION ENGINEER	49.19	51.65	54.23	56.94	59.79	733	Classified
ASSOCIATE TRANSPORTATION ENGINEER	43.75	45.95	48.18	50.63	53.10	608	Classified
ASSISTANT TRANSPORTATION ENGINEER	37.69	39.63	41.66	43.68	45.85	615	Classified
SENIOR TRANSPORTATION PLANNER	45.52	47.80	50.19	52.70	55.34	770	Classified
ASSOCIATE TRANSPORTATION PLANNER	40.65	42.64	44.77	47.07	49.32	671	Classified
TRAFFIC SIGNAL TECHNICIAN	29.91	31.35	32.94	34.59	36.24	675	Classified

**SALARY PLAN FOR ALL CLASSIFICATIONS  
(PER MUNI CODE SEC.2-4.30)  
FY 2015**

ATTACHMENT II  
Recommended by  
Personnel Commission  
on March 12, 2015  
Approved by Council  
on \_\_\_\_\_, 2015

Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
SUPERVISING CONSTRUCTION INSPECTOR	47.97	50.37	52.89	55.53	58.31	780	Classified
SENIOR CONSTRUCTION INSPECTOR	40.04	42.17	44.30	46.40	48.71	642	Classified
CONSTRUCTION INSPECTOR	33.55	35.27	36.92	38.79	40.76	661	Classified
<b>RECYCLING-SOLID WASTE</b>							
SOLID WASTE MANAGER	42.64	44.77	47.01	49.36	51.83	727	Classified
RECYCLING SPECIALIST	31.64	33.20	34.83	36.60	38.42	636	Classified
SUSTAINABILITY TECHNICIAN	30.90	32.44	34.06	35.76	37.55	678	Classified
<b>WATER POLLUTION CONTROL FACILITY (WPCF)</b>							
WATER POLLUTION CONTROL FACILITY MANAGER	54.76	57.50	60.37	63.39	66.56	759	Classified
WPCF OPERATIONS AND MAINTENANCE MANAGER	49.44	51.91	54.51	57.24	60.10	717	Classified
WPCF MAINTENANCE SUPERVISOR	44.59	46.82	49.16	51.62	54.20	719	Classified
WPCF OPERATIONS SUPERVISOR	44.59	46.82	49.16	51.62	54.20	718	Classified
WPCF LEAD OPERATOR	34.66	36.04	37.46	38.94	40.51	351	Classified
WPCF OPERATOR	31.51	32.77	34.08	35.41	36.84	350	Classified
OPERATOR-IN-TRAINING	28.84	29.99	31.24	32.30	33.56	347	Classified
LAB SUPERVISOR	44.59	46.82	49.16	51.62	54.20	702	Classified
CHEMIST	37.36	39.23	41.19	43.25	45.41	638	Classified
LABORATORY TECHNICIAN	32.49	33.71	35.01	36.45	37.81	637	Classified
<b>WATER POLLUTION SOURCE CONTROL</b>							
ENVIRONMENTAL SERVICES MANAGER	51.28	53.84	56.53	59.36	62.33	738	Classified
WATER POLLUTION CONTROL ADMINISTRATOR	44.59	46.82	49.16	51.62	54.20	769	Classified
SENIOR WATER POLLUTION SOURCE CONTROL INSPECTOR	37.15	39.08	41.04	42.98	45.17	680	Classified
WATER POLLUTION SOURCE CONTROL INSPECTOR	33.76	35.52	37.14	39.05	40.99	679	Classified
TECHNICAL INTERN					15.00	908	Classified
<b>WATER DISTRIBUTION</b>							
UTILITIES OPERATIONS AND MAINTENANCE MANAGER	56.18	58.99	61.94	65.04	68.29	716	Classified
UTILITIES OPERATIONS AND MAINTENANCE SUPERVISOR	46.82	49.16	51.62	54.20	56.91	773	Classified
UTILITIES FIELD SERVICES SUPERVISOR	46.82	49.16	51.62	54.20	56.91	784	Classified
WASTEWATER COLLECTIONS SYSTEM SUPERVISOR	44.59	46.82	49.16	51.62	54.20	746	Classified
WATER INSTALLATION AND MAINTENANCE SUPERVISOR	38.78	40.72	42.76	44.90	47.14	793	Classified
SENIOR UTILITY CUSTOMER SERVICE LEADER	33.63	34.98	36.37	37.91	39.42	378	Classified
CROSS CONNECTION CONTROL SPECIALIST	29.47	30.49	31.69	33.00	34.31	376	Classified
WATER METER MECHANIC	28.64	29.74	30.97	32.24	33.53	375	Classified
WATER METER READER	25.60	26.61	27.70	28.71	29.85	369	Classified
BACKFLOW/CROSS CONNECTION TESTER	24.77	25.95	27.16	28.48	29.85	370	Classified
UTILITIES MAINTENANCE SUPERVISOR	44.59	46.82	49.16	51.62	54.20	766	Classified
UTILITIES SERVICE WORKER	28.24	29.36	30.57	31.64	32.87	368	Classified
<b>GENERAL MAINTENANCE</b>							
EQUIPMENT OPERATOR	28.39	29.43	30.60	31.84	33.13	361	Classified
MAINTENANCE WORKER	26.33	27.39	28.53	29.50	30.68	357	Classified
SENIOR UTILITY LEADER	35.35	36.77	38.23	39.88	41.46	377	Classified
UTILITY LEADER	31.06	32.30	33.64	34.82	36.16	374	Classified
UTILITY WORKER	28.24	29.36	30.57	31.64	32.87	372	Classified
SENIOR UTILITY LEADER - SEWER	35.35	37.06	38.91	40.86	42.90	379	Classified
UTILITY LEADER - SEWER	32.05	33.32	34.69	35.90	37.30	311	Classified
UTILITY WORKER - SEWER	29.14	30.29	31.54	32.64	33.91	309	Classified
UTILITIES MAINTENANCE MECHANIC	32.39	33.64	34.96	36.37	37.84	325	Classified

**SALARY PLAN FOR ALL CLASSIFICATIONS  
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FY 2015**

ATTACHMENT II  
Recommended by  
Personnel Commission  
on March 12, 2015  
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Classification Title	Hourly Salary Range					Job Code	Service Type
	A	B	C	D	E		
<b>TECHNOLOGY SERVICES DEPARTMENT</b>							
DIRECTOR OF INFORMATION TECHNOLOGY/CHIEF INFORMATION OFFICER (CIO)	67.71	71.10	74.65	78.38	82.30	1105	Unclassified
INFORMATION SYSTEMS MANAGER	50.57	53.10	55.76	58.55	61.48	772	Classified
<b>INFORMATION TECHNOLOGY MANAGER</b>	<b>50.57</b>	<b>53.10</b>	<b>55.76</b>	<b>58.55</b>	<b>61.48</b>		<b>Classified</b>
DATA AND SYSTEMS COORDINATOR	45.50	47.78	50.17	52.68	55.31	728	Classified
NETWORK SYSTEMS SPECIALIST	40.90	42.95	45.10	47.35	49.72	755	Classified
GEOGRAPHIC INFO SYSTEMS COORDINATOR	39.30	41.26	43.22	45.40	48.41	635	Classified
PROGRAMMER ANALYST	38.58	40.47	42.57	44.67	46.87	628	Classified
WEB SPECIALIST	38.02	39.94	41.92	44.01	46.21	634	Classified
INFORMATION TECHNOLOGY ANALYST II	38.56	40.49	42.51	44.64	46.87	655	Classified
INFORMATION TECHNOLOGY ANALYST I	35.06	36.81	38.65	40.58	42.61	646	Classified
TECHNOLOGY SOLUTIONS ANALYST II	38.56	40.49	42.51	44.64	46.87	684	Classified
TECHNOLOGY SOLUTIONS ANALYST I	35.06	36.81	38.65	40.58	42.61	683	Classified
NETWORK/MICROCOMPUTER SPECIALIST	35.02	36.77	38.60	40.52	42.58	630	Classified
INFORMATION SYSTEMS SUPPORT TECHNICIAN	28.68	30.11	31.65	33.22	34.83	633	Classified
DATA SYSTEMS OPERATOR	24.65	25.78	27.05	28.33	29.67	160	Classified
AUDIO VIDEO SPECIALIST	27.33	28.66	30.13	31.63	33.14	641	Classified
VIDEO ASSISTANT					15.00	645	Classified



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**DATE:** March 24, 2015  
**TO:** Mayor and City Council  
**FROM:** Development Services Director  
**SUBJECT:** Discussion of Proposed Amendments to Hayward's Sign Regulations (Chapter 10, Article 7 of the Hayward Municipal Code)

**RECOMMENDATION**

That the City Council reviews and provides input on this report and the attached draft sign regulations.

**SUMMARY**

The City is updating its sign regulations (Chapter 10 Article 7 of the Hayward Municipal Code) and has scheduled a series of work sessions and hearings to take public comment and receive feedback and direction from City decision makers. Issues that have been previously identified by the public and staff and added to the update include: the need for a new, easier to read format that includes charts, photos and drawings for clarification purposes; the creation of a sign corridor overlay district to enhance auto- and pedestrian-oriented experiences and business signage effectiveness on parcels fronting major street corridors and collectors, through the use of blade signs and an increased sign area allowance; an expansion of the use of A-Frame signs into the Downtown Entertainment Area; an increase in the permitted time allowed for temporary signs; and the addition of an amortization section which requires the removal of abandoned signs and nonconforming signs to conform within five years after adoption of the sign regulations.

The purpose and objectives of the sign regulations have not been previously proposed to be changed. However, staff recommends that the purpose of the regulations be revised and expanded to reflect the significance of signage, particularly related to economic benefits. Suggested revisions would indicate that signs have an important business function, can significantly add or detract from a community's aesthetics, have way-finding purpose for both drivers and pedestrians, act as guides to special places and events, and help define an area's character.

**BACKGROUND**

The sign regulations last received a comprehensive update in 1998. To begin the current update process, a survey was distributed to Hayward Chamber of Commerce members in August of 2011 and an analysis of those survey results indicated 43% of the respondents found the City's sign regulations confusing and took too much time to locate the appropriate information. While more than half of the respondents were able to find the sign regulations online, over 25% preferred to speak with a Planner

instead (by phone or in person) and others relied on their sign contractor to handle the process. All the respondents were unsatisfied with the sign regulations.

Staff reformatted the sign regulations and provided some clarification through the use of charts, photos, and drawings, which were recently distributed to staff and City Council for review. In November of 2014, the Hayward Business Collaborative submitted the following suggestions:

- Allow an increase in the amount of permanent signage over current standards;
- Incorporate more flexibility on sign types, locations, and duration; and
- Exempt nonprofits and special events from sign permits.

On December 1, 2014, the Council Economic Development Committee (“CEDC”) discussed ideas for revising the sign regulations at their monthly meeting. CEDC member comments included:

- Visual examples are needed in the sign regulations;
- Temporary signage is up too long after a permit is issued; and
- New standards should be considered for the City’s major corridors.

On December 13, 2014, a public notice advertising a January 7, 2015 public meeting was published in *The Daily Review* newspaper and was subsequently mailed to interested parties, including participants from the previous update in 1998, all downtown businesses, outside agencies, the Planning Commission and the City Council. In all, 738 notices were mailed and the Hayward Chamber of Commerce sent the notice to all of its members via their electronic newsletter. Attendees included two sign company representatives and four local business owners. Issues raised during this public work session include:

- Better promotion of businesses through signage;
- An expansion of the use of A-Frame signs; and
- The ability to change regulations as technology changes.

On January 9, 2015, staff met with the Government Relations Committee of the Hayward Chamber of Commerce. A short presentation was made and staff answered a range of questions. Issues raised during this meeting include:

- Better enforcement of sign violations, including A-Frames within City right-of-way;
- The education of new business owners concerning sign regulations, including videos; and
- Less clutter, more efficient signage on Mission Boulevard.

On January 22, 2015, the Planning Commission held a work session to discuss the draft sign regulations and solicit public comment (see meeting minutes, Attachment IV). The draft sign regulations ordinance was posted on the City's web page on January 16, 2015, with a link for public comment. Issues raised during the work session include:

- Amortization language should include phasing and help from the City if there are grants or small business loans.
- Seasonality should be taken into consideration for temporary sign permit days and duration.
- Staff should get input from citizens, not just business owners and sign contractors.

One member of the public spoke on the proposed sign regulations at the work session, stating that the City should allow business to use inflatable character signs for advertising purposes, noting that small businesses do not have the means to compete with the advertising budgets of the larger competitors.

On February 17, 2015, staff met with the Chamber of Commerce and a local business owner at the Chamber offices to discuss the proposed sign regulations update. The local business owner, who also spoke at the Planning Commission Work Session, reiterated his concerns in regards to small business owners not having the means to compete with the advertising budgets of larger businesses and that inflatable character signs should be permitted as seasonal signage. A written statement was provided outlining his concerns (see Attachment V).

## **DISCUSSION**

*General Plan Consistency:* The proposed amendments are consistent with the General Plan in that the sign regulations promote economic development while preserving an aesthetic quality citywide. There are three relevant General Plan policies, which are identified below with accompanying staff recommendations for implementation:

LU-4.4 Design Strategies for Corridor Developments - Enhance commercial and mixed-use building facades with awnings, shade structures, pedestrian-oriented signage, decorative lighting, and other attractive design details and features.

*Staff recommends the creation of a sign corridor overlay district that would include both auto- and pedestrian-oriented signage to enhance the corridors with attractive design. The boundaries of the proposed sign corridor include all arterial roads, as well as commercial collector roads (see Attachment III). Proposed additions to the attached draft regulations would include a provision to allow businesses within the overlay district, such as those in the Downtown where there is heavy pedestrian traffic, to have blade signs of a certain size that would not be counted in the overall sign allowance. Blade signs are currently permitted, but the sign area for those signs is counted in the maximum sign area allowed for each business, making it a less attractive option when it will result in less sign area for a wall sign or other more prominent sign. The maximum sign area would also be increased to allow businesses to have larger signs that would be more visible in the auto-oriented corridors, such as Mission Boulevard and Hesperian.*

*It is further recommended that the current area permitted to use A-Frame signs be expanded to include the Downtown Entertainment Area (area between A and D Streets and between Second Street and Grand Street). The purpose of the A-Frame sign is to help improve business visibility within the downtown, which experiences a high level of pedestrian traffic. Because of the high level of pedestrian activity within the overall Downtown Entertainment District, staff recommends that the area be expanded in order for all businesses within the downtown to benefit from the increased pedestrian oriented signage. The sign areas for A-Frame signs are not currently counted towards the maximum sign area allowed for each establishment and this is not proposed to change. Staff does not anticipate that the demand for A-Frame signs will diminish, even with the aforementioned provision for blade signs. A-Frame signs are still a less expensive, effective alternative for businesses that may not have a large budget for signage.*

*While the cities that staff surveyed concerning A-Frame sign regulations varied somewhat in sign size and days/hours allowed, the City's current A-Frame sign regulations are very similar to theirs. However, in 2014, twenty-eight percent of sign violations were for portable or A-frame signs. Due to this, staff is recommending that more specific guidelines be added to the sign regulations pertaining to A-frame or portable signs, including diagrams as to allowed location, number of signs, hours of display, design and dimensional standards, and a requirement for a reduced fee (\$50) encroachment permit to allow said signs to be located within the City right-of-way.*

*Also, the time limit for temporary signs would increase to sixty days per calendar year with the periods and durations listed on the permit – the current regulations allow fourteen days, two times per year.*

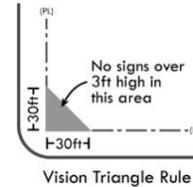
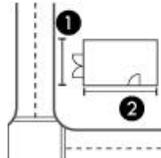
**LU-4.6 Commercial Signs** - The City shall maintain, implement, and enforce sign regulations and design standards to reduce sign clutter and illegal signage along corridors.

*Staff recommends the creation of a sign corridor overlay district that would reduce sign clutter and illegal signage along selected corridors and collector streets and enhance them with attractive design. Temporary promotional signage such as banners, wind feathers, air dancers and inflatable signs could be permitted in limited numbers/frequency along corridors outside the downtown core for specific uses such as auto dealerships. Events, such as grand opening events, promotional business events and community events are considered temporary promotional events. Inflatable signs would be permitted to be used for temporary promotional or seasonal events only with the approval of a temporary sign permit. Staff also recommends collecting a \$200 deposit as an incentive to ensure timely removal of temporary signs. The addition of an amortization section is also recommended to aid in the removal of nonconforming and abandoned signage.*

*Staff is also recommending provisions for mural art projects which would distinguish between a mural sign and mural art as well as provide a mechanism for the City to review and keep record of all mural art in the City and to ensure artists rights in accordance with the [Visual Artist Rights Act of 1990](#) (VARA). Staff envisions a mural art registration process with a \$50 registration fee to cover the cost of staff time.*

**LU-6.7 Design Strategies** - The City shall encourage developments within the Industrial Technology and Innovation Crescent to incorporate the following design strategy:  
Develop coordinated and well-designed signage for tenant identification and way-finding.

*Staff recommends clarifying the regulations through charts, photos, and drawings to better assist business owners in selecting appropriate signage for their industrial uses. Visual examples (see below) have been added throughout the draft sign regulations that would apply Citywide to effectively illustrate exempt, prohibited and permitted sign types.*



## **ECONOMIC IMPACT**

The adoption of updated sign regulations will encourage businesses and more effective advertising by being more user and business-friendly with specific design criteria. By creating regulations that are assembled in a streamlined and easy to understand format, it is anticipated the new regulations will reduce or prevent misinterpretation, which could potentially lead to code violations and fines.

## **FISCAL IMPACT**

The application fees and/or fines for non-compliance (see Attachment II) were calculated to recover costs pertaining to City staff time, including Planning and Code Enforcement. Nominal fees are proposed for mural art sign registration and encroachment permits for portable or A-frame signs. A \$50 fee is proposed for a portable/A-frame sign revocable encroachment permit. The fee would cover the cost of staff time to issue the permit. The fee for temporary signs is proposed to be reduced from a \$300 flat fee to a \$100 fee and \$200 refundable deposit to be refunded when the temporary signage has been removed. While the overall fee for temporary signs will be reduced, it is anticipated that the deposit refund will encourage more businesses to not only obtain permits for temporary signage, but to remove them when the approved display period has ended, which would reduce staff time spent on enforcement. Since the additional fees are for cost recovery only, it is anticipated that there will be a neutral fiscal impact.

## **NEXT STEPS**

Staff will incorporate input from Council, input received from the Planning Commission at the January 22, 2105 Work Session, and suggestions from the public, to develop a final draft for the comprehensive update to the Sign Regulations for the City of Hayward. The regulations will be presented at noticed public hearings to the Planning Commission and City Council for consideration of adoption later this fiscal year.

*Prepared by:* Linda Ajello, AICP, Associate Planner

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



---

Fran David, City Manager

**Attachments:**

- Attachment I Draft Sign Regulations Ordinance
- Attachment II Draft Fee Schedule
- Attachment III Sign Corridor Overlay District Map
- Attachment IV January 22, 2015 Planning Commission meeting minutes
- Attachment V Public Comments

## ARTICLE 7: SIGN REGULATIONS

<b>10-7.100</b>	<b>PURPOSE.....</b>	<b>2</b>
<b>10-7.200</b>	<b>GENERAL REGULATIONS.....</b>	<b>3</b>
	<i>10-7.201 Permits Required.....</i>	<i>3</i>
	<i>10-7.202 Permit Applications.....</i>	<i>4</i>
	<i>10-7.203 Fees.....</i>	<i>4</i>
	<i>10-7.204 Duration of Permit.....</i>	<i>4</i>
	<i>10-7.205 Number of Signs Permitted.....</i>	<i>4</i>
	<i>10-7.206 Sign Area Calculation.....</i>	<i>4</i>
	<i>10-7.207 Reduction in Permitted Signage.....</i>	<i>7</i>
	<i>10-7.208 Design.....</i>	<i>7</i>
	<i>10-7.209 Illumination.....</i>	<i>8</i>
	<i>10-7.210 Master Sign Program.....</i>	<i>9</i>
<b>10-7.300</b>	<b>EXEMPT SIGNS.....</b>	<b>10</b>
<b>10-7.400</b>	<b>PROHIBITED SIGNS.....</b>	<b>17</b>
<b>10-7.500</b>	<b>SIGN REGULATIONS BY ZONE AND USE.....</b>	<b>20</b>
<b>10-7.600</b>	<b>TEMPORARY SIGN REGULATIONS.....</b>	<b>40</b>
	<i>10-7.601 Auto Dealership Banners.....</i>	<i>40</i>
	<i>10-7.602 Promotional Event and Grand Opening Signs.....</i>	<i>42</i>
	<i>10-7.603 Subdivision Directional Sign (off-site).....</i>	<i>43</i>
<b>10-7.700</b>	<b>ADMINISTRATION, COMPLIANCE AND ENFORCEMENT.....</b>	<b>44</b>
	<i>10-7.701 Administrative Referral.....</i>	<i>44</i>
	<i>10-7.702 Administrative Modifications.....</i>	<i>44</i>
	<i>10-7.703 Variances.....</i>	<i>44</i>
	<i>10-7.704 Revocation of Sign Approval.....</i>	<i>45</i>
	<i>10-7.705 Grounds for Revocation.....</i>	<i>45</i>
	<i>10-7.706 Hearings-Notice.....</i>	<i>45</i>
	<i>10-7.707 Appeals.....</i>	<i>45</i>
	<i>10-7.708 Legal Non-Conforming Signs.....</i>	<i>45</i>
	<i>10-7.709 Sign Maintenance.....</i>	<i>46</i>
	<i>10-7.710 Removal of Certain Signs.....</i>	<i>46</i>
	<i>10-7.711 Enforcement-Signs on Private Property.....</i>	<i>47</i>
	<i>10-7.712 Enforcement-Signs on Public Property.....</i>	<i>47</i>
	<i>10-7.713 Enforcement-On-Premise Signs.....</i>	<i>48</i>
	<i>10-7.714 Procedure Not Exclusive: Violation an Infraction.....</i>	<i>49</i>
	<i>10-7.715 Severability.....</i>	<i>49</i>
	<i>10-7.716 Amortization.....</i>	<i>49</i>
<b>APPENDIX A:</b>	<b>DEFINITIONS.....</b>	<b>49</b>

## **10-7.100 PURPOSE**

The purpose of this article is to:

- (A) Implement the General Policies Plan through the regulation of sign size, location, design, and illumination which accomplish the following:
- Improve the physical image of Hayward with more attractive signs;
  - Encourage economic development in the community;
  - Safeguard and enhance property values;
  - Recognize the commercial communication requirements of all sectors of the business community;
  - Protect public and private investment in buildings and open spaces;
  - Encourage sound signing practices as an aid to business and to inform the public; and
  - Promote both renovation and proper maintenance of signs.
- (B) Preserve and improve the appearance of the City as a place in which to live and work in accordance with the City Design Guidelines.
- (C) Reduce visual clutter of signs of different sizes, shapes, and types through the coordination of the type, placement, and scale of signs within the different land uses, zones, and locations.
- (D) Prohibit or restrict distracting signs, which may impede vehicular and pedestrian safety. Such signs include those that are blocking doors or windows, those that conflict with the City Security Ordinance (Ord. No. 90-26), those that could hamper firefighting or police surveillance activities, and those that obscure traffic signs, impair drivers' sight lines or distract drivers.
- (E) Promote the public health, safety, and general welfare.

The regulations in this article are in addition to those set forth in Chapter 9 of the Hayward Municipal Code (Building Regulations), and the Uniform Building Code.

Should any regulations in this article be at variance with one another or the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing higher standards shall apply.

## **10-7.200 GENERAL REGULATIONS**

- (A) The following regulations shall apply to all signs in all districts within the City. No sign may be placed in any of the following areas:
- (1) Within the public right-of-way (including planter strips, tree wells, sound walls, fences, and street medians), except for community identification signs and Open House Directional Signs on sidewalks allowed by Section 10-7.300 (b)(22)(b).
  - (2) On any public property.
  - (3) In any location which interferes with vehicular, bicycle, or pedestrian circulation safety.
- (B) A Sign which contains foreign alphabet characters must also include some English alphabet characters. Signs are not required to be translated in English as long as the sign contains English alphabet characters that comprise words relating to the business or organization it is representing.

### **10-7.201 PERMITS REQUIRED.**

- (a) It is unlawful to erect any sign except those exempted under Section 10-7.300 without first obtaining a sign permit from the Development Review Services Division and a building permit and/or an electrical permit as required by the City Building Official. Fees for sign permits, building permits, and electrical permits are based on the current Master Fee Schedule and are non-refundable.
- (b) A sign permit application in compliance with Section 10-7.202 "Permit Applications" shall be submitted to the Development Review Services Division.  
  
A sign permit will be approved, denied or referred to the Planning Commission, a board, a commission or a City Council committee within thirty (30) days after the application is deemed complete. If the application is referred to the Planning Commission, a board, a commission, or a City Council committee, the sign permit application shall be approved or denied within thirty (30) days after such referral.
- (c) The Development Services Director ("Director") has the authority to refer a sign permit application to the Planning Commission, a board, a commission, or a City Council committee for review.
- (d) Signs requiring a variance may be considered and acted on administratively by the Development Services Director.
- (e) A sign permit is not required for the repair, maintenance or replacement of a lawful and conforming sign, the repair or maintenance of a lawful non-conforming sign, or the replacement of a destroyed sign, except when the sign is required to be removed by Section 10-7.708 "Legal Non-Conforming Signs" and/or Section 10-7.710 "Removal of Certain Signs."
- (f) Approval of a sign permit application does not constitute approval of any other requirement of the City or under other applicable law.

**10-7.202 PERMIT APPLICATIONS.**

Application for a sign permit shall be made to the Development Review Services Division and shall include three (3) copies of the plot plan and elevations, drawn to scale and fully dimensioned, showing:

- (a) Property address and applicant's name, address and telephone number;
- (b) North arrow, overall site dimensions, and the location, setbacks, and dimensions of all existing structures, existing signs, and proposed signs on the parcel;
- (c) Sign elevations - depicting the letter size, overall sign area, colors, materials, type of illumination, support structures, and relationship of the sign to surrounding structures.
- (d) Photographs of the proposed sign location and any existing signs.
- (e) Structural and electrical plans as required by the City Building Official.

**10-7.203 FEES.**

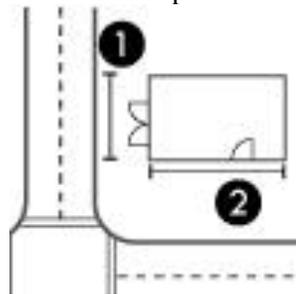
Each application for a sign permit or for approval of a Master Sign Program shall be accompanied by the applicable fees which shall be established by the Master Fee Schedule.

**10-7.204 DURATION OF PERMIT.**

A sign permit shall become null and void if the sign for which the permit was issued has not been installed within **one (1) year** of issuance of said permit.

**10-7.205 NUMBER OF SIGNS PERMITTED.**

No more than two (2) establishment (building) frontages may be used for purposes of calculating sign area and the number of signs permitted. Building mounted signs displayed on a single establishment frontage, including secondary-frontage walls, may not exceed the area and number that are permitted on that frontage alone, with no additional signage allowed for corner lots. Square footage allotted to an establishment may be transferred to a freestanding sign, but may not exceed the acceptable size for freestanding signs.



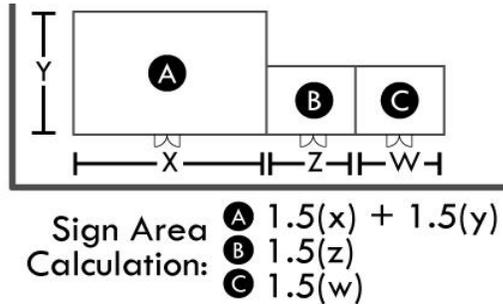
**10-7.206 SIGN AREA CALCULATION**

Sign area calculations noted throughout this Article is the maximum size allowed. A smaller sign area may be required where design, placement, and/or other aesthetic factors dictate. These allowable calculated sign areas may be determined by the Development Services Director, Planning Commission, or City Council.

Unless otherwise noted in this Article, the area of a sign shall be computed as follows:

(a) *Signs containing integral background areas.*

- The area of a sign containing a clearly defined background shall be calculated based on the area of the smallest standard geometric shape encompassing a perimeter of the background area of the sign.



- In the case of signs in which multiple background areas are separated by open space, sign area shall be calculated based on the sum of the areas of all separate background areas, but without regard for any open space between the separate background areas.



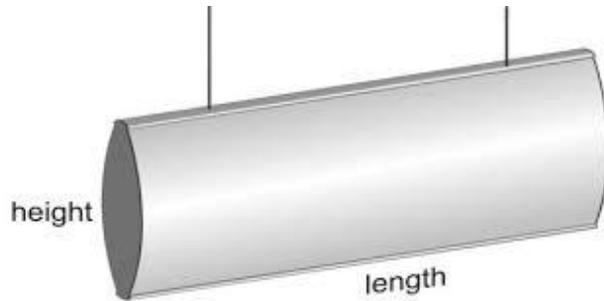
(b) *Signs without integral background areas.*

- In instances in which a sign consists of individual elements such as letters, symbols or other graphic objects or representations that are painted, attached to, or otherwise affixed to a surface such as a wall, window, canopy, awning, architectural projection, or to any surface not specifically designed to serve as a sign background, the sign area shall be based on the sum of the individual areas of the smallest geometric shape.



(c) *Double Faced Signs.*

- Only one (1) side of a double faced sign is counted in determining the area of sign faces. Where the two (2) sides are not of equal size, the larger of the two (2) sides will be used to determine sign area.



(d) *Awning Signs.*

- The area of a graphic or sign copy on an awning shall be based on the smallest geometric shape encompassing the graphic or sign copy. When there are signs on two panels of the awning, only one side is counted in overall sign calculation.



(e) *Three-dimensional Signs.*

- The area of a three dimensional sign shall be four (4) times the area of the largest vertical cross-section as enclosed by the smallest standard geometric shape.



(f) *Logos and Accent elements.*

- The area of a logo and accent element will be incorporated into the overall sign area calculation unless otherwise noted in this article. The area of a logo and accent element shall be calculated based on the area of the smallest standard geometric shape enclosing the logo or accent element.



(g) *Window signs*

- The area of a window sign shall be calculated based on the area of the smallest standard geometric shape or the sum of areas of the smallest geometric shapes enclosing the sign and logos.



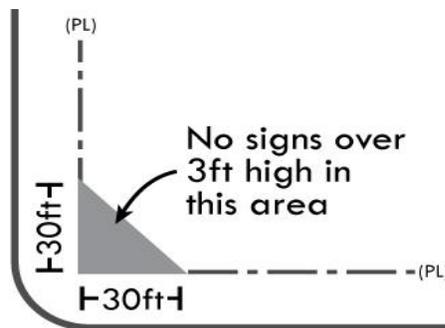
**10-7.207 REDUCTION IN PERMITTED SIGNAGE.**

An approved Master Sign Program or the conditions of approval for a site plan review, administrative use permit, conditional use permit, variance, or planned development may further regulate or reduce the permitted sign area, number of signs, height, location, color, or design of signs in addition to the regulations contained in this article.

**10-7.208 DESIGN.**

- Signs shall be an integral and complementary element of the overall architectural and streetscape composition and shall be integrated with the building and landscape design. In some instances, it may be necessary and appropriate to integrate the building and landscape design such that the sign gains maximum visibility.
- Signs or sign programs shall be included in site plan review, administrative use permit, conditional use permit, variance, or precise plan applications.

- (c) Three-dimensional signs representing human or animal figures, inanimate objects, or signs of a highly unusual shape or color shall be reviewed by the Development Services Director for compatibility with the design of the building, the features of the site, and the character of the neighborhood.
- (d) In some instances, a sign that is of historic nature, is of a unique artistic design, or which represents a period of time or site that is of community importance, should be retained and preserved, as determined by the Development Services Director.
- (e) Where possible, “lexan” shall be encouraged as a durable plastic material that withstands vandalism.
- (f) Plastic signs shall be prohibited in residential districts.
- (g) The surface where a previous sign existed must be cleaned, repaired, patched, and/or painted before a new sign is installed.
- (h) Corner Lots and Driveways: Freestanding or monument signs higher than three (3) feet shall be subject to the “Vision Triangle Rule”, Article 9, Hayward Traffic Code, for visibility requirements.



Vision Triangle Rule

**10-7.209 ILLUMINATION.**

- (a) Internal and external sign lighting shall be designed to prevent light spillage and glare onto any adjacent residentially zoned property or public right-of-way. Additionally, sign lighting shall not create hazardous glare for pedestrians or vehicles in a public street or on any public or private premises.
- (b) External illumination is permitted in residential districts in accordance with the City Security Ordinance (Ord. No. 90-26). Where not in conflict with the City Security Ordinance (Ord. No. 90-26), brightly-lit signs in residential districts or within one hundred (100) feet of and visible from any residential district are also permitted.
- (c) Neon and Halo back-lit lighting may be used in all zoning districts **except** the residential districts, on the exterior of buildings, whether for signage or decorative artwork. Use of neon or halo-lit lighting for these purposes shall be subject to review. Neon intended for advertising and which is within twenty-four (24) inches inside a glass window or door of a building shall count toward total signage allowable. Neon intended for “Open” signs, decorative artwork or to represent an ancillary product sold on the premises shall not count toward total signage allowable, and may be

part of the twenty-five (25) percent exempted window coverage as long as there is **no** flashing or intermittent illumination.

- (d) The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, in windows, or at outdoor sales or storage areas, is prohibited except on a temporary basis for areas in which carnivals, fairs, Christmas tree lots, or other similar activities have been approved under a short-term promotional program.
- (e) Cabinet lighting is prohibited. Legal non-conforming cabinet lit signs and service station price signs are exempt.
- (f) The type of illumination for all signs is subject to approval by the Development Services Director or approving authority.

**10-7.210 MASTER SIGN PROGRAM.**

A Master Sign Program is required for any project that has five (5) or more business or office uses, and which requires site plan review, an administrative or conditional use permit, a variance, or is a planned development. No permit shall be issued for an individual sign requiring a permit on a site with five (5) or more existing or proposed business spaces unless and until the discretionary permit and a Master Sign Program for the property on which the sign will be erected has been approved by the Development Services Director. After the application is determined to be complete, a Master Sign Program shall be acted upon within sixty (60) days, unless submitted as a required component of an application request which requires public review. If a Master Sign Program does require public review, time limitation requirements for the particular permit process shall apply.

Owners of two (2) or more contiguous lots or the owner of a single lot with more than one (1) building may voluntarily file a Master Sign Program with the City conforming to the provisions of this article.

In some instances, the approved Master Sign Program may include a unique freestanding sign that is otherwise not defined or permitted in this article. For example, such a sign may comprise a freestanding architectural element with four (4) walls, designed specifically to support the sign identifying a shopping center. Such an architectural feature is permitted, subject to the review and approval process called for in this section, as long as they are intended to be an integral part of the design of the project.

The Master Sign Program shall conform to and complement the architectural design and character of the structures erected or to be erected on the property on which it is proposed.

- (a) Application Content. A Master Sign Program application shall include the following:
  - (1) An accurate plot plan of the lot, at such a scale as the Development Review Services Division may require.
  - (2) Location of buildings, parking lots, driveways, and landscaped areas on the lot.
  - (3) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs, and the number of freestanding signs allowed on the lot, shall be included in the plan. Primary tenants shall have signage in accordance with a Master Sign Program and the zoning district. For secondary tenants, a wall sign may cover up to a maximum of

seventy (70) percent of the width of tenant's establishment frontage in a shopping center, not to exceed thirty-five (35) feet in length.

- (4) An accurate indication on the plot plan of the location of each existing and future sign of any type, whether requiring a permit or not (i.e., include directional signs too).
  - (5) Color scheme.
  - (6) Lettering or graphic style.
  - (7) Lighting.
  - (8) Location of each sign.
  - (9) Materials.
  - (10) Sign dimensions.
  - (11) Provisions for leasing information.
  - (12) Amount of window signage, if any, and type (i.e., painted, etched on glass).
- (b) Existing Signs Not Conforming to a Master Sign Program.
- If any new or amended Master Sign Program is filed for property on which existing signs are located, it shall include a schedule for bringing them into conformance with the proposed Master Sign Program.
- (c) Binding Effect.
- After approval of a Master Sign Program, no signs shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision in this article. The Master Sign Program shall be attached to the lease agreements for all leasable space within the project. In the case of any conflict between the provisions of such a plan and any other provision herein, this article shall control.
- (d) Modification to an Approved Master Sign Program.
- The Development Services Director may approve minor modifications to an approved Master Sign Program with respect to colors, material, elevations, site plans, landscape plans, lighting and other physical changes.
- (e) Alternative Master Sign Programs
- In the event that design guidelines are created for specific neighborhoods and areas, flexibility with Master Sign Programs within these areas can be granted per the discretion of the Development Services Director.

#### **10-7.300 EXEMPT SIGNS.**

- (a) This article shall not relate to flags of any nation or government, gravestones, barber poles, religious symbols, official traffic or government signs; the content of signs; product dispensers and point-of-purchase displays not directly visible from a vehicular or pedestrian right-of-way; scoreboards on athletic

fields; seasonal displays unless regulated herein; or signs not intended to be viewed from a vehicular or pedestrian right-of-way as defined in this article.

- (b) The following signs may be installed without a sign permit, subject to all other provisions of this article. Such signs are not exempt from the requirements of the City Building Official or the Transportation Engineer. Exempt signs shall not be included in the determination of the total allowable number of signs or total allowable sign area but their locations shall be included on the plot plan for a Master Sign Program application.

**(1) Accessory Sign.**

Exempt if not exceeding six (6) square feet in area for each sign.

**(2) Address Sign (non-business).**

- Exempt if not exceeding two (2) square feet in area for a single family or duplex unit, and four (4) square feet for all other uses.
- Address numerals shall be at least four (4) inches in height for residential uses and ten (10) inches in height for nonresidential uses. All such numerals shall have a minimum one-half (1/2) inch stroke width and shall be of contrasting color to the background to which they are attached. Address signs shall also adhere to the following:
  - ✓ Single-family homes shall have address numerals illuminated permanently in accordance with the Security Ordinance (Ord.No.90-26);
  - ✓ Multi-family developments with more than three individual buildings (containing one or more units), and for which one or more buildings do not face the same street, shall have an illuminated diagrammatic representation of the complex which shows the location of the viewer and the unit designations within the complex (Security Ordinance Ord. No. 90-26);
  - ✓ For all uses, a larger address sign may be permitted if necessary to adequately identify a building which is set back unusually far from the street, subject to the discretion of the Development Services Director.

**(3) Automatic Teller Machine Sign.**

Not to exceed four (4) square feet in area per machine.

**(4) Balloons.**

Not to exceed fourteen (14) inches in diameter and must be of non-Mylar material. No limit as to number.

**(5) Banner, Decorative Art Work.**

When placed vertically on light poles. Maximum fifteen (15) square feet per banner; two (2) banners per light pole unless additional are approved by the Development Services Director. May not advertise or identify a business, product, or service. See also "Promotional Event and Grand Opening Signs," Section 10-7.601.

**(6) Bulletin Board (On-Site).**

One (1), not exceeding thirty (30) square feet in area per face and six (6) feet in height, for Hayward Unified School District, California State University East Bay, Chabot College District, Hayward Area Recreational District, a private or religious school, church, community theater, or other type of educational/cultural facility. It may include changeable copy.

**(7) Change of Copy.**

- Replacement or change of copy on a legally installed sign that conforms to the requirements of this article does not require a sign permit for changes of copy if a sign structure is not altered or modified.
- If applicable, the replacement copy shall conform to the requirements of any Master Sign Program and/or the conditions of approval of the project where the sign is located.
- For nonconforming Multiple Occupancy Signs, a change of copy to any one (1) given tenant is permitted if the sign identifies other businesses on the same premises.
- No permits are required for changes of copy on reader boards or theater marquees.
- Individual letter signs, such as those used by religious facilities and schools to promote weekly changing but similar messages, and complying with the original approved conditions do not need a permit.

**(8) Commemorative Plaques.**

One (1) memorial tablet, commemorative plaque, or sign, per building, designating the building name and date of erection, when cut into or raised on any masonry surface or when constructed of cast or wrought metal, with a total maximum sign area of ten (10) square feet.

**(9) Community Identification Signs.**

**(10) Construction Signs.**

One (1) single-faced sign per street frontage with maximum area of thirty-two (32) square feet per face, ten (10) feet in height, non-illuminated, installed parallel to the street, and located on property where work is or will be under construction. Larger signs may be approved by the Development Services Director when the project and location warrants a larger sign. Within fifteen (15) days after completion of construction or final occupancy, signs shall be removed.

**(11) Decorative Artwork (See 10-7.300(b)(5)).**

**(12) Directional/Informational Sign.**

Permitted as defined in this article; limited to six (6) square feet in area per each sign; a logo may comprise up to twenty (20) percent of the total of each sign area.



**(13) Flag (Other than National or Government.)**

One (1) flag per establishment and must be mounted on a pole. The pole height may not exceed twenty-five (25) feet if freestanding, or fifteen (15) feet if located on top of a building, not to exceed the structural height limit of any given District. The longest dimension of the flag may not exceed six (6) feet.

**(14) Garage/Yard Sale Signs.**

- Signs used to advertise such a sale on residential property, provided that said signs are non-illuminated, do not exceed four (4) square feet in area, and adhere to the following:
- One (1) garage/yard sale sign is allowed on the garage/yard sale site.
- Up to four (4) additional signs, which may also exhibit directional arrows and instructions, shall be allowed on weekends and holidays on other private properties with the property owners' permission.
- Shall not be placed on public property, including sidewalks, parking areas, landscaped areas, trees, utility poles and sign poles.
- Shall be removed by the owner within one (1) day following the date of the sale.

**(15) Interior Signs.**

Signs, which are within the interior of any building or complex, or signs which cannot be seen from a right-of-way as defined in this article.

**(16) Murals.**

**(17) Official Signs.**

Legal notices, identification, information, or directional signs erected or required by governmental bodies or public utilities.

**(18) Political/Election Signs.**

Allowed up to thirty-two (32) square feet on each face, which are temporary in nature, and are removed within fourteen (14) days after the election for which they are designed.

**(19) Product Identification Sign.**

Product Identification Signs are allowed when they are not directly visible from a vehicular or pedestrian right-of-way as defined in this article.

**(20) Projecting Signs.**

Projecting signs such as “blade” or “shingle” signs, up to six (6)-square feet maximum size per face, are permitted in Downtown or as part of an approved Master Sign Program. Minimum eight (8) foot high clearance from the bottom of the sign to finished grade is required. Only natural or external illumination is permitted. One (1) is allowed per establishment, which will be included in the calculation of overall number of signs permitted. It may require an encroachment permit if it is above public property.

**(21) Real Estate Signs:**

(a) *On-site Signs.*

One (1) single or double faced non-illuminated sign per street frontage. Sign can be hanging post, window sign, or a wall sign type. The sign shall be removed within fifteen (15) days after the close of escrow or leasing of the property.

Maximum size per face:

**Residential Uses:**

Single family homes,	
Townhouses, Condominiums	Four (4) square feet
Apartment Complexes	Twenty (20) square feet

**Non-residential uses:**

Site under five (5) acres	Thirty-two (32) square feet
Site five (5) acres or more	Sixty-four (64) square feet

(b) *Open House Directional Signs: Single Family Homes and Subdivisions.*

For each open house for an individual home for sale, a maximum of four (4) directional signs and one (1) on-site sign are permitted.

Signs shall be portable A-frame or sandwich board types, maximum four (4) square feet per face, and three (3) feet in height. Signs may be placed on private property with the written permission of the property owner. Signs may also be placed on public property, such as sidewalks, subject to the following regulations:

1. Signs shall be placed so that a minimum of four (4) feet remains clear on the sidewalk for pedestrians.
2. Signs shall not be located:
  - (a) In the street or a center median.
  - (b) In a publicly maintained landscaped area.
  - (c) In parks.

- (d) In any bus stop zone.
- (e) Where they may interfere with maneuvering vehicles, bicycles, pedestrians or where visibility of traffic or traffic signs would be hampered.
- 3. Signs shall not be illuminated, inflatable, have moving parts or be held by a human directional.
- 4. Signs shall not be attached in any manner to trees, utility poles, utility cabinets, street or traffic signs, benches, hydrants, mailboxes, traffic signal light post, or any pole or post displaying a traffic sign, motorist call box or historical marker, or public buildings.
- 5. Signs shall not include balloons, streamers, ribbons, pennants, or other similar devices designed to move in the wind.
- 6. Signs shall not resemble traffic control signs or devices.
- 7. A total of four (4) signs are permitted per intersection, limited to one (1) sign per corner.
- 8. The name and phone number of the broker, agent or owner/seller shall be placed on the sign for identification purposes.
- 9. Signs shall be constructed of a durable, weatherproof material and shall be permanently attached to an A-frame type sign structure.
- 10. The use of wooden, plastic and metal stake signs is prohibited.
- 11. Signs may be displayed only on weekends, federally recognized holidays, and one (1) designated tour-day each week. Signs shall be displayed no earlier than 8:00 a.m. and shall be removed beginning by sunset each day.
- 12. The City of Hayward may remove any sign if necessary for maintenance activities or safety considerations. The City of Hayward shall not be liable for any damage to or loss of sign.

**(22) Service Stations.**

Permitted to have the following additional signs provided they conform to the height and setback requirements of the district in which they are located:

- (a) *State authorized testing center services.*  
Four (4) square feet per sign, wall mounted only.
- (b) *Price signs.*  
One (1) single or double faced sign per street frontage permitted and twenty (20) square feet maximum per face. This exemption is intended to allow for full compliance with state law for posting of gasoline prices. Portable price signs are not permitted.

- (c) *Pump signs.*  
One (1) sign for each gas pump unit not to exceed two (2) square feet per pump face, or one (1) sign per bank of pumps, not to exceed eight (8) square feet per face, identifying the gasoline brand and rating **only**.

**(23) Supergraphics.**

Except when proposed in a "Special Design District" as defined in Section 10-1.2600, on an historic structure, or in an historic district.

**(24) Time and Temperature devices.**

Devices with no advertising, located in nonresidential Districts only, maximum area twenty (20) square feet per face.

**(25) Towing Authorization-Private Property Sign.**

Signage should follow the City of Hayward Police Department's guidelines for Private Property signs.

**(26) Transit, Bus Shelter Signs or Bench Signs.**

Signage may be displayed on shelters and benches located at stops which serve AC Transit and other public transit lines in the following circumstances:

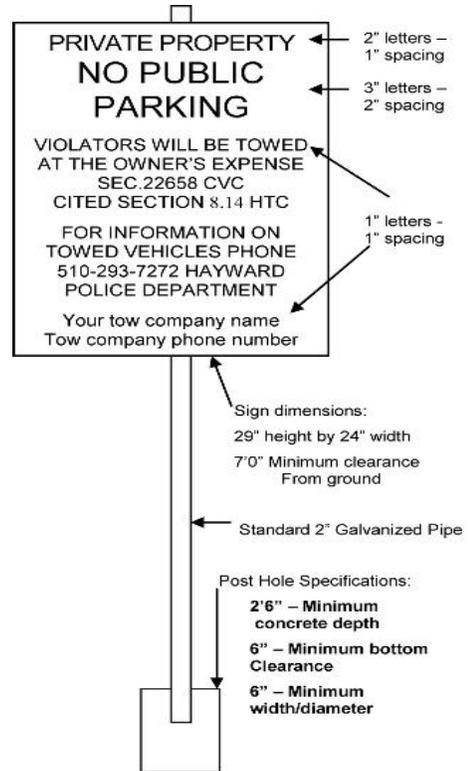
- (a) The sign conveys transit information and has been authorized by the public transit agency; or
- (b) The signage is displayed on a bus or transit shelter in accordance with the terms and conditions of a written agreement between the City of Hayward and the public transit agency.

**(27) Under-Canopy Sign**

A maximum area of six (6) square feet is permitted.

**(28) Vehicle Sign.**

Vehicle signs, as defined in Appendix A are exempt; up to two (2) signs maximum per vehicle.



**10-7.400 PROHIBITED SIGNS.**

Except as otherwise qualified, the commercial and advertising signs in this section shall not be permitted in any District:

**(1) Signs on public property or right of way, unless otherwise expressly allowed in Section 10-7.300.**

**(2) Advertising Banners.**

Exception: Banners used for decorative artwork (Section 10-7.300) and promotional event and grand opening banners (Section 10-7.601).

**(3) Bunting.**

Exception: Temporary bunting permitted for promotional and grand opening events at Automobile Dealerships.

**(4) Changeable Copy Signs/Reader Boards.**

Exception: Permitted signs for facilities used for theatrical, cultural, church, school, sports or other seasonal events, or for industrial use with establishment frontage on a freeway.

**(5) Dilapidated Sign.**

A sign including its supporting structure, which is no longer in a good state of repair, is not visually attractive or functional, or has become a health or safety hazard.

**(6) Flashing Signs.**

Any sign which appears to change color or intensity of lighting, or is perceived as an intermittent or flashing light.

Exception: time and temperature signs per 10-7.300(24) and marquee signs per Section 10-7.500(e) approved by the Development Services Director.

**(7) General Advertising Signs (Off-Premises).**

Any sign relating to a business, commodity, service, entertainment, or event not conducted, sold, or offered on the premises on which such sign is located, except for Subdivision Directional Signs and Open House Directional Signs. This shall include such signs as those illegally posted on telephone poles which usually advertise such events as gun shows, plant sales, car shows, etc. An existing lawfully erected general advertising sign may be relocated under the terms of a relocation agreement pursuant to Business & Professions Code Section 5412 or successor provision.

**(8) Hazardous Signs.**

Signs which visually obstruct ingress or egress from a building or which adversely affect traffic (vehicular, bicycle, or pedestrian) safety.

**(9) Home Occupation Signs.**

**(10) Inflatables and Mylar Balloons.**

Excluding balloons as permitted by Section 10-7.601 and balloons defined in Section 10-7.200.

**(11) Moving Signs.**

A sign, which has any actual or apparent moving parts activated by a mechanical device, by wind currents or by human beings, where the sign moves or the shape or content of the sign face changes. This includes wind banners/flags, air and wind dancers and human directional signs and excludes scrolling signs. Prohibited as permanent signage, may be permitted as temporary signage.



**(12) Natural Objects.**

Signs attached to or painted on a tree, rock, or other natural object.

**(13) Obsolete Signs.**

Any sign, including its supporting structure, which no longer advertises a business, leaser, owner, product, service or activity on the premises where the sign is displayed.

**(14) Pennants.**

Flags or emblems of any type material, which may or may not taper to a point and are usually strung together, except when permitted for promotional and grand opening events are prohibited.

**(15) Pole Signs.**

Signs supported by a single pole are prohibited except for:

- (a) Businesses with Freeway frontage on Highway 880 or State Route 92 (west of Industrial Boulevard) which provide food, fuel, or lodging;
- (b) Major freeway oriented Commercial Centers of at least five (5) acres with an approved Master Sign Program on Highway 880 or State Route 92 (West of Industrial Boulevard);
- (c) Commercial or industrial sites of ten (10) acres or more and which have an approved Master Sign Program;
- (d) Commercial buildings which have an historic designation and for which a small, architecturally appropriate sign may be considered, subject to approval by the Development Services Director.

**(16) Portable Signs.**

Any sign that is not permanently affixed to a building, other unmovable structure, or the ground such as A-frame signs, T-frame signs and sandwich boards and which is located in a building or in the ground. Exceptions: Real estate open house directional signs (see “Exempt” Section 10-7.300); Sidewalk display signs in Commercial Zoning Districts; and Vehicle signs (see “Exempt” and “Definitions” Sections).

**(17) Roof Signs, Wall Signs, or Projecting Signs** which extend above the roof line or the parapet wall of a building.

Exception: Rooftop address numerals which are readable from an aircraft, required in accordance with the City Security Ordinance (Ord. No. 90-26).

**(18) Searchlights.**

Exception: Searchlights used for promotional and grand opening events.

**(19) Streamers.**

Long narrow strips of any type material that resembles a banner and that float with the wind. Exception: Streamers for promotional and grand opening events.

**(20) Vehicle-Mounted Commercial Signs** which do not meet the definition set forth in Appendix A of this article.

**(21) Sign erected without a permit.**

**(22) Temporary sign displayed without a permit.**

**10-7.500 SIGN REGULATIONS BY ZONING DISTRICT AND USE**

Hayward Municipal Code Section 10-7.500 contains specific regulations for signs on private property, based on the zoning district and sign usage.

**(a) RS, RNP, RO (Single-Family Residential and Residential Office) Districts**

Sign Type Allowed	Max. # / Height	Max. Area	Setback	Illumination	Additional Provisions
<b>Permanent Subdivision Signs</b>	<b>No:</b> 1 <b>Height:</b> 10 ft.	50 sq. ft. per face. 100 sq. ft. total.	10 ft. from all property lines.	Natural or External.	<ul style="list-style-type: none"> <li>• If subdivision is &gt;25 lots or condos, 1 additional sign is permitted, not to exceed 30 sq. ft./face, 60 sq. ft. total.</li> <li>• Home Occupation signs are prohibited.</li> </ul>

					
<p><b>Residential Office, religious, educational, health care, childcare for fifteen (15) or more, cultural, recreational, or similar facility.</b></p> 	<p><b>No:</b> 1 per establishment up to 5 acres. 2 if &gt; 5 acres.</p> <p><b>Height:</b> 6 ft.</p>	<p>15 sq. ft. per sign.</p>	<p>10 ft. from all property lines.</p>	<p>Natural or External.</p>	<ul style="list-style-type: none"> <li>• If freestanding/ monument sign, base shall be landscaped.</li> </ul>

**(b) RM, RH (Multi-Family Residential), MH (Mobile Home), and AT-RM (Air Terminal Medium Density Residential) Districts**

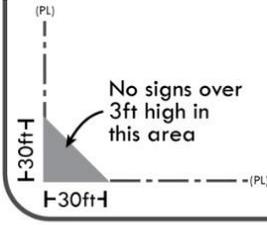
Sign Type Allowed	Max. # / Height	Max. Area	Setback	Illumination	Additional Provisions
<p><b>Multi-Family Complex Identification Signs.</b></p> 	<p><b>No:</b> 1 per 500 ft. of street frontage. 2 if &gt;500 ft.</p> <p><b>Height:</b> 6 ft.</p>	<p><b>1-8 units:</b> 12 sq. ft.</p> <p><b>9-25 units:</b> 25 sq. ft.</p> <p><b>&gt;26 units:</b> 50 sq. ft.</p>	<p>10 ft. from all property lines.</p>	<p>Natural or External.</p>	<ul style="list-style-type: none"> <li>• 26+ units with &gt;1 street frontage, a second sign is permitted with total sign area ≤ 70 sq. ft. (35 sq. ft. per entrance)</li> <li>• 2 signs on 1 frontage are permitted if entrances are ≥ 200 ft. apart.</li> </ul>

<p><b>Permanent Subdivision Signs.</b></p> 	<p><b>No:</b> 1 <b>Height:</b> 10 ft.</p>	<p><b>1-8 units:</b> 12 sq. ft. <b>9-25 units:</b> 25 sq. ft. <b>&gt;26 units:</b> 50 sq. ft.</p>	<p>10 ft. from all property lines.</p>	<p>Natural or External.</p>	<ul style="list-style-type: none"> <li>• For 26+ unit subdivisions with long or multiple street frontages, a second sign is permitted.</li> </ul>
<p><b>Religious, educational, health care, childcare for fifteen (15) or more, cultural, recreational, or similar facility.</b></p> 	<p><b>No:</b> 1 per establishment up to 5 acres. 2 if &gt; 5 acres. <b>Height:</b> 6 ft.</p>	<p>20 sq. ft/ sign.</p>	<p>10 ft. from all property lines.</p>	<p>Natural or External.</p>	<ul style="list-style-type: none"> <li>• If freestanding/ monument sign, base shall be landscaped.</li> </ul>

**(c) All Commercial Districts - (Except CC-R, CC-C and CC-P), Including AT-AC, AT-C (Airport Commercial Zones)**

The following regulations apply to properties in all Commercial Districts excluding the CC-R, CC-C and CC-P districts.

Sign Type Allowed	Max. # / Height	Max. Area	Setback	Illumination	Additional Provisions
<p><b>For Residential Uses:</b> Same regulations as Multi-family Districts.</p>					
<p><b>For Non-Residential Uses:</b></p>					

<p><b>General</b> (applies to all uses) <b>All Types:</b></p> <p><b>Freestanding/ monument signs</b> Signs on corner lots higher than 3 ft. are subject to the “Vision Triangle Rule” of 30 ft.</p>  <p>View Triangle Rule</p> <p><b>Wall signs</b></p>	<p><b>No:</b> 3 signs max.</p>	<p>1.5 sq. ft. per lineal foot of establishment frontage 25 sq. ft. min. 100 sq. ft. max.</p>	<p>Varies by use.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Businesses with more than 1 frontage shall be allowed 50% more permitted sign area upon approval of the Development Services Director.</li> <li>• AT-AC, AT-C zones: Office or industrial complexes with <math>\geq 2</math> frontages can have an additional sign per approval of the Development Services Director.</li> <li>• If freestanding/monument sign, base shall be landscaped.</li> </ul>
<p><b>General Freestanding/ Monument</b> (applies to all uses)</p> 	<p><b>No:</b> 1 per establishment</p> <p><b>Height:</b> 12 ft. and 1 ft. lower every foot closer to property line.</p>	<p>36 sq. ft. per face</p>	<p>12 ft. from all property lines.</p> <p>Setback may be reduced 1 ft. for every ft. the sign is lowered, 2 ft. min.</p>	<p>See Section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• See General Provisions above.</li> </ul>
<p><b>General Wall/Canopy</b> (applies to all uses)</p> 	<p><b>No:</b> up to 2</p> <p><b>Height:</b> No higher than roofline of first story element.</p>	<p>36 sq. ft. for frontages &lt; 25 linear ft.</p> <p>50 sq. ft. for frontages 25-40 linear ft.</p> <p>Exceptions: freeway-oriented, drive-throughs, auto dealerships.</p>	<p>Same as the structure to which it is attached.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• See General Provisions above.</li> </ul>

<p><b>General Temporary</b> (applies to all uses)</p>	<p>See Section 10-7.600 “Temporary Signs.” Events sponsored by a federal, state, or local governmental agency are exempt.</p> 				
<p><b>Auto Dealership Freestanding/Monument</b></p> 	<p><b>No:</b> 1 <b>Height:</b> 12 ft.</p>	<p>50 sq. ft. per face, 100 sq. ft. total</p>	<p>None.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• For additional Banner information see 10-7.601.</li> <li>• 1 additional freestanding sign is permitted if &gt; 1 street frontage.</li> </ul>
<p><b>Auto Dealership Wall</b></p> 	<p><b>No:</b> 2 <b>Height:</b> No higher than roofline of first story element.</p>	<p>100 sq. ft. total</p>	<p>None.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• See General Provisions above.</li> </ul>
<p><b>Auto Dealership Temporary Event/Grand Opening</b></p> 	<p><b>No:</b> 2 for up to 4 times a year (14 consecutive days for each event).</p>	<p>50 sq. ft. per sign.</p>	<p>None.</p>	<p>Natural only</p>	<ul style="list-style-type: none"> <li>• See <b>Section 10-7.600</b> for permit requirements and additional regulations.</li> <li>• Bunting, pennants and searchlights are permitted.</li> <li>• Shall not be placed in City right-of-way.</li> </ul>

<p><b>Drive-Through Freestanding/Monument</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 10 ft. unless it qualifies as a Freeway-oriented sign, then 50 ft.</p>	<p>40 sq. ft. per face.</p> <p>80 sq. ft. total.</p>	<p>Varies by zoning district.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Drive-Through signs on corner lots higher than 3 ft. are subject to the “Vision Triangle Rule” of 30 ft.</li> <li>• Applies to restaurants, coffee shops, pharmacies, cafes and banks.</li> </ul>
<p><b>Drive-Through Menu Board</b></p> 	<p><b>No:</b> 2 max.</p> <p><b>Height:</b> 6 ft.</p>	<p>30 sq. ft. each max.</p>	<p>N/A</p>	<p>Internal or external</p>	<ul style="list-style-type: none"> <li>• Restaurant Menu Boards do not count towards max. 3 signs per site and 100 sq. ft. total.</li> <li>• Logos on exempt directional signs are only allowed up to 20% of the directional sign area for Drive-Throughs.</li> </ul>
<p><b>Drive-Through Wall</b></p> 	<p><b>No:</b> 3</p> <p><b>Height:</b> 18-inch max. letter size and 24-inch max. logo height.</p>	<p>40 sq. ft. total</p>	<p>None.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Applies to restaurants, coffee shops, pharmacies, cafes and banks.</li> </ul>
<p><b>Food Vendor/Catering Truck</b></p> 	<p><b>No:</b> 1 on each side of cart or truck.</p>	<p>8 sq. ft. each</p> <p>16 sq. ft. total</p>	<p>None.</p>	<p>Natural only.</p>	<ul style="list-style-type: none"> <li>• Shall be in accordance with California Department of Motor Vehicles regulations.</li> </ul>

<p><b>Food Vendor/Catering Truck</b></p> 	<p><b>No:</b> 1 <b>Height:</b> 4 ft.</p>	<p>20 sq. ft. per face 40 sq. ft. total</p>	<p>Placed on private property only.</p>	<p>Natural only.</p>	<ul style="list-style-type: none"> <li>• Issuance of a sign permit may include provisions to ensure that the portable sign does not create a safety hazard or is not aesthetically detrimental or incompatible with surrounding uses.</li> </ul>
<p><b>Recycling</b></p> 	<p><b>No:</b> 4 total  1 per side</p>	<p>Max. 20% per side or 16 sq. ft., whichever is larger.</p>	<p>None.  Containers shall be clearly marked to identify materials.</p>	<p>Natural or external.</p>	<ul style="list-style-type: none"> <li>• For a wheeled facility, side shall be measured from pavement to top of container. Directional signs with no message (for traffic or if facility not visible from ROW) shall be approved by the Director.</li> </ul>
<p><b>Service Station General</b></p> 	<p><b>No:</b> 2 signs per frontage, 4 signs per establishment max. unless otherwise approved by Development Services Director.</p>	<p>100 sq. ft. max.</p>	<p>Varies by zoning district.</p>	<p>See Section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Exempt signs include: Four (4) sq. ft. wall mounted <i>State Authorized Testing Center Services</i>; one (1) single or double faced price sign per street frontage with twenty (20) sq. ft. max. per face; and one (1) sign for each gas pump unit not to exceed two (2) sq. ft. per pump face or one (1) sign per bank of pumps, not to exceed eight (8) sq. ft. per face, identifying the gasoline brand and rating only.</li> <li>• Signs on corner lots higher than 3 ft. are subject to the "Vision Triangle Rule" of 30 ft. set forth in Article 9 of the Hayward Traffic</li> </ul>

					<p>Code.</p> <ul style="list-style-type: none"> <li>• Sign base shall be decorative in stucco, brick, wood or similar material that matches the primary building and shall have landscaping around it.</li> </ul>
<p><b>Service Station Freestanding/Monument</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 15 ft. unless it qualifies and a Freeway-oriented sign, then 50 ft.</p>	<p>30 sq. ft. per face</p> <p>60 sq. ft. total.</p>	<p>Cannot extend beyond property line.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Canopy logo areas are not included in total sign area calculation if less than 6 sq. ft.</li> </ul>
<p><b>Service Station Wall</b></p> 	<p><b>No:</b> 4 max.</p> <p><b>Height:</b> 24-inch max. letter size and 26-inch logo height.</p>	<p>40 sq. ft. total</p>	<p>None.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• See General Provisions above.</li> </ul>
<p><b>Regional Shopping Center</b></p>	<p>Shall be reviewed on a site-specific basis. An approved Master Sign Program is required.</p>				
<p><b>Large Shopping Center Freestanding/Monument</b></p>	<p><b>No:</b> 1</p> <p><b>Height:</b> 14 ft.</p>	<p>200 sq. ft. per face.</p> <p>300 sq. ft. if &gt;1 establishment</p>	<p>10 ft. from property lines.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Signs on corner lots higher than 3 ft. are subject to the "Vision Triangle Rule" of 30 ft.</li> <li>• If a Master Sign Program exists, the</li> </ul>

		frontage			Development Services Director may approve additional signs or sign area as needed to adequately direct the public to the Center.
<p><b>Large Shopping Center Wall</b></p> 	<p><b>No:</b> 1 per establishment</p> <p><b>Height:</b> No higher than the building wall on which it is mounted.</p>	1.5 sq. ft. per linear foot of establishment frontage.	None.	See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>• Unless otherwise stated in a Master Sign Program, 24-inch max. letter size and 30-inch max. logo size.</li> <li>• If a Master Sign Program exists, the Development Services Director may approve additional signs or sign area as needed to adequately direct the public to the Center.</li> </ul>
<p><b>Small Shopping Center Freestanding/Monument</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 14 ft.</p>	<p>150 sq. ft. per face.</p> <p>225 sq. ft. if &gt;1 establishment frontage.</p>	4 ft. from curb.	See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>• Unless otherwise stated in the Master Sign Program of a Small Shopping Center, 24-inch max. letter size and 30-inch max logo height.</li> <li>• Small Shopping Center signs on corner lots higher than 3 ft. are subject to the “Vision Triangle Rule”.</li> </ul>

<p><b>Small Shopping Center Wall</b></p> 	<p><b>No:</b> 1 per establishment</p> <p><b>Height:</b> No higher than the building wall on which it is mounted.</p>	<p>1.5 sq. ft. per linear foot of establishment frontage.</p>	<p>None.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Unless otherwise stated in a Master Sign Program, 24-inch max. letter size and 30-inch max. logo size.</li> <li>• If a Master Sign Program exists, the Development Services Director may approve additional signs or sign area as needed to adequately direct the public to the Center.</li> </ul>
<p><b>Theater Freestanding/ Monument</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 25 ft.</p>	<p>50 sq. ft.</p>	<p>10 ft. from property lines.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Not allowed in CC-P district.</li> </ul>
<p><b>Theater Display</b></p> 	<p><b>No:</b> N/A</p> <p><b>Height:</b> N/A</p>	<p>36 sq. ft. each</p> <p>240 sq. ft. max. total</p>	<p>None.</p>	<p>See Sec. 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Minimum of 2 display cases allowed.</li> <li>• Display case areas not included in total permitted sign area.</li> </ul>
<p><b>Theater Marquee</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 45 ft.</p>	<p>350 sq. ft. for one screening room plus 50 sq. ft. for each additional screening room.</p> <p>1100 sq. ft. max.</p>	<p>Marquee shall be permitted over right of way subject to approval by Development Services Director.</p>	<p>Lighting must be approved by the Development Services Director for traffic safety before final approval.</p>	<ul style="list-style-type: none"> <li>• Total sign area is not permitted on 1 façade or 1 sign.</li> <li>• Electronic Reader Boards are allowed on marquee if used to display movie times.</li> <li>• Sign shall be compliant with architecture of theater.</li> </ul>

(d) **CC-R (Central City - Residential) District**

The following regulations apply to all properties in the CC-R district.

Sign Type Allowed	Max. # / Height	Max. Area	Setback	Illumination	Additional Provisions
<b>For Residential Uses:</b> Multi-Family Complex Identification Signs only.					
<b>General</b>  Freestanding/ Monument and/or   Wall Sign	<b>No:</b> 1  <b>Height:</b> 5 ft.    <b>No.</b> 1	<b>1-8 units:</b> 12 sq. ft.  <b>9-25 units:</b> 25 sq. ft.  <b>&gt;26 units:</b> 50 sq. ft.	4 ft. from all property lines.	Natural or External.	<ul style="list-style-type: none"> <li>• 26+ units with &gt;1 street frontage, a second sign is permitted with total sign area ≤ 70 sq. ft. (35 ft. per entrance).</li> <li>• 2 signs on 1 frontage are permitted if entrances are ≥ 200 ft. apart.</li> </ul>
<b>For Non-Residential Uses:</b>					
<b>General</b>  Wall signs	<b>No:</b> 1 per establishment frontage.  <b>Height:</b> 6 ft.	36 sq. ft. per face.	4 ft. from all property lines.	All types. See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>• Office complex or directory sign: 1 per complex with 20 sq. ft. max per face, 40 sq. ft. max total.</li> <li>• If freestanding monument sign, base shall be landscaped.</li> </ul>

<p><b>Theater Monument</b></p> 	<p><b>No:</b> 1 <b>Height:</b> 25 ft.</p>	<p>50 sq. ft.</p>	<p>10 ft.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• See General Provisions above.</li> </ul>
<p><b>Theater Display</b></p> 	<p><b>No:</b> N/A <b>Height:</b> N/A</p>	<p>36 sq. ft. each 240 sq. ft. max. total</p>	<p>None.</p>	<p>All types. See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Minimum of 2 display cases allowed.</li> <li>• Display case areas not included in total permitted sign area.</li> </ul>
<p><b>Theater Wall</b></p> 	<p><b>No:</b> 1 <b>Height:</b> 45 ft.</p>	<p>350 sq. ft. for one screening room plus 50 sq. ft. for each additional screening room. 1100 sq. ft. max.</p>	<p>None.</p>	<p>Lighting must be approved by the Development Services Director for traffic safety before final approval.</p>	<ul style="list-style-type: none"> <li>• Total sign area is not permitted on 1 façade or 1 sign.</li> <li>• <b>Electronic Reader Boards</b> are allowed on <b>marquee</b> if used to display movie times.</li> <li>• Sign shall be compliant with architecture of theater.</li> <li>• Marquee shall be permitted over right of way subject to approval by Development Services Director.</li> </ul>
<p><b>Temporary Signs</b></p>	<p>See Section 10-7.600 “Temporary Signs.”</p>				

(e) **CC-C (Central City Commercial District) and CC-P (Central City Plaza) District.**

The following regulations apply to all parcels in the CC-C and CC-P Zoning Districts.

Sign Types Allowed	Total Max. #	Max. Area	Illumination
<p><b>General</b></p> <ul style="list-style-type: none"> <li>• Awning</li> <li>• Hanging</li> <li>• Overhang/Edge</li> <li>• Projecting</li> <li>• Theater Marquee</li> <li>• Theater Displays</li> <li>• Service Station Signs</li> <li>• Sidewalk displays (A-Frame/ T-Frame)</li> <li>• Temporary</li> <li>• Wall</li> <li>• Window</li> </ul>	<p>2 signs per frontage.</p> <p>4 signs max per establishment unless otherwise approved by Development Services Director.</p>	<p><b><u>CC-C &amp; CC-P (Foothill and A):</u></b></p> <p>2 sq. ft. per linear footage of primary frontage.</p> <p>30 percent of primary frontage for secondary frontage signs.</p> <p><b><u>CC-C &amp; CC-P (other than Foothill and A):</u></b></p> <p>1 sq. ft. per linear footage of primary frontage.</p> <p>½ sq. ft. per linear footage of primary frontage.</p> <p>30 sq. ft min and 100 sq. ft max.</p>	<ul style="list-style-type: none"> <li>• See section 10-7.209 for lighting restrictions.</li> <li>• External lighting is encouraged.</li> <li>• No more than three colors.</li> <li>• Neon or day glow must be approved.</li> </ul>

Sign Type	Height	Max. Area	Additional Provisions
<p><b>General Awning</b> (ground floor only)</p> 	<p>8 ft. min. clearance from bottom of sign to top of finish grade.</p>	<p>20% of the total surface area of front awning skirt.</p>	<ul style="list-style-type: none"> <li>• Internal illumination of awning is prohibited.</li> <li>• Awning signs legally erected before July 22, 1986 shall be considered in conformance if they do not exceed the maximum allowable area by 25%.</li> </ul>
<p><b>General Horizontal Hanging</b></p> 	<p>8 ft. min. clearance from bottom of sign to top of finish grade.</p>	<p>8 sq. ft. total, 4 sq. ft. per face.</p> <p>Signs ≤ 6 sq. ft. are exempt from permitting.</p>	<ul style="list-style-type: none"> <li>• Hanging signs legally erected before July 22, 1986 shall be considered in conformance if they do not exceed the maximum allowable area by 25%.</li> </ul>

<p><b>General Overhang/ Edge</b></p> 	<p><b>Height:</b> Shall not exceed 3 ft.</p>	<p>See 10-7.501.e general regulations above.</p>	<ul style="list-style-type: none"> <li>• Shall not be used in conjunction with wall signs.</li> </ul>
<p><b>General Projecting</b></p> 	<p><b>Height:</b> No higher than cornice or parapet, whichever is lower.</p> <p>8 ft. min. clearance from bottom of sign to top of finish grade.</p>	<p>40 sq. ft., 20 sq. ft. per face.</p> <p>Double face is counted as one sign.</p>	<ul style="list-style-type: none"> <li>• May project up to 3 ft. horizontally, 5 ft. at Foothill &amp; A</li> <li>• In no case may sign come within 2.5 ft. of curb.</li> <li>• Signs shall be clear of street trees, traffic signals, street lighting, regulatory signs and architectural details.</li> </ul>
<p><b>General Sidewalk Display</b> (A-Frames/ T-Frames)</p> 	<p>4 ft. passageway past sign.</p> <p>Only permitted in the CC-P zone on B Street between Foothill and Watkins and on Main Street between A and C Streets.</p>	<p>6 sq. ft. per side (area will not be included in total permitted sign area).</p>	<ul style="list-style-type: none"> <li>• Max 1 per establishment.</li> <li>• Can be placed within 18 inches of public property in front of establishment.</li> <li>• 4 ft. min passage way on sidewalk must be maintained.</li> <li>• Signs only permitted during business hours.</li> <li>• Sign shall not project within 2 feet of the curb interface with vehicles.</li> </ul>
<p><b>General Temporary</b></p>	<p>See Section 10-7.600 Temporary Signs.</p> 		

<p><b>General Wall</b></p> 	<p>No higher than cornice or parapet, whichever is lower.</p>	<p>See General Regulations above.</p>	<ul style="list-style-type: none"> <li>• Wall signs may be painted on the wall or be made of metal, wood (except plywood), plastic, neon or vinyl.</li> <li>• Fluorescent material is prohibited.</li> <li>• Wall signs legally erected before July 22, 1986 shall be considered in conformance if they do not exceed the maximum allowable area by 25%.</li> </ul>
<p><b>General Window</b></p> 	<p>N/A</p>	<p>25% of total area of window.</p>	<ul style="list-style-type: none"> <li>• Signs may include graphics painted on glass, vinyl letters applied to glass, a clear acrylic panel behind the window, or small neon window signs. Signs should be white or light in color.</li> </ul>
<p><b>Auto Dealership Temporary</b></p> 	<p><b>No:</b> 2 for up to 4 times per year  (14 consecutive days for each event)</p>	<p>50 sq. ft. per sign</p>	<ul style="list-style-type: none"> <li>• Natural light only.</li> <li>• Bunting, pennants and searchlights are permitted.</li> <li>• See <b>Section 10-7.601</b> for permit requirements and additional regulations.</li> </ul>
<p><b>Auto Dealership Wall</b></p> 	<p><b>No:</b> 2  <b>Height:</b> No higher than roofline of first story element.</p>	<p>100 sq. ft. total</p>	<ul style="list-style-type: none"> <li>• See section 10-7.209 for lighting restrictions.</li> </ul>

<p><b>Service Station Monument</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 15 ft. unless it qualifies and a Freeway-oriented sign, then 50 ft.</p>	<p>30 sq. ft. per face 60 sq. ft. total.</p>	<ul style="list-style-type: none"> <li>• Canopy logo areas are not included in total sign area calculation if less than 6 sq. ft.</li> </ul>
<p><b>Service Station Wall/Canopy</b></p> 	<p><b>No:</b> 4 max.</p> <p><b>Height:</b> 24-inch max. letter size and 26-inch logo height.</p>	<p>40 sq. ft.</p>	<ul style="list-style-type: none"> <li>• See section 10-7.209 for lighting restrictions.</li> </ul>
<p><b>Theater Marquee</b></p> 	<p><b>Height:</b> 45 ft.</p>	<p>350 sq. ft. for one screening room plus 50 sq. ft. for each additional screening room.</p> <p>1100 sq. ft. max.</p>	<ul style="list-style-type: none"> <li>• Total sign area is not permitted on 1 façade or one sign.</li> <li>• Sign shall compliment architecture of theatre</li> <li>• Shall be permitted over right of way subject to approval by the Development Services Director.</li> <li>• Lighting must be approved by Director of Public works for traffic safety before final approval.</li> </ul>
<p><b>Theater Display Cases</b></p> 	<p>N/A</p>	<p>36 sq. ft. each and total of 240 sq. ft.</p>	<ul style="list-style-type: none"> <li>• Min. of 2 displays allowed.</li> <li>• Area is not included in total permitted sign area.</li> </ul>

<p><b>Drive-Through Wall</b></p> 	<p><b>No:</b> 3</p> <p><b>Height:</b> 18-inch max. letter size and 24-inch max. logo height.</p>	<p>40 sq. ft. total.</p>	<ul style="list-style-type: none"> <li>• Applies to restaurants, coffee shops, pharmacies, cafes and banks.</li> <li>• See section 10-7.209 for lighting restrictions.</li> </ul>
<p><b>Drive-Through Menu Board</b></p> 	<p><b>No:</b> 2 max.</p> <p><b>Height:</b> 6 ft.</p>	<p>30 sq. ft. each max.</p>	<ul style="list-style-type: none"> <li>• Menu Boards do not count towards max. 3 signs per site and 100 sq. ft. total.</li> <li>• Logos on exempt directional signs are only allowed up to 20% of the directional sign area for Drive-Throughs.</li> <li>• Lighting is internal or external.</li> </ul>

**(f) I, (Industrial), AT-IP (Airport Terminal Industrial), and AT-R (Airport Terminal Recreational) Districts**

Sign Type Allowed	Max. # / Height	Max. Area	Setback	Illumination	Additional Provisions
<p><b>General (applies to all)</b></p>	<p><b>No:</b> 3 signs max.</p>	<p>1 sq. ft. per lineal foot of establishment frontage or 25 sq. ft., whichever is greater.</p>	<p>Varies.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Office or industrial complexes with <math>\geq 2</math> frontages or <math>\geq 2</math> street entrances can have additional signs per approval of the Development Services Director.</li> </ul>
<p><b>General Freestanding/ Monument</b></p>	<p><b>No:</b> 1 per 50 linear feet of establishment frontage.</p> <p><b>Height:</b> 14 ft.</p>	<p>1 sq. ft. per lineal foot of establishment frontage or 25 sq. ft., whichever is greater.</p>	<p>10 ft. from all property lines.</p> <p>If sign is &lt; 6 ft., it may be 2 ft. from front property</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• If freestanding/ monument sign, base shall be landscaped.</li> </ul>

			line so long as it does not interfere with visibility.		
<b>General Temporary</b>	See Section 10-7.600 “Temporary Signs.”				
<b>General Wall</b> 	<b>No:</b> 2-3  <b>Height:</b> No higher than building it is mounted on.	1 sq. ft. per lineal foot of establishment frontage or 25 sq. ft., whichever is greater.	N/A	See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>Office or industrial complexes with <math>\geq 2</math> frontages or <math>\geq 2</math> street entrances can have additional signs per approval of the Development Services Director.</li> </ul>
<b>Changeable Copy/ Electronic Reader Board/Freeway Sign.</b> 	<b>No:</b> 1  <b>Height:</b> No higher than building it is mounted on.	None.	May not comprise more than 50% of area of primary sign.	See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>Only permitted when designed as part of freeway-oriented business identification sign.</li> <li>Signs are subject to provisions of State Outdoor Advertising Act.</li> </ul>
<b>General Drive-Through</b>	<b>No.</b> 3	100 sq. ft. max.	N/A	See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>Logos on directional signs are only allowed up to 20% of the directional sign area.</li> </ul>

<p><b>Drive-Through Freestanding/Monument</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 10 ft. unless it qualifies as a Freeway-oriented sign, then 50 ft.</p>	<p>40 sq. ft. per face.</p> <p>80 sq. ft. total.</p>	<p>Varies by zoning district.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Restaurant Menu Boards do not count towards max. 3 Drive-Through signs per site and 100 sq. ft. total.</li> <li>• Logos on exempt directional signs are only allowed up to 20% of the directional sign area for Drive-Throughs.</li> </ul>
<p><b>Drive-Through Wall</b></p> 	<p><b>No:</b> 3</p> <p><b>Height:</b> 18-inch max. letter size and 24-inch max. logo height.</p>	<p>40 sq. ft. total</p>	<p>N/A</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Applies to restaurants, coffee shops, pharmacies, cafes and banks.</li> </ul>
<p><b>Food Vendor Vehicle</b></p> 	<p><b>No:</b> 1 on each side of cart or truck.</p>	<p>8 sq. ft. each</p> <p>16 sq. ft. total</p>	<p>None.</p>	<p>Natural only.</p>	<ul style="list-style-type: none"> <li>• Shall be in accordance with California Department of Motor Vehicles regulations.</li> </ul>
<p><b>Food Vendor Portable</b></p> 	<p><b>No:</b> 1</p> <p><b>Height:</b> 4 ft.</p>	<p>20 sq. ft. per face</p> <p>40 sq. ft. total</p>	<p>Shall be on private property.</p>	<p>Natural only.</p>	<ul style="list-style-type: none"> <li>• Issuance of a sign permit may include provisions to ensure that the portable sign does not create a safety hazard or is not aesthetically detrimental or incompatible with surrounding uses.</li> </ul>

<p><b>General</b> <b>Service Station</b></p> 	<p><b>No:</b> 2 signs per frontage, 4 signs per establishment max. unless otherwise approved by Development Services Director.</p>	<p>100 sf. max</p>	<p>Signs on corner lots higher than 3 ft. are subject to the “Vision Triangle Rule” of 30 ft.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Exempt signs include: <ul style="list-style-type: none"> <li>Four (4) sq. ft. wall mounted <i>State Authorized Testing Center Services</i>;</li> <li>one (1) single or double faced price sign per street frontage with twenty (20) sq. ft. max. per face; and</li> <li>one (1) sign for each gas pump unit not to exceed two (2) sq. ft. per pump face or one (1) sign per bank of pumps, not to exceed eight (8) sq. ft. per face, identifying the gasoline brand and rating only.</li> </ul> </li> <li>• Service Station sign base shall be decorative in stucco, brick, wood or similar material that matches the primary building and shall have landscaping around it.</li> <li>• If freestanding/monument sign, base shall be landscaped.</li> </ul>
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<p><b>Service Station Freestanding/ Monument</b></p> 	<p><b>Service Station No: 1</b></p> <p><b>Height:</b> 15 ft. unless it qualifies as a Freeway-oriented sign, then 50 ft.</p>	<p>30 sq. ft. per face. 60 sq. ft. total</p>	<p>Cannot extend beyond property line.</p> <p>Signs on corner lots higher than 3 ft. are subject to the “Vision Triangle Rule” of 30 ft.</p>	<p>See Sec. 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• <b>Service Station</b> exempt signs include: Four (4) sq. ft. wall mounted <i>State Authorized Testing Center Services</i>; one (1) single or double faced price sign per street frontage with twenty (20) sq. ft. max. per face; and one (1) sign for each gas pump unit not to exceed two (2) sq. ft. per pump face or one (1) sign per bank of pumps, not to exceed eight (8) sq. ft. per face, identifying the gasoline brand and rating only.</li> <li>• Sign base shall be decorative in stucco, brick, wood or similar material that matches the primary building and shall have landscaping around it.</li> </ul>
<p><b>Service Station Wall/Canopy</b></p> 	<p><b>No:</b> 4 max.</p> <p><b>Height:</b> 24-inch max letter size and 26-inch max logo height.</p>	<p>40 sq. ft. total</p>	<p>None.</p>	<p>See section 10-7.209 for lighting restrictions.</p>	<ul style="list-style-type: none"> <li>• Logos are not included in total sign area calculation if less than 6 sq. ft.</li> </ul>

**(g) PD (Planned Development) District**

The Development Services Director or approving authority shall approve all signs within a Planned Development District. Where signs are not included in or regulated by the preliminary or precise plan approval, the standards of the zoning district most similar in use to the uses in the Planned Development District shall be used as a guideline for approval of signs.

**(h) A (Agricultural) and FP (Flood Plain) Districts**

Sign Type Allowed	Max. # / Height	Max. Area	Setback	Illumination	Additional Provisions
<b>All types</b> 	<b>No:</b> 1 per establishment or parcel. <b>Height:</b> 10 ft.	<ul style="list-style-type: none"> <li>50 sq. ft. per establishment or parcel.</li> </ul>	10 ft. from all property lines.	See section 10-7.209 for lighting restrictions.	<ul style="list-style-type: none"> <li>If freestanding/monument sign, base shall be landscaped.</li> </ul>

(i) ***New Districts***

Any new zoning Districts adopted by the City Council subsequent to the adoption of this Article shall be subject to regulations of the District most similar in nature and function as determined by the Development Services Director.

**10-7.600 TEMPORARY SIGN REGULATIONS.**

**10-7.601 Auto Dealership Banners**

**i. Purpose.**

The purpose of allowing banners for automobile retail establishments located in the General Commercial (CG) zoning district along Mission Boulevard, generally between Sycamore Avenue/Highland Boulevard and Harder Road, is to recognize the distinctive requirements of this form of retail and to foster a unified image of a Hayward “auto row.” Uniform banners strengthen the collective impact of display and advertising for auto retail along Mission Boulevard, in a manner that is attractive, compatible, and safe, and enhances the streetscape and the economic well-being of the city.

**ii. Automobile Retail Establishment Defined.**

“Automobile retail establishment” means an establishment whose primary use of a building or property is for outdoor display and sale of new or used automobiles, trucks, vans, motorcycles, trailers or recreational vehicles. The term does not include establishments for which the sale of vehicles is an incidental use, such as rental car agencies.

**iii. Banner Defined.**

“Banner” means a non-permanent sign, made of durable fabric, fastened from the top and bottom to a ground-mounted pole or similar structure on private property.

**iv. Banner Permits and Requirements.**

The Development Services Director may approve a banner permit in accordance with the regulations and criteria set forth in this section and may impose such other reasonable

conditions as may be deemed necessary in the public interest. The following regulatory standards are required conditions for any banner:

1. *Size.*

Each “**large banner**” shall be a minimum of sixteen point one (16.1) square feet and a maximum of twenty-eight (28) square feet.

Each “**small banner**” shall be a minimum of eight (8) square feet and a maximum of sixteen (16) square feet. All banners of the same type on a property shall be the same size.

2. *Quantity.*

Each property may display a maximum of one (1) “large banner” for every thirty (30) lineal feet of street frontage. Each property may display a maximum of one (1) “small banner” for every four hundred (400) square feet of parking and auto display area.

3. *Location and Setbacks*

The entire banner shall be located on private property, outside of vision triangles of motorists and shall not extend into or be allowed to move into the public right-of-way.

“Large banners” may be located within ten (10) feet of the property line adjacent to Mission Boulevard. “Small banners” may be located elsewhere within parking and auto display areas.

4. *Distance between Banners.*

No banner shall be located closer than ten (10) feet to another banner.

5. *Height.*

The bottom of each banner shall be at least eight (8) feet and not more than twelve (12) feet above the surface below it. All decorative banners located on a property shall be the same height.

6. *Materials.*

Banners shall be of durable fabric intended for outdoor use such as altrafab, pryatone, sunbrella or similar quality fabric. No fade inks shall be used on the banners.

7. *Hardware.*

Brackets for mounting the decorative banners to poles shall be of high quality such as stainless steel banding with fiberglass arms which can flex with the wind.

8. *Maintenance.*

Banners shall be promptly replaced when ink fades or fabric tears, frays or fades. Hardware shall be replaced or repaired when damaged or twisted. All banners shall be fastened to keep taut and shall not be loose or floppy.

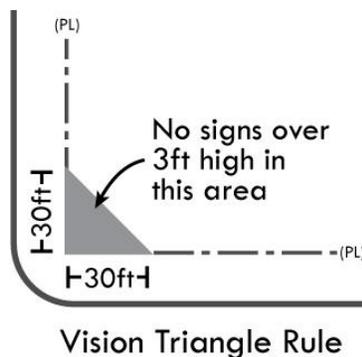
9. *Promotional Signs.*

The possession of a sign permit for Auto Dealership Banners would prohibit the installation of temporary promotional displays on the same property.

v. **Permit Application.**

An application for a sign permit shall be made on a form supplied by the Development Services Director and initiated by owners or agents of automobile retail establishments. The application shall be accompanied by the required fee, as adopted by resolution of the City Council. Along with demonstrating that all of the above required conditions of approval have been met, the following information shall be submitted to the Director in conjunction with an application for a permit:

1. Site plan for the automobile retail establishment, indicating quantity, location and height of banners for the property;
2. Color drawings showing banner design, including colors, materials, hardware and size;
3. Explanation of duration of display of the banners that are requested.
4. Additional information, as determined by the Director may be required.



**10-7.602 PROMOTIONAL EVENT AND GRAND OPENING SIGNS.**

Promotional event or grand opening signs are regulated only by this section. These signs are permitted in addition to the sign area and number allowed for other classes of signs.

(A) *Permitting*

In order to display any promotional or grand opening signs, a person must file a Sign

Permit Application with the Development Review Services Division. The application shall state the applicable number of signs allowed and the number proposed, the date(s) when the signs are to be erected and when they are to be taken down, in accordance with time limits set forth in this article. If applicable, the application shall state the number of times such signs have already been erected in a given calendar year.

(B) *Location*

Promotional and grand opening signs may not be placed within the public right-of-way (including planter strips, tree wells, sound walls, fences, sidewalks, and street medians), on public property or in any location which interferes with vehicular, bicycle, or pedestrian circulation or safety.

(C) *Number and Type Permitted and Time Frame*

Event/Use	Type	Max. #	Max. Area	Illumination	Time-Frame
<ul style="list-style-type: none"> <li>• Business promotional event</li> <li>• Carnival</li> <li>• Festival</li> <li>• Special exhibit</li> <li>• Parade</li> </ul>	<ul style="list-style-type: none"> <li>• Banners</li> <li>• Flags</li> <li>• Streamers</li> <li>• Pennants</li> <li>• Searchlights</li> </ul>	<p><b>No:</b> Banners: 1</p> <p>Other: Director determination</p>	<ul style="list-style-type: none"> <li>• Banners: 50 sq. ft.</li> </ul>	Natural only.	<ul style="list-style-type: none"> <li>• (2) 21-day periods per year; and</li> <li>• 6 weekends or 3-day federally recognized holiday weekends every 3 months per year.</li> </ul>
<ul style="list-style-type: none"> <li>• Grand opening</li> </ul>	<ul style="list-style-type: none"> <li>• Banners</li> <li>• Flags</li> <li>• Streamers</li> <li>• Pennants</li> <li>• Searchlights</li> </ul>	<p><b>No:</b> Banners: 1</p> <p>Other: Director determination</p>	<ul style="list-style-type: none"> <li>• Banners: 50 sq. ft.</li> </ul>	Natural only.	<ul style="list-style-type: none"> <li>• Once for 45 days max.</li> <li>• Searchlights: 7 days max.</li> </ul>
<ul style="list-style-type: none"> <li>• Auto Dealerships Promotional event signs</li> </ul>	<ul style="list-style-type: none"> <li>• Banners</li> <li>• Bunting</li> <li>• Searchlights</li> </ul>	<p><b>No:</b> Banners, Bunting: 2</p> <p>Other: Director determination</p>	<ul style="list-style-type: none"> <li>• Banners: 50 sq. ft. per sign.</li> </ul>	Natural only.	<ul style="list-style-type: none"> <li>• Up to 4 times a year (14 consecutive days for each event).</li> <li>• See Section 10-7.601.</li> </ul>

**10-7.603 SUBDIVISION DIRECTIONAL SIGN (OFF-SITE).**

- One (1) temporary sign per lot on which it is placed related to the sale or lease of any real property, up to thirty-two (32) square feet in sign area per sign; ten (10) feet in height and ten (10) feet back from property line.

- For each two hundred (200) feet of street frontage, one (1) additional temporary sign related to the lease or sale of any real property is permitted, subject to the size, height, and setback requirements provided in this section.
- Must be placed on private property with the owners' permission, and may remain for twelve (12) months after first installed, or until last unit is sold, whichever is first.
- A time extension, if needed, must be applied for and approved by Development Services Director and must be submitted fifteen (15) days prior to the expiration date of the permit.

**10-7.700 ADMINISTRATION, COMPLIANCE AND ENFORCEMENT.**

The Development Services Director or his or her designee shall be vested with the authority to determine compliance with provisions of this ordinance except for building or fire code requirements. The Development Services Director or his or her designee is empowered to interpret and enforce the provisions and requirements of this article and to remove or cause to be removed any sign or other advertising structure which has been constructed, erected, altered, relocated, or maintained in violation of this article.

**10-7.701 ADMINISTRATIVE REFERRAL.**

When there is a question regarding the interpretation of this ordinance, or its application to any specific case or situation, the Development Services Director may, in his or her discretion, refer the question to the Planning Commission.

**10-7.702 ADMINISTRATIVE MODIFICATIONS.**

The Development Services Director may administratively reduce the setback requirement or increase the permitted sign area if such modifications are minor, not more than twenty-five (25) percent, and he or she determines that no practical alternative exists, that the purposes of the ordinance would not be compromised, and that no detrimental impact would result.

**10-7.703 VARIANCES.**

The purpose of the Variance provision is to authorize, in specific cases, departure from the terms of the Ordinance if not contrary to the public interest where, owing to special conditions, literal enforcement would result in unnecessary hardship.

- (a) Applications for Variances shall be processed in accordance with Sections 10-1.2815 through 10-1.2825 and Sections 10-1.3305 through 10-1.3375 of the Zoning Ordinance.
- (b) The Development Services Director, or the Planning Commission upon referral by the Director, may grant a Variance when it can be determined that:
  - (1) There are special conditions or circumstances peculiar to the property involved that do not apply generally to property in the same district; and
  - (2) Literal interpretation of this article would cause a hardship or deprive the applicant of rights enjoyed by others in the same district; and

- (3) The granting of the Variance does not grant a special privilege inconsistent with the limitations on other properties in the same district.

**10-7.704 REVOCATION OF SIGN APPROVAL.**

The Development Services Director has the authority to revoke any permit or approval issued by the Director or the Director's designee. The Planning Commission has the authority to revoke any sign approval issued by it. Revocation shall occur pursuant to Section 10-7.705, "Grounds for Revocation."

**10-7.705 GROUNDS FOR REVOCATION.**

Any sign permit approval or action may be revoked on the basis of one (1) or more of the following grounds:

- (a) Fraud or misrepresentation by the applicant with respect to any information contained in his or her approved application or with respect to any other information provided to the City.
- (b) Failure of the applicant to meet or abide by any condition imposed upon approval.
- (c) Failure of the applicant to erect the approved sign(s) within one (1) year of permit issuance.
- (d) Abandonment of the sign for a period of thirty (30) days.

**10-7.706 HEARINGS - NOTICE.**

Prior to revocation, the Development Services Director or Planning Commission, as the case may be, shall hold a hearing after written notice is provided to the applicant.

**10-7.707 APPEALS.**

Any person aggrieved by a decision by the Development Services Director may appeal such action to the Planning Commission by filing a written appeal with the Development Review Services Division within ten (10) days from the date of such action. Upon completion of its consideration, the Planning Commission may sustain, or modify, or reverse the Director's decision. Any action or decision of the Planning Commission is final and not appealable.

**10-7.708 LEGAL NON-CONFORMING SIGNS.**

- (a) A legal non-conforming sign (see Appendix A: Definitions), unless made to conform to the provisions of this article, may not be structurally altered, expanded, moved, modified in any way, or be reestablished after:
  - (1) Discontinuance for six (6) months or more; or
  - (2) Damage or destruction of more than fifty (50) percent of replacement value.
- (b) Any legal non-conforming sign shall be permitted to remain until such time as:
  - (1) There is a change in the use of the property on which the sign is located and discretionary approval for the change of use is required;

- (2) Expansion, movement or modification of the sign. A change of copy or normal maintenance and repair does not constitute modification of a non-conforming sign.
- (c) At such time as any of the events mentioned in subsections (a) (b), and/or (c) occur, the sign must be brought into conformance with this article. This provision shall not apply if the existing non-conforming sign is located within the same commercial complex but at a different business location, or if the existing non-conforming sign is not owned or controlled by the sign permit applicant, or if the applicant is not the agent of the person who owns or controls the existing non-conforming sign.

**10-7.709 SIGN MAINTENANCE.**

- (a) Each sign, including a legal non-conforming sign, shall be maintained in the same condition as when the sign was installed. Normal wear and tear of aged signs shall be repaired when they detract from the visible quality of signs, as determined by the Development Services Director. Repaired signs will be consistent with the approved sign permit for the sign (i.e. paint colors and illumination will match, etc.).
- (b) When signs are removed, the wall behind the sign shall be repaired and painted to match the rest of the building wall.
- (c) Abandoned, dilapidated or unsafe signs shall be subject to abatement in accordance with Sections 10-7.713 and 10-7.714.

**10-7.710 REMOVAL OF CERTAIN SIGNS.**

- (a) A sign which is unsafe, abandoned, significantly dilapidated, deteriorated or was constructed illegally, may be removed without payment of compensation. This includes:
  - (1) A sign which meets any of the criteria specified in Business and Professions Code Section 5497, or all of the requirements of Business and Professions Code Section 5495, or their successor provisions, shall be removed without compensation in accordance with those provisions.
  - (2) A sign, which meets the requirements of Business and Professions Code Sections 5412.1 or 5412.2 shall be removed in accordance with those provisions, or their successor provisions.
  - (3) A sign which was constructed unlawfully.
    - (a) Within six (6) months from the date of the adoption or amendment of this article, whichever is later, the City shall commence inventorying and identifying all illegal or abandoned advertising displays, as required in Section 5491.1 of the California Business and Professions Code. Within sixty (60) days after the six (6) month period, the City shall commence abatement of the identified preexisting illegal and abandoned on-premises displays. Fees for the cost of inventorying and identifying illegal or abandoned advertising displays shall be collected in accordance with Section 5491.2 of the Business and Professions Code and the Master Fee Schedule.

- (b) Any sign which is abandoned or deemed to be abandoned due to the sign's obsolescence or disuse shall be removed by the owner of the property on which the sign is located within thirty (30) days after the sign is abandoned or deemed to be abandoned.

**10-7.711 ENFORCEMENT OF SIGNS ON PRIVATE PROPERTY.**

(a) *Removal.*

Development Services Director or his or her designee may remove or cause the removal of a sign which is constructed, installed or maintained on private property in violation of this article or other provisions of law (“illegal sign”), in accordance with the procedures set forth in this section.

(b) *Notice to Abate.*

Prior to removal of an illegal sign, a written notice to abate shall be mailed or delivered to the owner and occupant of the premises on which the illegal sign has been installed.

The notice to abate shall set forth a time limit for abatement of the illegal condition, which shall be no less than two (2) calendar days. The notice to abate shall indicate that the sign may be impounded by the City if the illegal sign condition is not abated in a timely manner.

(c) *Sign Impoundment and Recovery of Impounded Sign.*

If the illegal sign condition has not been abated within the time specified by the notice to abate, the City may cause the sign to be removed and impounded. Any sign, which has been impounded, may be recovered by the owner of the sign by paying the City's cost of removal and storage.

(d) *Sign Destruction.*

An impounded sign may be discarded or destroyed by the City without any further notice five (5) days thereafter in any of the following circumstances:

- (1) If the owner of the sign cannot be identified; or
- (2) If the apparent owner of the sign has failed to respond to the City's notice of notice of opportunity to redeem the impounded sign; or
- (3) If the sign is of de minimis value.

**10-7.712 ENFORCEMENT OF SIGNS ON PUBLIC PROPERTY.**

(a) *Removal.*

The City may remove any temporary or portable sign in the public right-of-way or on public property in violation of this Ordinance.

(b) *Notification.*

No notice shall be required prior to removal of unlawful temporary signs in the public right-of-way or public property.

(c) *Reclamation.*  
Any sign removed by the City, except any sign of de minimis value, shall be held in storage and the owner or other person in control of such sign, if known, shall be given written notice and ten (10) days to reclaim such sign.

(d) *Disposal.*  
The City may destroy any unclaimed sign held in storage by the City if not reclaimed within the time period set forth in (c) above or within ten (10) days after removal if the owner or other person in control of such sign is not known.

(e) *Payment.*  
In order to reclaim a sign removed by the City, the owner or other person in control of such sign shall first pay to the City a fee equivalent to the City's removal costs (time and materials.)

(f) *Liability.*  
The owner or entity responsible for placing a temporary unlawful sign on public property may be billed all time and materials costs incurred by the City to remove the sign, whether or not the person or entity desires to reclaim the sign.

(g) *De minimis value signs.*  
For purposes of this Section, any sign made of nondurable material shall be deemed to be of de minimis value.

Any temporary sign of de minimis value located in the public right-of-way in violation of this Ordinance shall be deemed to be abandoned and may be destroyed by the City after removal. No opportunity to reclaim such sign shall be given by the City.

**10-7.713 ENFORCEMENT OF ON-PREMISES SIGNS.**

The City may declare as a public nuisance and abate at the owner's expense any sign maintained in violation of this article. A sign maintained in violation of this article includes, but is not limited to:

- (a) An on-premises advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use.
- (b) An on-premises advertising display that was legally erected, but has been abandoned or not maintained.
- (c) An on-premises advertising display that was legally erected, which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rendering the display non-conforming has expired, and conformance has not been accomplished.
- (d) An on-premises advertising display which is a danger to the public or is unsafe.

- (e) An on-premises advertising display or painted wall sign that was not erected or applied with a sign permit or which remains after the business has vacated the premises for six months for on-premises advertising display and one month for painted wall sign.  
Abatement of illegal signs shall be in accordance with the procedures set forth in Chapter 5, Article 7.

**10-7.714 PROCEDURE NOT EXCLUSIVE: VIOLATION AN INFRACTION.**

The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances and regulations or abating public nuisances in any other manner provided by law. Nothing in this article shall be deemed to prevent the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law. Violation of the provisions of this article constitutes an infraction or a misdemeanor, as set forth in Chapter 1, Article 3 of the Hayward Municipal Code.

**10-7.715 SEVERABILITY.**

If any provision of this Article is determined invalid, void or unenforceable by a final judgment rendered by a court of competent jurisdiction, the validity of the remaining provisions of this Article shall not be affected, provided that the enforcement of the remaining provisions of this Article are not rendered impractical by the severance of the provision deemed to be invalid, void or unenforceable.

**10-7.716 AMORTIZATION.**

Notwithstanding other provisions of this chapter, the following signs shall be required to be removed or modified to comply with the provisions of this chapter.

1. "Abandoned signs" as defined herein, must be removed:
  - a. Any sign, including its supporting structure, remaining in place or not maintained for a period of six (6) months, which no longer advertises or identifies an active business, product, or service, whether such business, product, or service is provided on-site or off-site.
  - b. Any painted wall sign remaining in place or not maintained for a period of one (1) month, which no longer advertises or identifies an active business, product, or service, whether such business, product or service is provided on-site or off-site.
2. Signs nonconforming to the established signing standards must be made to conform within five (5) years after adoption of the sign standards.

**APPENDIX: DEFINITIONS**

The following definitions shall apply to the interpretation of this article. The definition of the singular form of any defined term also applies to the plural form of the same term.

**A-Frame Sign.**

Portable Sign and Sandwich Board Sign. The terms "A-Frame Sign," "Portable Sign," "T-Frame Sign," and "Sandwich Board Sign" shall mean portable signs capable of standing without support or attachment.



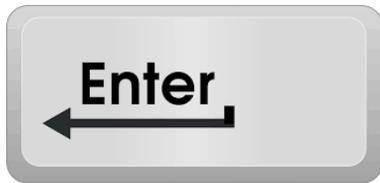
**Abandoned Signs.**

Any sign, including its supporting structure, remaining in place or not maintained for a period of six (6) months which no longer advertises or identifies an active business, product, or service whether such business, product or service is provided on-site or off-site.

Any painted wall sign remaining in place or not maintained for a period of one (1) month which no longer advertises or identifies an active business, product, or service whether such business, product or service is provided on-site or off-site.

**Accessory Sign.**

A sign, generally informational or directional, that has a purpose secondary to the use of the parcel on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” or other similar language.



Accessory sign also includes logos—a graphic mark, symbol, icon, or emblem.

**Address Sign.**

The official street address of a parcel, building or part thereof.

**Awning.**

Any frame covered with cloth, aluminum, or other materials which is attached to and projects from the exterior wall of a building, typically over a window or door.



**Awning Sign.**

Any sign, which is painted, printed, sewed, or otherwise attached to an awning. For purposes of this article, signage on two (2) panels of an awning counts as one (1) sign for purposes of calculating total number of allowable signs. Internal illumination of the signage is prohibited.

**Balloon.**

Any spherical shaped inflatable device (excluding Mylar balloons) fourteen (14) inches or less in diameter, tethered in a fixed location. Often used for promotional events and grand openings. See “Inflatable.”

**Banner.**

A temporary sign composed of lightweight, flexible, non-rigid material that is mounted to a pole or a structure at one (1) or more edges either vertically or horizontally. Requires a sign permit for advertising a product, service, business or promotional event. National, state, or municipal flags shall not be considered banners. An eight (8) foot clearance is required between a banner and finished grade. See Section 10-7.600.

**Banner, Decorative Artwork.**

A banner that depicts artwork, murals or graphic. Does not require a sign permit.

**Billboard.**

See “General Advertising Sign.”

**Blade sign.**

A small sign which is suspended from an overhang, canopy, marquee, or awning, or is suspended from a mounting attached directly to the building wall, and hangs perpendicular to the building wall. An eight (8) foot clearance is required between a blade sign and finished grade. It may require an encroachment permit.



**Building Identification Sign.**

A wall sign identifying the name of a building, largest leaseholder, or owner of a building of two (2) stories or more in height, within which they are doing business.

**Bulletin Board (On-Site).**

A permanent wall or monument sign with changeable copy. Found on educational or cultural sites (i.e., church, school, community theaters, etc.).

**Bunting.**

A temporary sign made of gathered cloth, canvas, light fabric or plastic exhibiting the color or colors of a flag of a government or governmental agency or any patriotic, religious, charitable, civic, educational or fraternal organization.

**Business Identification Sign.**

A sign indicating the name, trademark, address, use, primary commodity, or service available on the premises where the sign is located.

**Canopy.**

Any structural, ornamental roof-like appendage, freestanding or attached to a building, including roof overhangs, but excluding awnings, marquees or metallic hoods.

**Changeable Copy Sign.**

A permanent sign whose informational content can be changed or altered by manual or electronic means. Also includes a sign known as an “Electronic Reader Board,” “Marquee Sign,” “Scrolling Sign,” or time and temperature sign.

**Change of Copy.**

Alteration of wording and/or advertising information, including logos, on an existing sign structure, where no change to the size, height, and structural content or support of sign is made. A change of copy does not require a sign permit.

**Community Identification Sign.**

A sign incorporating information referring exclusively to service clubs, community slogans, directional information to public facilities, and/or municipal statistics.

**Construction Sign.**

A sign listing the future occupant or use on a given property (e.g. “Coming Soon”), and the landscape architect, engineer, planner, contractor, or other person or firm participating in the development, construction, or financing of the project on the property where the sign is located.

**Copy.**

The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

**Corridor Overlay District (“Corridor”).**

A Corridor Overlay District is a zoning district that provides for specific signage regulations to be applied to designated areas in combination with the requirements of the underlying or base zoning districts. Parcels fronting A Street, B Street, Jackson Avenue, Foothill Boulevard, Mission Boulevard, Hesperian Boulevard, Tennyson Road and Industrial Drive and Parkway comprise the Corridor Overlay Districts.

**Decorative Artwork.**

Exterior works of art, such as statues, murals, and super graphics that do not advertise a product, service, or business; may include vertical banners attached at two (2) ends to a light pole.

**Dilapidated Sign.**

A sign, including its supporting structure that is not in a good state of repair, or is not visually attractive and/or functional due to lack of maintenance, or is a safety hazard.

**Directional/Informational Sign.**

Any on-premises sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic. This includes street name signs, danger signs, and traffic control signs (i.e., “Stop,” “Yield”), and similar signs, the face of which must meet the State of California Department of Transportation standards.

Said sign may contain the name or logo of an establishment but no advertising copy, provided that the logo does not comprise more than twenty (20) percent of the total sign area per sign face.

**Directory Sign.**

Any identification sign listing the occupants of a building or complex, identifying the location of, and providing directions to any establishment.

**District.**

Zoning district designated in the Zoning Ordinance of the City of Hayward, Chapter 10, Article 1.

**Double-Faced Sign.**

A sign with two (2) distinct, generally parallel faces, each designed to be viewed from separate directions, and which at no point is thicker than twenty-four (24) inches measured from the external surface of each face.

**Electronic Reader Board.**

An electronically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location.

**Establishment.**

An individual, separate place of business.

**Flag.**

Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol. Regulations herein do not apply to flags denoting nations, government, or noncommercial organizations.

**Flashing Sign.**

Any illuminated sign whose motion or visual impression primarily changes through electronic means. Said signs include visual simulation of motion characteristic of chasing, running, blinking, oscillating, twinkling, or expanding or contracting light patterns.

**Freestanding Sign.**

Any sign supported by one (1) or more uprights, braces, columns, poles, or other similar structural components placed on or into the ground, and not attached to a building, and having no exposed or connecting wires.

**Freeway Frontage.**

For purposes of this article, "Freeway Frontage" means any establishment(s), business(es) and/or property(ies) in the vicinity of Interstate 880 or State Route 92 (west of Industrial Boulevard) located within six hundred (600) feet of a freeway, freeway frontage road, or freeway overpass. The business(es) must provide food, lodging, or fuel to freeway users or must comprise a commercial center of at least four (4) acres with an approved Master Sign Program.

**Freeway-Oriented Sign.**

For purposes of this article, any sign that is designed to be visible from at least one direction of Interstate 880 or State Route 92, west of Industrial Boulevard.

Allowable Freeway-Oriented sign types are: freestanding or monument signs, pole signs subject to section 10-7.400.15, and wall signs. Electronic reader board signs are allowed if used for a commercial center greater than or equal to five (≥5) acres with an approved Master Sign Program.

Freestanding, monument and pole signs can be fifty (50) feet maximum in height.

**Frontage, Establishment.**

The ground floor horizontal distance of a building or portion thereof occupied by the business. It is measured along a ground floor wall which has a customer entrance that faces and has access onto a public open space, such as a courtyard or plaza; or is adjacent to a public street, or adjacent to a driveway or parking lot which serves that use.

If any building frontage does not consist of one (1) straight line, the frontage of any offset portion shall be projected, for computation purposes, to the extension of the line of the most forward face of the building.

**Frontage, Primary.**

The establishment frontage containing a customer entrance that faces and has access onto a public open space, such as a courtyard or plaza; or is adjacent to a public street, or adjacent to a driveway or parking lot which serves that use. Only one (1) frontage, which must contain a customer entrance, may be counted as primary frontage.

**Frontage, Secondary.**

The establishment frontage, other than the primary frontage which has exposure to pedestrian or vehicular traffic. Only one (1) secondary frontage may be counted for determining maximum sign area.

**General Advertising Sign.**

Any sign relating to a business, commodity, service, entertainment, or event not conducted, sold, or offered on the premises on which such sign is located. Also referred to as a “Billboard.”

**Grand-Opening Signs.**

Banners, pennants, flags, balloons that are not larger than fourteen (14) inches in diameter, searchlights and similar advertising devices are allowed with a permit when used for bona-fide grand-openings events. See Section 10-7.600.

**Hanging Sign.**

A sign no larger than eight (8) square feet, four (4) square feet per side, which is suspended from below a marquee, canopy or awning. A hanging sign is larger than a “Blade” or “Shingle” sign.

**Hanging Post Sign.**

A sign that hangs from a bracket attached to a structure comprised of one (1) or two (2) posts.

**Halo-Lit: Halo Lighting Illumination.**

The illumination of individual letters, numbers or graphics having an opaque surface by the use of internal, reverse illumination where the light source is not directly visible.

**Height.**

The vertical distance from the lowest point of the ground directly below the sign to the highest point of the sign (including the support structure and any projecting design elements).

When a sign is located on a berm, retaining wall, or similar feature, at the Director of Community and Economic Development/ Planning Director's discretion, the height of such berm may be subtracted from the overall height of the sign where consistent with the overall design of the project.

**Illuminated Sign.**

A sign with an internally or externally illuminated light source which makes the message on the sign readable.

**Industrial Complex.**

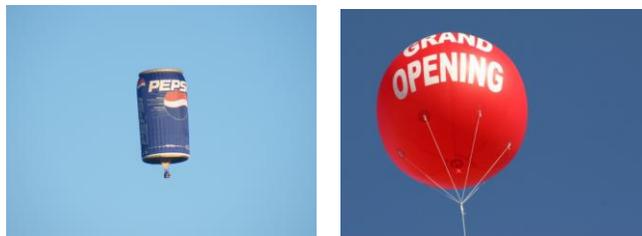
A continuous area of land and any structures thereon, under single ownership or operated under a single direction, of at least three (3) separate establishments engaged in industrial or manufacturing activities.

**Industrial Complex Directory Sign.**

A sign identifying an industrial complex and/or the industrial establishments therein.

**Inflatable.**

Any inflated device, exceeding fourteen (14) inches in diameter, intended to advertise or draw attention to a grand opening, promotion, or similar event. Examples are: a large balloon, animal figure, bouncy house or product replication. See Section 10-7.600.



**Legal Non-conforming Sign.**

A sign which was legally constructed and maintained under laws or regulations in effect at the time of construction which does not conform with the provisions of this article.

**Logo.**

A graphic mark, symbol, icon, or emblem representing an establishment or business.

**Marquee.**

A permanent roof-like shelter extending from part or all of a building face and may or may not project over the public right-of-way. Is also referred to as an overhang and is three (3) feet maximum in height.

**Marquee Sign.**

Any sign utilizing changeable copy painted on or attached to or supported by a marquee.

**Master Sign Program.**

A coordinated sign plan which includes details of all existing and future signs whether requiring a permit or not (including directional signs,) i.e. Shopping Center, Business Park, Industrial Complex, Major Tenant identification, individual business, and directory signs.

**Monument Sign.**

A freestanding sign not erected on one (1) or more poles or similar supports but erected to rest on the ground or to rest on a base designed as an architectural unit with the sign.

Monument signs shall be an integral and complementary element of the overall architectural and streetscape composition and shall be integrated with the building and landscape design.

**Moving Sign.**

A sign which has any actual or apparent moving parts, activated by a mechanical device by wind currents or by human beings where the sign moves or the shape or content of the sign face changes. It is different from a changeable copy sign, such as an electronic reader board and excludes scrolling signs.

Examples include wind banners/flags, air and wind dancers and human directional signs.

**Multiple-Faced Sign.** A sign on a curved surface or on three (3) or more planar surfaces designed to be viewed from more than two (2) directions.

**Multiple-Family Development.**

A continuous area of land occupied by multi-family dwellings under single ownership or operated under single direction.

**Multiple Occupancy Signs.**

A sign identifying several businesses on the same premises.

**Mural.**

A picture painted on an exterior surface of a structure. A mural is a sign if it contains any language or logo which advertises any product or service or if the mural identifies any business. See “Decorative Artwork” and “Super Graphic.”



**Neon or Other Gas Tube Illumination.**

A sign that is illuminated by a light source consisting of a neon or other gas tube which is bent to form letters, symbols, or other business identifying shapes.



**Off-Premises Sign.**

See “General Advertising Sign.”

**Office Complex.**

A continuous area of land and any structures thereon, all under single ownership or operated under a single direction, consisting of at least five (5) separate establishments.

**Painted Wall Sign.**

Any sign which is applied with paint or similar substance on the surface of a wall. This does not include “Decorative Artwork,” “Mural,” or “Super Graphic.”

**Pennants.**

A temporary sign composed of light-weight plastic, fabric, or other material, whether or not containing a message of any kind which may taper to a point suspended from a rope, wire, ribbon, or string or other material usually in a series. Often used for promotional events and grand openings. This does not include automobile antenna sleeves. See Section 10-7.600.

**Pole Sign.**

A freestanding sign supported wholly by one pole placed in the ground.



**Political/Election Sign.**

A Temporary Sign referring to a candidate, proposition, or issue subject to a local, state, or national public election or referendum.



**Portable Sign.**

Any sign not permanently affixed to a building, other unmovable structures, or the ground, such as sidewalk display signs like A-frame signs, T-Frames and sandwich boards. Includes magnetic signs placed on the roof or side of vehicles as long as no other structural support is added to the vehicle.



**Product Identification Sign.**

A standardized sign supplied by a distributor or manufacturer at nominal cost or free to a business which identifies the business as well as a product of a local, regional, or national distributor or manufacturer which is available only incidentally on the premises, such as product dispensers and point of purchase displays which are not directly visible from a vehicular or pedestrian right-of way.

**Promotional Event Sign.**

See “Grand Opening Sign” and Section 10-7.600.

**Projecting Sign.**

A sign, other than a wall sign, which is attached to a building or other structure, and extends beyond the line of building or structure to which it is attached. Projecting Signs shall be at least 8 feet above the finished grade of the public sidewalk and fifteen feet above a driveway. Also see “Blade,” “Hanging,” “Shingle,” signs.



**Real Estate Sign.**

A temporary sign for the sale, lease, or rental of the parcel, structure, or establishment on which the sign is located.

**Right-of-Way.**

For purposes of this article, “Right-of-Way” is defined as that area of land owned or maintained by a governmental entity in which is located a street, curb, gutter, landscape planter strip, tree wells, sidewalks, or any other structure, device or equipment in or upon public property within the City of Hayward.

**Roof Sign.**

A sign painted or erected on or extending above the roof or parapet of any building or structure.



**Scrolling Sign.**

A sign made from durable materials that mechanically changes face at set intervals. The sign face is printed or adhered to a set of panels that rotate to expose a subsequent sign face. “Electronic Reader Board” and “Change of Face” are not included under this definition.

**Setback.**

The minimum distance from the property line from which a sign must be located.

**Shingle Sign.**

A small sign, which is either suspended from an overhang, canopy, marquee or awning, or is suspended from a mounting attached directly to the building wall. It may be placed parallel or perpendicular to the face of a building.



**Shopping Center.**

A continuous area of land under single ownership or operated under a single direction, developed for retail commercial purposes, and typically has at least one major tenant (“Anchor”). For the purpose of this article a small shopping center is less than five acres and a large shopping center more than five (5) acres.

**Shopping Center Identification Sign.**

A sign identifying a shopping center and major or anchor tenants only.

**Sidewalk Display.** See “Portable Sign”.

**Sign.**

A device, fixture, placard, structure, or painting that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

For purposes of this article, a Sign includes any object, which is intended to attract the attention of passersby to a business, service, or product, whether or not such object contains any text. This may include but is not limited to bright colors, wall signs, freestanding or monument signs, flags, whirl-a-gigs, pennants, streamers, banners, all of which are subject to the regulations set forth herein.

Murals, paintings, and similar pictorial displays that are an integral part of the architectural theme and are not intended to draw attention to any product, service, event, or entertainment are not considered signs.

**Sign Face.** See “Copy”.

**Special Events Sign.**

Any sign advertising special temporary events, such as carnivals, festivals, exhibits, and parades, but not including promotional sales or Grand Opening signs.

**Streamers.**

Long relatively narrow strips of any type material, resembling a banner that floats with the wind.

**Subdivision Directional Sign (Off-Site).**

A sign containing only the name, location, and description of a subdivision and/or a multiple-family residential project and directions for reaching the project. Does not include pricing or financing advertisement. Allowed to remain for twelve (12) months after first installed or until last lot/unit is sold. See Section 10-7.600.

**Substandard Sign.**

Any sign which does not meet the requirements of this article, or is not legally non-conforming as regulated by Section 10-7.700.

**Super Graphic.**

A painted design which covers all, or a major portion of a wall or structure. A super graphic is a sign only if language, logo, or pictorial depiction relates it to the advertisement of any product or service or the identification of any business. See “Decorative Artwork.”

**Temporary Sign.**

A sign which is displayed for less than fourteen (14) days. See also “Balloon,” “Banner,” “Pennants,” “Promotional Events and Grand Opening Signs,” “Special Event Sign,” and “Streamers.” See Section 10-7.600.

**Theater Display Case.**

A display case located on the facade of a theater which displays handbills or posters advertising a scheduled event, performance or film, and merchandise associated with the theater or an event, performance or film. The total area of all theater display cases shall not be included in the calculation of allowable sign area. A theater display case shall not exceed thirty-six (36) square feet in area.

**Towing Authorization-Private Property Sign.**

A sign that is posted on private property that authorizes the Hayward Police Department to issue a citation for violation of Hayward Traffic Code Section 8.14 or any amendment or replacement thereof to allow the towing of vehicles illegally parked on private property. This sign shall comply with Section 10-7.300(b)(25) and shall be inspected and approved by the City of Hayward Police Department.

**Vehicle Sign.**

Flat, one (1) dimensional signs painted or placed magnetically or otherwise attached (i.e., glue) on the side of vehicles as long as no other structural support is added to the vehicle, in accordance with California Department of Motor Vehicles regulations. Advertising on vehicles for sale at bona fide automobile dealerships are excluded from this definition. Maximum of two (2) signs is permitted per vehicle. A “vehicle wrap” covering both sides and the rear of the vehicle is considered one (1) sign.

**Wall Sign.**

A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or by which it is supported. Does not extend above the building face or parapet, nor project more than twelve (12) inches from the wall.

**Window Sign.**

A sign attached to, suspended behind, and/or placed less than twenty-four (24) inches inside a glass window or door of a building, or painted upon the window or glass door of a building, and which is intended for viewing from the exterior of such building. This excludes seasonal displays.

Window signs are allowed to cover only twenty-five (25) percent of the total window area in any zoning district.

## SIGN REGULATIONS SUGGESTED FEES

## EXISTING FEES:

Sign Permit (1 business)	\$ 300
Sign Permit (each additional business, same application)	\$ 250
Sign Program	\$ 1,500
Fine for Sign Violations*	\$0 + (\$522+\$100) = \$622
Second Follow Up Inspection*	\$522+\$200 = \$722
Third Follow Up Inspection*	\$522+\$500 = \$1022
Subsequent Violations within 12 months*	\$651 + \$800 = \$1451
Each Follow Up Inspection*	\$506 + \$1000 = \$1506

PROPOSED CHANGES:

<u>Temporary Sign Permit (Banners, Flags, Streamers, Pennants, Bunting, Searchlights, Inflatable Signs)</u>	<u>\$100 fee + \$200 deposit**</u>
<u>Portable/A-Frame Signs</u>	<u>\$50 Encroachment Permit</u>
<u>Mural Art Signs</u>	<u>\$50 Registration Fee</u>

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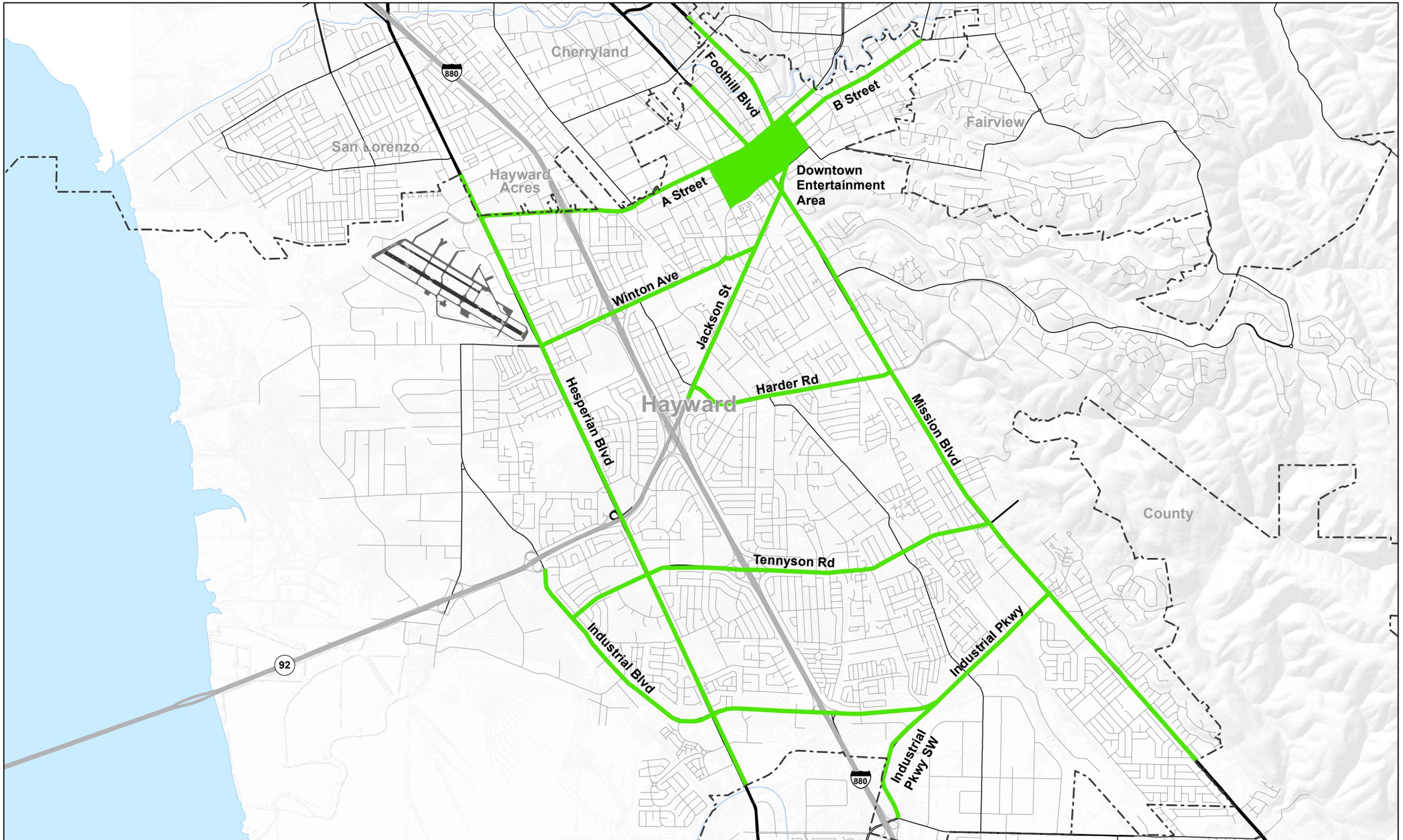
\*This is the existing charge (fine) for all inspections performed by the Code Enforcement staff for all ordinances they enforce.

\*\*Deposit will be refunded when the temporary signage is removed and proof (a photo) is submitted to Planning. Deposit is forfeited if the signage is not removed and goes into Code Enforcement. All Code Enforcement charges will apply.



# Hayward Sign Corridors

0 0.25 0.5 1 Miles





**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, January 22, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

## **MEETING**

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair McDermott.

## **ROLL CALL**

Present: COMMISSIONERS: Loché, Enders, Faria, Lavelle, Parso, One Vacancy  
CHAIRPERSON: McDermott  
Absent: COMMISSIONER: None

Commissioner Parso led in the Pledge of Allegiance.

Staff Members Present: Ajello, Bristow, Buizer, Kenney, Lawson, Madhukansh-Singh, Rizk

General Public Present: 1

## **PUBLIC COMMENTS**

Mr. Tad Miller, business owner of Liberty Tax in Hayward, shared that he had previously submitted recommendations for the Draft Sign Ordinance and this had been received by staff. The concerns he expressed were regarding helping small businesses become established in the City. He stated that inflatable character balloons should be a permitted use as this was a cost effective way of advertising, especially for a seasonal business such as his. Mr. Miller said that his small business cannot compete with larger companies such as H&R Block that can afford to advertise through television.

In response to Chair McDermott's question whether Mr. Miller had participated with the Hayward Chamber of Commerce in reviewing the Draft Sign Ordinance, Mr. Miller responded that he submitted his suggested changes to the Hayward Chamber of Commerce and also to the United Merchant's Downtown Hayward committee, and he did not receive any comments back. Chair McDermott expressed her gratitude to Mr. Miller for his comments.

Planning Manager Buizer confirmed that staff did receive the comments submitted by Mr. Miller in November 2014 and noted that his comments would be taken into consideration for the Draft Sign Ordinance.

## **WORK SESSION**

1. Amendments to Hayward's Sign Regulations

Associate Planner Kenney provided a synopsis of the staff report. She stated that the goal of the sign corridor overlay district was to improve the vehicle and pedestrian experience by requiring signage



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that would call attention to businesses but without overwhelming vehicles and also pedestrians walking the streets. She shared that staff received a suggestion to expand the use of A-frame signs into the Downtown Entertainment Area.

Commissioner Loché commented that the inclusion of photos and additional graphics in the Sign Ordinance would be very beneficial.

Commissioner Parso stated that the Draft Sign Ordinance was reasonably easy to read and he noted that the Appendix containing definitions was helpful. He asked staff if exceptions could be added for historic signs and staff confirmed that this would be taken into consideration. He posed the question to staff that if inflatable sizes were within a reasonable size and if it was not a traffic distraction, then why should these signs be prohibited. Staff responded that inflatable signs could be added as permissible temporary signs.

Commissioner Lavelle suggested that the language in Section 10-7.400 Prohibited Signs (1) be modified to include “telephone poles” as a prohibited use for posting signs on. She shared that individuals currently post yard sale signs and campaign posters on telephone poles, and noted that these signs were not being removed in a timely manner after the event had occurred. She was pleased to read that flashing signs were included as a prohibited use in the Draft Sign Ordinance. She requested that staff visit an establishment on Campus Drive which was in violation of the ordinance as it had a flashing sign posted. She recommended that Section 10-7.709 (b) pertaining to Sign Maintenance be modified to include signs posted on fences and that Section 10-7.710 (a) pertaining to Removal of Certain Signs explicitly state that the City of Hayward may remove signs without payment of compensation to the establishment. Commissioner Lavelle commented that she was not in favor of permitting A-frame signs in the Downtown Entertainment Area for the following reasons: the signs can blow over on windy days; it was a target for graffiti; and that B Street already had a lot of foot traffic and the A-frame signs may interfere with this. She opposed the A-frame signs for safety reasons, was satisfied with the current look and feel of the downtown area, and was amenable to the current allowance for the usage of A-frame signs, but did want this use to be expanded to include the Downtown Entertainment Area.

Chair McDermott spoke favorably of the improvements included in the Draft Sign Ordinance, pointing out the importance of having a visual aid. She asked to staff to elaborate on the process for the survey conducted in 2011 distributed to Hayward Chamber of Commerce members. Associate Planner Kenney responded that this survey was administered by a former City staff person, noting that most respondents of the survey found the Sign Ordinance in place to be difficult to navigate through and 25% of the respondents preferred to directly ask Planners rather than consult the document.

Chair McDermott stated that the inflatable signs that she had seen utilized in Hayward were by car dealerships along Mission Boulevard.



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Commissioner Faria was glad to see reference in the Draft Sign Ordinance indicating that regulations would be subject to change depending upon technology improvements to signs. She asked staff if the proposed ordinance would impact establishments that have blacked out windows but have a small neon sign posted, noting that there were some businesses exemplifying this in the downtown area, such as massage parlors. Associate Planner Kenney stated that the only extent to which the Draft Sign Ordinance addressed signage posted on windows was that only 25% of the window could be covered with signage. Commissioner Faria requested that establishments that have neon signs and have blacked out windows be addressed in the Sign Ordinance as these businesses detract customers from visiting other family-oriented businesses in the downtown area.

Chair McDermott requested clarification on this topic commenting that public safety officers should have the ability to look into businesses through windows from the outside, noting that blacked out windows would prevent visibility.

Planning Manager Buizer responded that establishments with blacked out windows may present a safety concern and indicated that there were other provisions in the Hayward Municipal Code (HMC) addressing this issue, adding that the Sign Ordinance may not be the appropriate document to do so. She stated that staff would look into where blacked out windows were covered in the HMC and would provide this information to Planning Commissioners.

Commissioner Loché asked staff if it was discussed at previous meetings with the business community whether small businesses were being put at a disadvantage by the proposed Sign Ordinance, in comparison to larger businesses that have a greater means of advertising. Associate Planner Kenney indicated that at the public work session held on January 7, 2015, these concerns were raised by sign contractors who shared that it might be expensive for new smaller businesses to pay for the costs of signs in addition to the signage permitting fees. She added that at the same meeting, it was mentioned that the website “Yelp” had benefited small businesses through advertising. Commissioner Loché pointed out the benefit in hearing from all interested parties on this topic and asked staff if input was obtained from the general public who live and/or shop in Hayward as to what types of signs the community would like to see or did not like to see.

Planning Manager Buizer indicated for Commissioner Loché that it was mentioned on the City’s homepage that the City was undergoing revisions to the Sign Ordinance and links were provided to obtain feedback from the public. She added that during the last couple of weeks, staff had primarily targeted businesses, sign contractors and the Hayward Chamber of Commerce for outreach efforts.

Commissioner Loché mentioned that some Hayward residents had expressed to him that they did not favor A-frame signs either, similar to Commissioner Lavelle’s sentiments. He underscored that he felt that Hayward residents were one group whose opinions were missing from the present discussion on the Draft Sign Ordinance.

Commissioner Enders suggested to staff that the proposed ordinance be reviewed by a staff person responsible for marketing efforts in the City as this was an opportunity to impact the branding and



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, January 22, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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the image of Hayward. Regarding the General Plan's references to the different corridors and districts in the City, Commissioner Enders offered that there should be a well-coordinated design strategy that would encourage conformity of signs for each district or corridor. She elaborated that other cities featured this well by having all businesses within a complex maintain a theme with their signage, highlighting that this can have a visually striking effect. She stressed that there were problems with some businesses leaving illuminated signs indicating that they were open when the business was actually closed. Commissioner Enders acknowledged that Mr. Miller was working with the Keep Hayward Clean and Green Task Force in adopting-a-block, in which he would be responsible for helping to keep that section of the City clean, and in exchange, he would receive a sign demonstrating that his business was a part of the clean-up efforts. She encouraged Mr. Miller to engage with the community and commented that this would provide more exposure for the small business he operated.

Commissioner Parso shared with staff that public safety agencies were using a website called "nextdoor.com" to do outreach to local neighborhoods and he suggested this as a tool to disseminate information about the proposed ordinance. He emphasized that it was critical to get input from the public and also stressed the importance of supporting small businesses in the community.

In regards to Section 10-7.716 on Amortization, Commissioner Lavelle commented that the language in this section needed to be strengthened to indicate the consequences for nonconformance with the Sign Ordinance such as the inclusion of language outlining a monetary fee. She also suggested the following language that "the City of Hayward will work closely with the business community to seek compliance with long-term established businesses" as some businesses might oppose the proposed provisions of the Sign Ordinance if they have signs of historic value or if they were undergoing financial hardship.

In response to Chair McDermott's question about the reinstatement of a loan program benefiting local small businesses, Development Services Director Rizk stated that this was eliminated due to the dissolution of the Redevelopment Agency and unavailability of redevelopment funds; however, he noted that the City could explore operating a program similar to this that would help small businesses. Chair McDermott underscored her concern for small businesses that may be financially impacted when they learn about the changes to the Sign Ordinance.

City Attorney Lawson commented that the City Council recently adopted updated regulations for massage therapy establishments which conforms local regulations with AB 1147 adopted by the state legislature. He stated that this returns local control of such establishments and grants the Hayward Police Department the ability to conduct unannounced inspections, to enter the business, and to ensure that there are no internally locked doors within the establishment. Mr. Lawson indicated that the land use regulations for massage establishments have not changed. He noted that the Development Services Department will retain the authority to review and assure that new massage therapy establishments conform to land use regulations. He stated that the elimination of the Redevelopment Agency had significantly impeded the City in its ability to assist small businesses, he shared that most of the Community Development Block Grant funds were often



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, January 22, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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prioritized for lower-income and senior homeowners for one-time minor repair programs to meet Code requirements. Mr. Lawson confirmed for Chair McDermott that the Small Business Revolving Loan Fund was a separate program from the program for minor home repairs; however, the former program was eliminated.

Chair McDermott supported staff looking into a program that could identify resources available to offer assistance to small businesses.

In regards to the enforcement of amortization, Planning Manager Buizer mentioned that upon adopting new sign regulations, the City is required to conduct a survey of all signs in the City in order to identify signs that are not in conformance. Businesses deemed to have nonconforming signage will be notified by staff of the timeframe they have to bring the signage into compliance. She added that staff will explore additional language about an abatement process for noncompliance with the timeframe.

Chair McDermott granted Mr. Miller an opportunity to further comment.

Mr. Miller stated that his business which is a tax enterprise consists of three separate seasons throughout the year; however, the proposed regulations only allow seasonal businesses two temporary periods for signage which may not be adequate to market his business. He added that he also works with two community based organizations, Relay for Life and the Fourth of July Festival held at Chavez Middle School. Due to constraints on temporary signage, he is unable to assist in promoting these activities to the community. He proposed that the regulations be modified so that the temporary signage periods allowed coincide with the offerings of the business. Mr. Miller noted for Chair McDermott that he currently uses American flags to promote his business as this is not prohibited under the sign regulations. He added that in the past he utilized wind feathers, A-frames, an inflatable statue of liberty that was great for advertising on the rooftop; however, these were not permitted. Mr. Miller shared that the signage that is currently permitted for his business is not visible to motorists travelling southbound on Mission Boulevard due to its present positioning on the building, which is obstructed by a neighboring business.

Chair McDermott requested that staff take Mr. Miller's comments into consideration. She expressed that the Draft Sign Ordinance was a good step in bringing consistency for signage in the City and also for expanding the ordinance and making it easier to understand. She shared that the public still had an opportunity to provide their input, mentioning that there will be a City Council Work Session on this topic at a future date.

## **COMMISSION REPORTS**

### **2. Oral Report on Planning and Zoning Matters**

Planning Manager Buizer announced that the City was seeking applicants to fill the vacancy on the Planning Commission, noting that applications were due in the City Clerk's Office by noon on February,



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, January 22, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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6, 2015. She added that the City Council was tentatively scheduled to interview applicants on Tuesday, February 10, 2015. She pointed out that the term expiration for this vacancy was 2018.

Director Rizk stated that the appointed Planning Commissioner will be sworn in sometime in February.

Chair McDermott was pleased that individuals who previously applied for the Planning Commission, including those appointed to other Boards, Commissions, and Committees, were being given an opportunity to reapply.

Planning Manager Buizer shared that items scheduled for a future meeting included an in-fill development in the Mt. Eden area as well as text amendments related to unattended collection donation boxes.

3. Commissioners' Announcements, Referrals

None.

**APPROVAL OF MINUTES**

4. Approval of Minutes of the Planning Commission Meeting on December 18, 2014  
The Planning Commission meeting minutes of December 18, 2014 were unanimously approved with one vacancy and a correction to page 9 to change the reference "son" to "daughter."

**ADJOURNMENT**

Chair McDermott adjourned the meeting at 7:56 p.m.

**APPROVED:**

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Heather Enders, Secretary  
Planning Commission

**ATTEST:**

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Avinta Madhukansh-Singh, Senior Secretary  
Office of the City Clerk

**IN ORDER TO HELP PROMOTE A HEALTHY LOCAL ECONOMY, THE CITY OF HAYWARD NEEDS TO DO WHAT IT CAN TO HELP THE SMALLER, INDEPENDENT OWNED BUSINESS BECOME ESTABLISHED.**

One of the easiest ways to accomplish this is to help them become established by allowing them to utilize more cost effective methods of advertising. One of these is through modifications to the city's signage ordinance.

Independently owned businesses cannot compete dollar for dollar against their larger competitors. The larger businesses have what seems like unlimited resources when it comes to advertising.

TV, Radio, Print and Direct mail all have a high Cost per thousand persons reached with a lot of wasted distribution outside the effective area their business location.

Store front signage normally has a one-time cost and the life cycle of store front advertising is far greater than that of other forms of advertising. TV, Radio, Print and Direct mail have an extremely short life cycle per flight (presentation) that can be less than a day for non-print media.

With an independently owned business's lack of available capital to invest in media advertising, they need to be allowed to utilize the most cost effective means of advertising available.

Without any guarantee of success (responses), there are great risks in paying for distribution media for advertising. A recent business startup spent almost \$20,000 for TV commercials on Chanel 20. They acquired less than 100 customers in their first tax season.

The main reason any businesses fails in the first year is due to under capitalization. (not enough working capital or cash). If they have deep pockets, they can hold out until they become established with enough sales revenue to fund their business each year.

Small independent businesses do not have these deep pockets and most have no reserves yet.

By helping these small independent businesses become established, the local economy would benefit from the Multiplier effect of money. On average 92 cents of every dollar spent is re-spent. (marginal propensity to spend) If these dollars are spent at small independent businesses, most of the multiplier effect will be realized in the local economy.

The independent businesses are owned by local residents and spend locally. As in comparison the corporate owned businesses, who send their profits to the corporate headquarters, where ever they are. Most of these are not headquartered in Hayward.

This is why the City of Hayward should adopt the following changes;

## **FOR ALL BUSINESSES**

- **All signs for all businesses**
  - Signs are to be readable, attractive, attention grabbers, effective, fresh, good taste, appropriate, and functional.
  - Increase the size allowance for permanent signs to 133% of the current standard. (ie 3' height instead of the current 2' height limit)
  - Landscaping is to be maintained so as to not obstruct signs. This includes landscaping of neighboring businesses and city property.
  - Signs on Autos should fall under the California Vehicular code and not the Hayward Signage ordinance.
- **Permanent Store signage must be allowed to be effective.**
  - Store signs should be allowed to be placed in order to be visible. Allowances include "to be placed as not be obstructed by buildings, street signs/lights etc.." need to specifically identify what is allowed under the variance exception section of the sign regulations.
  - Sculptures or other types of statuary should be allowed.
  - Advertising murals. These must be painted by a professional artist or under the direction of a professional artist or art teacher. This would allow the talented youth in our Hayward Schools to gain experience.

- Pole signs should be allowed.
- Blade signs should be allowed in all areas of the city.

## **FOR SMALL BUSINESSES THAT NEED TO BECOME ESTABLISHED.**

- **Temporary signage allowances to help small businesses become established.**
  - All temporary signage must be kept in good presentable order. Torn, unreadable or broken signs must be repaired or removed as soon as feasibly possible.
  - A 30 day period should be allowed instead of the current 14 day period. A two week limit on these signs that include banners, wind feathers, etc. increases the cost per thousand persons reached. Two weeks of display time is not enough for these to be truly cost effective. Especially in seasonal businesses where displaying for just 14 days may be too short to be effective for a particular market segment. A 30 day period would allow customers to think about what they see.
  - The number of periods should also be expanded from two to match the seasonality of the business's offerings. Some businesses have multiple seasons greater than the currently allowed 2 periods.
  - The types of allowed signage should be expanded to include;
    - Inflatables greater than 14" and include other shapes other than round. Large inflatable character balloons add a memorable aspect to advertising. They create an awareness to the business that other types of signage cannot even come close to. They must be safe, secure and relate to business.
    - Hand held / worn signage should be allowed for the low cost per thousand. An added benefit is that it creates employment opportunities for local residents. (this is part of the multiplier effect that helps the local economy) Safety must be paramount. The sign or person can not be allowed to cross the curb line into

the street. The only exception would be crossing the street with in a crosswalk with a green light where available.

- Wind feathers are one of the most effective types of temporary signage and should be allowed. Encourage business owners to take them down each night.
  - Wind dancers - the air blown tubes that dance up and down are very entertaining and also have a similar effectiveness to the inflatable character balloons.
  - Non Profits and special events should be exempt from the signage permit requirement.
  - Non profits should be allowed 30 day periods of displaying signs for their events.
  - Allowance for offsite signage that directs traffic to business location should be allowed.
  - A frame signs allowed at curb for auto traffic should be allowed.
  - Display of signs for a 3 day time period would not require a permit.
- The signage ordinance needs to be dynamic to meet the technological changes in the adverting industry.
  - The fee for a signage permit should be lowered to \$100.00 per permit.

### **Other suggested signage improvements.**

- Electronic Marquee signs should be placed on major streets  
Jackson, B St., Foothill, Mission, Tennyson, A St.  
with businesses rotated
- Use plain English in the signage ordinance.
- Home inspectors could be sign inspectors.

**DATE:** March 24, 2015

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Establishment of New Regulations for Unattended Collection Boxes and Collection Facilities Requiring Introduction of Ordinances to Amend Chapter 5, Article 7 (Community Preservation and Improvement), and Chapter 10, Article 1 (Zoning Ordinance), of the Hayward Municipal Code; and Adoption of Resolutions to Make Findings Related to Text Amendments and Establishment of New Fees; City of Hayward (applicant)

## **RECOMMENDATION**

Staff recommends that the that City Council introduce the attached ordinances to amend the Hayward Municipal Code (HMC) to establish new regulations related to Unattended Collection Boxes with minor amendments to recycling collection facility regulations and references to the new regulations; and adopt resolutions making findings to support the proposed text amendments and approving revisions to the Fiscal Year 2015 Master Fee Schedule.

## **SUMMARY**

Unattended collection boxes are not currently specifically regulated in the City of Hayward. The proposed regulations seek to balance the desirability to have such facilities in convenient locations to reduce the waste stream with ensuring they will not create public nuisances or undesirable impacts for the community. They identify where Unattended Collection Boxes may be located, how frequent they can be in any given geographical area, and make them subject to an Administrative Use Permit. The proposed text amendments include updates to existing Recycling Collection Facility regulations to change the section title; to update references to State law; to increase the minimum distance required between small recycling collection facilities and residential uses to reduce noise impacts; and to remove sign regulations related to recycling facilities, with the intention of placing all signage regulations into one chapter of the Municipal Code.

## **BACKGROUND**

Over the past five years, the Bay Area has seen a proliferation of Unattended Collection Boxes on public and private properties. The facilities typically measure about twenty-five square feet in size and seven feet in height and accept a variety of textile, book and other salvageable personal property. The facilities are generally placed on commercial properties (strip malls, gas stations, and grocery stores), churches, and apartment complexes along major automobile corridors. In Hayward,

the facilities are particularly visible along Tennyson Road, Mission Boulevard (particularly at the southern end of the City), Foothill Boulevard, and A Street.

Many of the unattended facilities result in public nuisances by attracting graffiti, scavenging, and illegal dumping due to the fact that they are unmonitored and maintained by off-site operators that simultaneously service thousands of units across the Bay Area. In 2014, the City of Hayward Code Enforcement staff conducted regular sweeps of high profile areas to document the public nuisance issues related to the facilities resulting in violation notices for property owners hosting Unattended Collection Boxes pursuant to HMC Chapter 10, Planning, Zoning and Subdivisions; however, enforcement of these violations was placed on hold pending City adoption of regulations for Unattended Collection Boxes.

Despite documented nuisance activity, there are benefits to these facilities. Specifically, placement of Unattended Collection Boxes in a variety of conveniently accessible locations encourages individuals to recycle textile goods rather than placing those items in the waste stream. The City's franchised service providers, Waste Management and Tri-CED, do not accept textiles for recycling. In addition to encouraging recycling, Unattended Collection Boxes are a form of charitable solicitation and are afforded First Amendment protection as free speech. As charitable solicitation and/or donations are considered free speech, the City cannot ban Unattended Collection Boxes. Several of the companies that manage the facilities purport to be or are alleged to be associated with non-profit organizations that donate proceeds from donations to national and international charity organizations. This has not been verified by staff.

In December 2014, staff received direction from City Council to develop regulations pertaining to Unattended Collection Boxes. Other jurisdictions (Alameda County and the cities of Oakland, Berkeley, Alameda, Sacramento, and Rancho Cordova) are in the process of adopting or have adopted ordinances introducing a process for permitting and regulating the placement of such facilities. Staff referenced these ordinances and fees when conducting research to develop the proposed regulations.

*Current Regulations* - HMC Section 10-1-2735(i), *Recycling Facilities for Redemption or Donation of Reusable Materials*, specifically relates to redemption and recycling of reusable materials in accordance with the California Beverage Container Recycling and Litter Reduction Act of 1986. The applicable section contains definitions, standards, and processes for small collection facilities and reverse vending machines. Current regulations do not apply to Unattended Collection Boxes that receive textile and other salvageable materials.

*State Legislation Related to Unattended Collection Boxes* - In July 2010, the state enacted Assembly Bill (AB) 918, in an effort to regulate Unattended Collection Boxes, and to provide consumers with information regarding how donations would be used. The law required that the Unattended Collection Boxes provide a written display of the organization that benefits from the donation and whether it is a non-profit entity. The law did not specifically limit the ability of local municipalities to place further restrictions on the facilities.

*Planning Commission Public Hearing and Recommendation* - On February 19, 2015, the [Planning Commission](#) held a public hearing to consider the proposed regulations. The Commission voted

5:0:2 to recommend that Council adopt the proposed regulations as recommended by staff, and to allow unattended collection boxes to be placed on a temporary basis at schools and faith-based organizations, regardless of zoning district; and recommended that the Council consider adopting a reduced AUP fee for non-profit organizations. The Commission's recommendations are explored further in the Discussion section, below.

## DISCUSSION

*Overview of Proposed Recycling Regulations Amendments to Include Unattended Collection Boxes* - Staff recommends that HMC Section 10-1-2735.i be amended to include a subsection related to Unattended Collection Boxes with a separate purpose, definitions, process, and standards. The proposed amendments are included in a draft ordinance, Attachment II, with deletions shown in ~~strikethrough~~ and new text shown in underlined red text. Broadly, the stated purpose of the new proposed recycling regulations is to promote community health, safety, and welfare by regulating the placement of boxes; to ensure that the boxes do not pose a hazard to pedestrians or vehicular traffic; and to ensure that the materials are contained and do not become unsightly and a public nuisance.

To ensure that the facilities are highly visible and conveniently accessible to the general public, staff recommends that the boxes be permitted along major arterials as defined by the City's General Plan in the CG (General Commercial), CN (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. Further, in accordance with the Planning Commission's recommendation, the proposed regulations were amended to allow the boxes on the sites of schools and faith-based institutions regardless of zoning district and separation requirements, subject to AUP approval.

The Commission reasoned that community-based organizations such as schools and faith-based institutions rely on donations to give back to the community and/or to raise funds. The Commission's recommendation was to allow the facilities on a temporary basis; however, staff believes that the boxes placed on commercial locations and schools and faith-based institutions should be treated the same regardless of location due to the fact that the AUP fee would be the same for a temporary or permanent use, and due to the administrative difficulties of tracking boxes in multiple locations with varying expiration dates. Thus, staff recommends that the standard AUP process be adopted for all locations where unattended collection boxes might be permitted. Pursuant to the proposed regulations, there are over 160 potential locations for unattended collection bins throughout the City as shown in Attachment I. Although the Commission's proposed amendment would result in an expansion of allowable locations for such facilities, staff believes that the expansion of potentially allowable locations would meet the purpose and intent of the proposed regulations to allow these facilities in a limited manner throughout the City provided that they are well-maintained and located in a manner that will not result in pedestrian or vehicular hazards.

According to the proposed regulations, the facilities would be prohibited in Industrial and Residential zoning districts because there is less traffic and visibility of boxes in those districts as compared to heavily traveled commercial corridors. The boxes would also be prohibited in the Central City District due to the fact that downtown commercial development standards (build to street edge, higher density/intensity development), would result in placement of boxes behind

buildings where visibility is low and potential nuisance activities (scavenging, dumping) could more easily occur without eyes on the box. Allowing these facilities in limited commercial locations and on the sites of schools and religious institutions, subject to AUP approval, would provide adequate opportunities for individuals to donate goods at various locations throughout the City.

Under the revised proposed regulations, Unattended Collection Boxes would be subject to AUP approval and specific performance standards. Staff believes that the AUP process is warranted to ensure that the facilities are placed in compliance with adopted performance standards; to maintain a record of approved facilities for record-keeping purposes; and to ensure ongoing compliance with maintenance requirements. Proposed performance standards are detailed in the attached draft ordinance (Attachment II) and include, but are not limited to:

- 1) Allowing placement of a facility only on sites with an existing primary commercial, educational, and religious facility use;
- 2) Minimum distance requirements of 2,500 linear feet between each facility located on a commercial site, unless a second one is permitted on a single site to accommodate overflow demand subject to amendment of the AUP. However, the minimum distance requirement would not apply to schools and faith-based institutions;
- 3) General maintenance requirements for the facility and surrounding area;
- 4) Orientation and placement requirements to ensure that facilities are safe and visible but do not obstruct pedestrian or vehicular traffic;
- 5) Provision of a maximum box size and height; and
- 6) Requirement that all existing Unattended Collection Boxes be removed or brought into conformance with the proposed standards within sixty days of adoption of the new zoning regulations. Applications will be processed on a first-come-first-served basis to determine the buffer zone restrictions.

Other proposed amendments that relate to general recycling facility regulations include an ordinance title change to make reference to recycling collection facilities in general; removal of signage regulations with the intent of including those regulations in the upcoming comprehensive amendment of Title 7, Sign Regulations; update of State Law references; and an increase in allowable distance between small collection facilities and residential uses from ten feet to 200 feet. Although this is a significant increase in minimum distance between uses, staff believes that it is warranted due to resident complaints related to noise from consolidation of glass, aluminum, and plastic beverage containers at existing small collection facilities. The proposed regulations would provide flexibility by allowing a reduction in the 200-foot separation with submittal of a noise study or installation of documented noise reducing equipment, upon establishment of a new facility or expansion of an existing facility.

As noted in Background above, the Planning Commission also recommended that the City Council consider adopting a reduced fee for non-profit organizations. Please see the Fiscal Impact section below for a recommended tiered fee structure.

*Proposed Revisions to Other Sections of the Hayward Municipal Code* – As shown in the attached draft ordinance (Attachment IV), staff also recommends that a reference to the new Unattended Collection Box regulations be added to HMC Section 5-7.20, Public Nuisance, to classify a

violation of the proposed regulations as a public nuisance. If deemed a public nuisance, Code Enforcement staff could rely on the Administrative Citation and Abatement Notice procedures set forth in the subject section to abate the nuisance. Code Enforcement Fees and Penalties for violations of Community Preservation and Zoning Ordinance violations are adopted by resolution and set forth in the Fee Schedule. The current penalty for a first violation is \$109, and if not corrected fee/penalty jumps to \$622, then \$722, then \$1,022. If there are subsequent violations within one year on the same site, there is another layer of higher fees. The proposed regulations would result in the fee/penalty being assessed on the responsible party that is identified as the owner and/or operator of the Unattended Collection Box (Attachment II).

If there is a desire to adopt different fees for Unattended Collection Boxes, a new program must be developed with justification for the proposed fees. Specifically, if there is a desire for higher fees, justification would be required to show that abatement of nuisances (i.e. trash pick-up, dumping, and graffiti removal) at sites with Unattended Collection Boxes justifies a higher fee than abating the same nuisance at a different location without an Unattended Collection Box. Staff believes that the current Community Preservation Program with adopted fees and penalties works to meet the City's needs, and does not recommend that a separate program be established solely for Unattended Collection Boxes.

*Text Amendment Findings for Approval* - In order for the Text Amendment to be approved, the following findings must be made. Staff provides reasons, including as recommended by the Planning Commission, why the findings can be made in the attached resolution (Attachment V).

- A. *Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.***
- B. *The proposed change is in conformance with all applicable, officially adopted policies and plans.***
- C. *Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.***
- D. *All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.***

*Environmental Impact Analysis.* The proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed project includes text amendments to regulate the placement of and to establish standards for small, Unattended Collection Boxes on previously developed sites. Thus, it can be seen with certainty that there is no possibility that the proposed project would have a significant effect on the environment.

## ECONOMIC IMPACT

The proposed regulations will have a beneficial economic impact in that box operators will be invested in the site and will reduce staff time spent on regulating the use. Specifically, regulating Unattended Collection Boxes will reduce the potential for persistent nuisance activities around those boxes because operators will be invested in the site and the City through the AUP process. The operators will maintain the site and box in order to protect their AUP permit thereby reducing the amount of Code Enforcement staff time spent on the topic. Further, regulating Unattended Collection Boxes will improve the streetscape and perceived economic vitality of the City by ensuring that the boxes are placed in an orderly, safe and consistent manner on a site.

## FISCAL IMPACT

Currently, the fee for an AUP is a \$2,000 deposit. However, recognizing that cost of a permit can be a hindrance to compliance, and after conducting an analysis to ensure full cost recovery, staff recommends that the City adopt an AUP application flat fee of \$1,300 for for-profit businesses, due to the fact that the facility will typically be ancillary to the primary use on the site. The fee, which would be assessed on a “per box” basis, would recover costs pertaining to preparation and distribution/mailing of public notices, application review for consistency with the adopted standards, and preparation of findings and conditions of approval.

To address the Commission’s recommendation for a reduced fee for non-profit organizations, staff recommends that the City Council structure the AUP fee to follow various tiers. Tiers would be adjusted to the base \$1,300-per-box application fee associated with for-profit entities, to include: 1) a reduced fee for non-profits, 2) a reduced fee for placement of a second box on a site; and 3) an incentive to participate in the City’s Mural Art Program for a reduced fee, as detailed below:

- 1) Reduced Fee for Non-Profit Institutions. According to the non-profit box operator, *Recycle for Change*, the average earning from a box ranges between \$400 and \$600 per box per year. Thus, the proposed cost of the for-profit provider permit at \$1,300 is roughly double the cost of earnings of the box on an annual basis. Recognizing that a high fee can be a burden for non-profit institutions and in accordance with the Commission’s recommendation, a non-profit fee of \$600 was added to the proposed fee schedule (to be roughly equal to a year’s worth of proceeds). An operator submitting an application under the reduced rate will be required to submit a copy of the 501(c)(3) status and a statement that the non-profit organization submitting the application will receive all proceeds from the box and will utilize them in their own operations. This will ensure that the reduced fee is utilized solely by non-profit institutions for non-profit activities.
- 2) Allow addition of a second box on the same property as minor modification of existing AUP, for a reduced fee. If an operator is in good standing with the city (i.e. no ongoing documented compliance or citation issues) and demonstrates that a second box is warranted at a location due to high volume of donated goods, allow a for-profit and non-profit service provider to apply for a second box as a minor amendment to the AUP without additional public noticing. Staff would review the proposed location, ensure that the second box would be placed in accordance with adopted regulations and update the findings, conditions and

site map administratively without additional public noticing. It is estimated that it would cost approximately \$600 to amend the AUP to include the second box (\$300 for non-profits).

- 3) Allow and incentivize participation in the City of Hayward Mural Art Program. Under this scenario, the operator would install a unique mural on the box and reduce the fee by the cost of participation in the mural program (\$500) plus \$150 to incentivize participation in the program. Thus, the revised fee would be \$650 or half of the normal full cost recovery fee. Installation of the mural could occur on three sides of the box (State law requires very specific signage be placed on the front) and would result in a unique look for each box.

Regardless of the fee set at this time, it is anticipated that future annual adjustments to fees may be needed in response to additional demands and costs that may arise after the implementation of the proposed regulations.

## **PUBLIC CONTACT**

On March 13, 2015, notice of the public hearing related to the proposed zoning text amendments was published in *The Daily Review*, and was posted at City Hall and the Hayward Public Library. On February 8, 2015, notices were mailed to all property owners within the zoning districts where Unattended Collections Boxes would be conditionally permitted.

On January 23, 2015 and February 24, 2015, Planning staff met with representatives from the Green Education Foundation and Recycle for Change, respectively, to discuss the proposed regulations. In addition, notice of the proposed regulations was provided to owners/vendors of existing recycling facilities and unattended donation boxes such as USAgain, Campus California, Recycle for Change, and the Green Education Foundation, as well as brick and mortar donation locations that accept donated salvageable goods throughout Hayward (i.e. Goodwill, Salvation Army, Eco Thrift, among others).

Following publication of the Planning Commission agenda, on February 10, 2015, West Properties submitted a letter in support of proposed regulations to govern unattended collection boxes (Attachment VIII). On February 18, 2015, USAgain submitted a letter suggesting revisions to the proposed regulations that they consider overly restrictive (Attachment IX). On March 9, 2015, Tenax Law Group, representing Recycle for Change, a non-profit unattended collection box provider, submitted a letter detailing its opposition to the zoning limitation, minimum separation requirements and proposed fees.

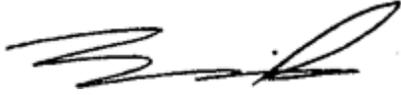
## **NEXT STEPS**

Should the Council adopt the attached two resolutions and introduce the attached three ordinances, staff will bring back the ordinances for adoption at the next City Council meeting. Once Council adopts the ordinances, staff will send out notices to all known unattended collection box operators informing them of the new regulations and licensing requirements, as well as the sixty-day timeframe from the effective date of the ordinance to comply with the regulations.

*Prepared by:* Leigha Schmidt, AICP, Senior Planner

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



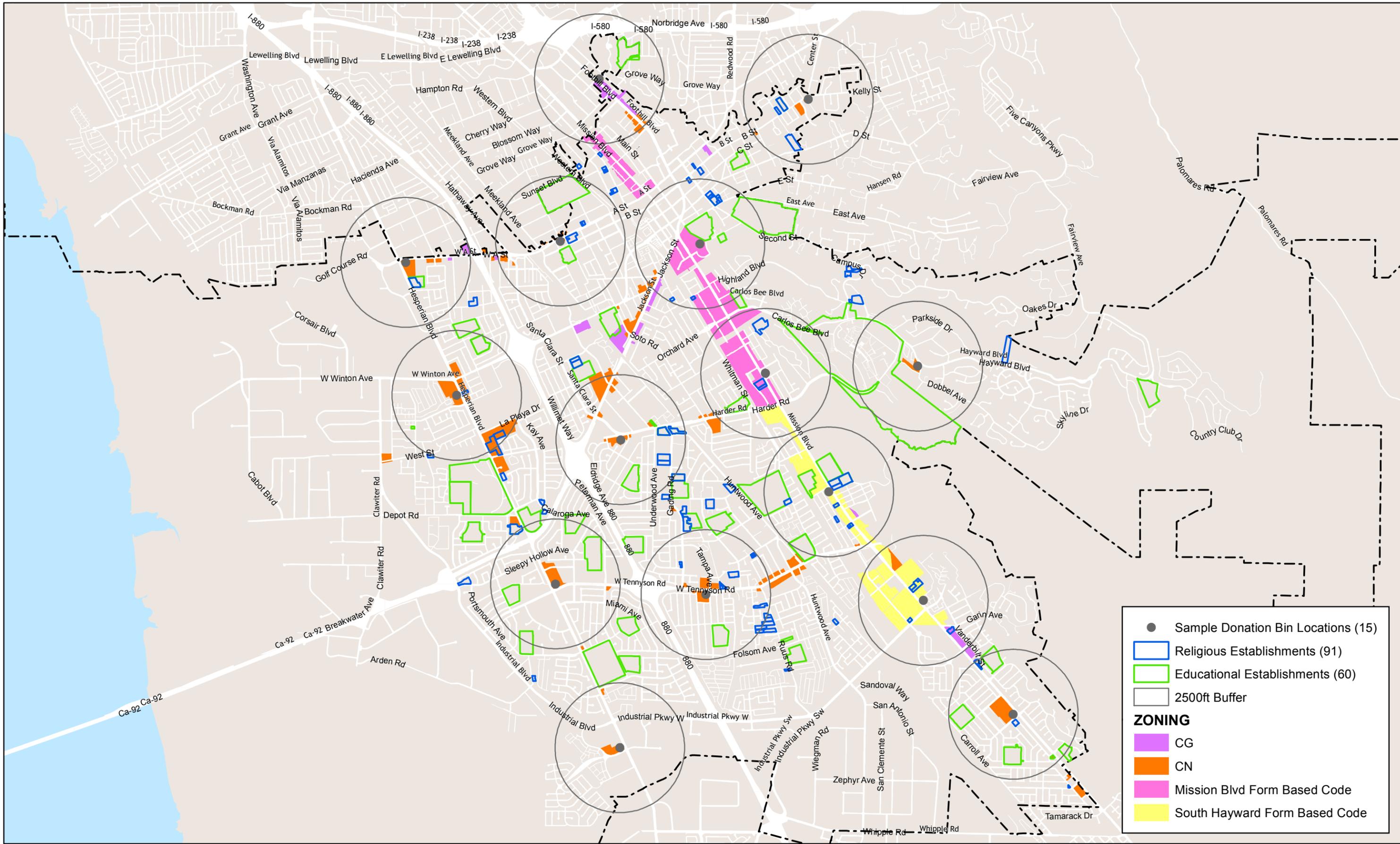
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Fran David, City Manager

Attachments:

- |                 |  |
|-----------------|--|
| Attachment I    | Allowed Locations with Buffers, and Educational and Faith-Based Establishments   |
| Attachment II   | Proposed Ordinance - Revisions to HMC Section 10-1.2735.i, Recycling Facilities for Redemption or Donation of Reusable Materials |
| Attachment III  | Proposed Ordinance - Revisions to HMC Section 10-1.3510, Uses and Activities Defined   |
| Attachment IV   | Proposed Ordinance - Revisions to HMC Section 5-7.20, Public Nuisance  |
| Attachment V    | Proposed Resolution – CEQA and Zoning Text Amendment Findings  |
| Attachment VI   | Proposed Resolution - Revisions to the Master Fee Schedule   |
| Attachment VII  | Draft Planning Commission Minutes, February 19, 2015   |
| Attachment VIII | February 10, 2015 letter from West Properties  |
| Attachment IX   | February 18, 2015 letter with attachment from USAgain  |
| Attachment X    | March 9, 2015 letter from Tenax Law Group  |

# Sample Donation Bin Locations with 2500ft Buffers



- Sample Donation Bin Locations (15)
- Religious Establishments (91)
- Educational Establishments (60)
- 2500ft Buffer

**ZONING**

- CG
- CN
- Mission Blvd Form Based Code
- South Hayward Form Based Code

ORDINANCE NO.

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE  
CHAPTER 10, ARTICLE 1, ZONING ORDINANCE, RELATED  
TO RECYCLING FACILITIES FOR REDEMPTION OR  
DONATION OF REUABLE MATERIALS TO INCLUDE  
REGULATIONS FOR UNATTENDED COLLECTION BOXES

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

Section 1. The City Council incorporates by reference the findings contained in  
Resolution, \_\_\_\_\_ approving the text changes requested in Zoning Text Amendment  
Application 2015-00056.

Section 2. Zoning Ordinance Section 10-1.2735.i, Recycling Facilities for Redemption or  
Donation of Reusable Materials, is hereby amended to add to certain text (as indicated by  
underline) and delete certain provisions (as indicated by strikethrough), related to recycling  
facilities and Unattended Collection Boxes, introduced herewith and as specifically shown in this  
ordinance.

Section 3. Severance. Should any part of this ordinance be declared by a final decision  
by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the  
authority of the City, such decision shall not affect the validity of the remainder of this ordinance,  
which shall continue in full force and effect, provided that the remainder of the ordinance, absent  
the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City  
Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this  
ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,  
held the \_\_\_\_\_ day of \_\_\_\_\_, 2015 by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held  
the \_\_\_\_ day of \_\_\_\_\_, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

## **SEC. 10-1.2700 GENERAL REGULATIONS**

Sections:

Section 10-1.2705	Purpose.
Section 10-1.2710	Certain Uses Not Permitted.
Section 10-1.2715	Certain Uses Permitted.
Section 10-1.2720	Special Lot Requirements.
Section 10-1.2725	Special Yard Requirements.
Section 10-1.2730	Special Height Limit Requirements.
Section 10-1.2735	Special Standards and Conditions for Certain Uses.

### **SEC. 10-1.2705 PURPOSE.**

These general regulations apply to all districts and to all uses permitted in the districts. The provisions are intended to amplify and to supplement district regulations. In the event of conflict with the specific district regulations, whichever regulations are more restrictive shall apply, unless otherwise determined by the Planning Director.

### **SEC. 10-1.2710 CERTAIN USES NOT PERMITTED.**

**Cemeteries.** The use of property for cemeteries, memorial parks, mausoleums, columbariums, or other places for the burial or other deposit of human dead is not such a use as is permitted under the provisions of this ordinance, provided, however, that any property which on March 24, 1959 was being used or held for use for any one or more of the purposes mentioned herein, or any property annexed to the City of Hayward subsequent to said date, which at the date of annexation, is being used or held for use for any one or more of such purposes, may be continued to be used for such purposes. Crematoriums are permitted only as stipulated above or associated directly with mortuaries.

### **SEC. 10-1.2715 CERTAIN USES PERMITTED.**

#### a. **Governmental Agencies and Public Utilities.**

The provisions hereof shall not apply to towers, poles, lines, pipelines, canals and similar distribution and transmission facilities maintained by a governmental agency, or by a public utility in accordance with applicable regulations of the Public Utilities Commission of the State of California within rights-of-way, easements, franchises, or ownerships of such governmental agencies or public utilities, with the exception of cellular telephone transmission towers which shall comply with the provisions of Chapter 10, Article 13 of the Hayward Municipal Code.

#### b. **Telecommunication Facilities.**

Telecommunications facilities are allowed subject to the requirements of this ordinance and those contained in Chapter 10, Article 13 of the Hayward Municipal Code.

c. **Temporary Construction Facilities.**

The use of land for offices, sheds, construction trailers, sleeping quarters for security personal, structures and storage in connection with ongoing construction work for commercial, industrial and multi-family residential development, and single-family subdivisions may be used as approved by the Planning Director.

d. **Temporary Use.**

A “Temporary Use” may be permitted in specified zoning districts, subject to a 12-month maximum time limit, and subject to issuance of an Administrative Use Permit. Two one-year extensions may be considered, subject to Planning Director approval and applicable notification procedures.

**SEC. 10-1.2720 SPECIAL LOT REQUIREMENTS.**

No parcel of land shall hereafter be reduced or divided so as to provide less than the minimum lot size or dimensions required in the district in which such land is situated unless otherwise authorized by provisions of this ordinance and/or the Subdivision Regulations.

a. **Minimum Lot Frontage.**

Except as provided herein, each lot shall have a minimum frontage of 35 feet.

b. **Lot Frontage Exception for Flag Lot(s).**

In the case of a flag lot(s) that has been approved in accordance with the provisions of the Chapter 10, Article 3, of the Hayward Municipal Code (Subdivision Ordinance), minimum frontage requirements may be reduced as follows:

- (1) Frontage for one lot shall be 22 feet, with access via a 16-foot-wide strip of land that provides for a 12-foot-wide paved travelway;
- (2) Frontage for two or more lots shall be 28 feet, with access via a 24-foot-wide strip of land that provides for an 18-foot-wide paved travelway.
- (3) As determined by the Planning Director or other approval authority, where feasible, adjoining flag lots may share a common access so long as the above standards are met.
- (4) The use of a flag lot(s) should generally be avoided where other lot designs are possible and they should not be used solely to increase the maximum number of lots. See City Standard Detail #SD-109 and Design Guidelines for additional flag lot criteria.

c. **Lot Size Exception for Certain Substandard Lots.**

Any lot or parcel less than the minimum lot size or dimensions required may nevertheless be used as a building site if the lot or parcel was shown of record by the County Recorder as a lawfully created separate lot or parcel on the date the lot became substandard. In addition, either of the following circumstances must exist:

- (1) The lot or parcel is not less than 80 percent of the size and average lot width requirements of the zoning district; or
- (2) The lot or parcel is less than 80 percent of the size and average lot width requirements of the zoning district and there was no land abutting the lot or parcel under the same ownership on the date the lot became substandard.

d. **Lot Size Exception for Lots made Substandard by Official Plan Line.**

Any lot or parcel made sub-standard in size or average lot width by an official plan line shall be deemed to comply with minimum requirements of area or average lot width required herein.

e. **Lot Size Exception for Lots made Substandard by Rezonings from Agricultural District to Agricultural Combining Districts.**

Any lot or parcel made substandard in size or average lot width by a rezoning from an A (Agricultural) District to an AB (Agricultural Combining) District shall be deemed to comply with minimum requirements of area or average lot width required herein.

**SEC. 10-1.2725 SPECIAL YARD REQUIREMENTS.**

Except as herein provided, every required yard shall be open and unobstructed and shall not be reduced or diminished in area so as to be smaller than prescribed by this ordinance. All uses shall be conducted indoors unless a use permit for outside storage has been approved.

a. **Yards Measured from Official Plan Line.**

Wherever an official plan line has been established for any street or future right-of-way, required yards shall be measured from such line.

b. **Yard Calculations.**

Open area required for one building, lot, or use shall not be calculated as required open area or yard for any other building, lot or use. Except where part of an approved development plan, or authorized by other regulation herein or the Planning Director, no structure shall be located in a required yard area.

c. **Yards on Dual Frontage Lots.**

Where the front and rear of a lot both have street frontage on approximately parallel streets, no above-ground structure shall be located closer to either street than the distance constituting the required front yard, except on those parcels where street access is restricted by regulations of a public authority, in which case building additions (not accessory structures) may be located within the yard where street access is restricted subject to requirements for rear yards.

d. **Yard Exceptions - Garages on Slopes.**

- (1) Wherever the difference in elevation exceeds 5 feet between the front yard setback line and:
  - (a) the elevation of the existing or planned street grade, or

(b) the elevation at the rear line of a front yard,

Or:

- (2) Wherever the difference in elevation exceeds 2½ feet between the side street property line and the rear line of a side street yard,

Then, the horizontal distance from any garage or parking space in no case shall be less than 5 feet from the property line or an official plan line. This exception shall not apply on those streets where no on-street parking is permitted along the lot frontage unless a minimum of 2 additional spaces are provided on site in conformance with all required yard and design requirements.

e. **Yard Exceptions - Overhangs, Stairways, Chimneys, Open Porches and Architectural Features.**

Architectural features such as cornices, eaves, open porches, bay windows, and canopies may extend 2 feet into any required side yard and may extend 5 feet into any required front or rear yard. Chimneys, media niches combined with chimneys (which shall not exceed 10 feet in width), landing places, or outside open stairways may project 3 feet into any required yard.

f. **Yard Exceptions - Vision Clearance.**

On a lot situated at the intersection of two or more streets, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to be in violation of Ordinance No. 100 C.S., as amended, Hayward Traffic Code, Sections 9.01 through 9.05, relating to Obstructions to Visibility at Intersections Prohibited, as the same are now in effect or which may hereafter be amended or replaced.

g. **Yard Exceptions - Fences, Hedges, Walls.**

**Fence Height.**

- (a) In all OS, A, FP, RNP, and RS Districts, fences, hedges, and walls may be constructed to a height of 6 feet in any side or rear yard, and to a height of 4 feet in any portion of a front or side street yard, except that where the rear or side yard is contiguous to commercially or industrially developed or zoned land, freeway, flood control channel, parking lot or arterial street, a maximum 8-foot-high fence or wall may be permitted. For the RS District, an 8-foot-high fence or wall may be permitted adjacent to any non-residential zoning District.
- (b) Fences, hedges, and walls on through lots shall be limited to a height of 4 feet in any portion of the front yards unless determined by the Planning Director that up to a height of 6 feet across a front property line acting as a rear property line would not compromise the safety of motorists and pedestrians nor the aesthetic value of the streetscape.
- (c) Fences or walls required to surround and enclose public utility installations are not limited as to height in any district.
- (d) In all multi-family, commercial, or central city districts, no fence or wall shall be located in any required front or side street yard except as part of an approved development plan or if approved by the Planning Director.

h. **Yard Exceptions - Accessory Buildings and Uses.**

- (1) In conjunction with single-family development located on parcels zoned for same, and in zoning districts where single-family homes are permitted:
  - (a) Accessory buildings not used for parking and not exceeding 14 feet in height and 120 square feet in area and detached from the main buildings, when located in area other than the required front yard (i.e., in side or rear yard area), shall be placed no closer than 3 feet from the side and rear property lines.
  - (b) Accessory buildings or carports exceeding 120 square feet in area or open parking spaces shall be located no closer than 5 feet from the side and rear property lines.
  - (c) Accessory building(s), garage(s), and one-story home additions may not cumulatively occupy more than 40 percent lot coverage of a required rear yard.
- (2) For legal, conforming residences in other districts, setbacks for accessory buildings when located between the rear of the main building and the rear lot line may be placed 5 feet from the side and rear property lines or within the building envelope; and when located between primary structures and the right-of-way, all front and side yard setbacks shall be met.
- (3) For other zoning districts where residential uses are permitted, carports in conjunction with multi-family development may be placed 5 feet from rear and side property lines when there would be no negative visual or noise impact on the adjacent use, as determined by the Planning Director.

i. **Yard Exceptions - Narrow Lots.**

A required side yard may be reduced to 3 feet adjacent to an access driveway installed in conjunction with a multi-family development where the parcel is less than 51 feet in width.

j. **Special Yards - Structures on Same Lot.**

In R, A, and CO Districts, no primary structure shall be located less than 10 feet from another primary structure nor located less than 8 feet from an accessory structure, except that an accessory structure may be 6 feet from a single-family dwelling.

k. **Special Yards - Lots with Approved Private or Easement Access.**

The required minimum yards for a lot which has indirect access via an approved private access or an easement to a public street shall be the same as that required for a lot which has direct access onto a public street.

l. **Special Yards - One-Story Additions, Single-Family Dwellings.**

Reduction of the rear yard to 10 feet for one-story additions to single-family dwellings is permitted provided the required rear yard is not reduced by more than 20 percent and provided the cumulative coverage of the required rear yard does not exceed 40 percent.

m. **Special Yards - Flag Poles, Towers, Antennas, Satellite Earth Stations.**

- (1) Flag poles less than 25 feet in height which display the American flag and permitted commercial flags, may be located in any yard of any district but in no case shall they be located closer than 5 feet to a property line.

- (2) Radio and television antennas and other wireless telecommunications facilities shall comply with the requirements of this ordinance and Chapter 10, Article 13 of the Hayward Municipal Code.
- n. **Special Yards - Swimming Pools, Hot Tubs, Spas.**  
In any R, residential PD, A, or CO District, swimming pools, hot tubs, and spas may be located in any yard other than the required front or side street yard, provided that no wall line of a pool shall be closer than 5 feet from any property line.
- o. **Special Yards - Decks.**  
In conjunction with a single-family dwelling in any R District:
- (1) Decks less than 30 inches in height may be located in any rear or side yard but no closer than three feet to the rear or side property line.
  - (2) Decks located in the front or side street yards shall not exceed 12 inches in height unless approved by the Planning Director or other approval authority.
  - (3) Decks 30 inches or more shall conform to normal yard requirements.
- p. **Special Yards – Handicap Accessibility.**  
Ramps shall meet setback requirements of each zoning district. Exceptions shall be made for reasonable accommodation where no practical alternative exists and where building/fire code requirements are met.
- q. **Front Yards - Driveway Width and Coverage.**
- (1) Driveway width, regardless of the number of driveways, shall not exceed 20 feet in front of the garage, except for 3-car garages where the width shall not exceed 26 feet. In addition, for access to a recreational vehicle storage area adjacent to a dwelling, a maximum 10-foot-wide driveway may be located on the opposite side of the lot from the garage, and outside the required side yard.
  - (2) For lots 70 or more feet in width, the Planning Director may approve a greater driveway width if the Planning Director determines the design of the driveway is aesthetically pleasing and compatible with the lot terrain and adjacent development, and will not create a pedestrian or vehicular hazard. For single-family homes, the total paved surface for vehicle parking, storage, and access in required front yard shall not exceed 50 percent.
  - (3) For single-family homes, a curved driveway (“Hollywood driveway”) is permitted on lots that are 100 feet or more in width, and where item #(2) above is met.

### **SEC. 10-1.2730 SPECIAL HEIGHT REQUIREMENTS.**

- a. **Height - Airport.**  
Height provisions of airport or air approach regulations shall govern when in conflict herewith or in absence of provisions for such height regulation herein.
- b. **Height - Exceptions.**
- (1) Chimneys, cupolas, flagpoles, elevator shafts, radio and television towers, wind machines, and similar mechanical or architectural appurtenances, if attached to a building shall not exceed a height of 15 feet unless authorized by the Planning

Director or other approval authority for two-story dwellings or dwellings located on hillsides. If not attached to a building, they shall not exceed 25 feet in height unless authorized by the Planning Director or other approval authority.

- (2) Church steeples may be exempted from the height requirements as long as the steeples are in scale with the design of the church/religious facility and surroundings, as determined by the Planning Director or other approval authority.

c. **Height - Accessory Building.**

Unless otherwise specified in the District Regulations, an accessory building shall not exceed one story in height

**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.

d. **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.

e. **Livestock 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 greater 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 5,000 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 40,000 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. 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. Once a use permit is granted for a maximum number of livestock, that number of livestock may be permitted indefinitely even if fewer animals are kept on the site as long as there is at least one livestock continuously, i.e., where there has not been a total absence of livestock for six months or longer.

(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 200 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. 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.

(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. 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. 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.

(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.
- (9) Livestock as a Legal, Nonconforming Use.  
Livestock existing as a legal, nonconforming use may continue indefinitely as long as (a) 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.

**f. 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 be of a design which utilizes offsets and recesses in the exterior walls, similar to conventionally constructed housing, and 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 City of Hayward Design Guidelines and Hillside Design and Urban/Wildland Interface Guidelines.

**g. 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 Ldn 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 Ldn 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.

**h. 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.

i. **~~Recycling Facilities for Redemption or Donation of Reusable Materials and Unattended Collection Boxes and Recycling Collection Facilities.~~**

(1) Purpose and Intent

- (a) The purpose of ~~this~~ 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.

(42) Definitions.

- (a) **Recyclable Material:** 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(b)(4) et. seq. of the California Health and Safety Code, as amended from time to time.
- (b) **Recycling Facility:** A center for the collection and/or processing of recyclable materials. A certified recycling facility or certified processor 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 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. Recycling facilities may include the following:
- (i) **Collection Facility:** A center for the acceptance by donation, redemption, or purchase of recyclable material 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;
      - cc. Kiosk-type units which may include permanent structures;
      - dd. Unattended containers placed for the donation of recyclable materials.
    - 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 material. 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.
- (vi) Responsible Party: The responsible party referred to in sub-section c. of this article shall be the owner and/or operator of Unattended Collection Box.
- (v) Unattended Collection Boxes: Any unattended 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 donation box located within a building.

(23) 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 collection facilities located in commercial or industrial areas 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 ~~10~~ 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 follows prescribed in Chapter 10, Article 7, Sign Regulations, of the Hayward Municipal Code;
  - ~~aa. Recycling facilities may have identification signs with a maximum of 20 percent per side or 16 square feet, whichever is larger, in addition to informational signs required in Section (xii) above; in the case of a wheeled facility, the side will be measured from the pavement to the top of the container;~~
  - ~~bb. Directional signs, bearing no advertising message, may be installed with the approval of the Planning Director if necessary to facilitate traffic circulation, or if the facility is not visible from the public right-of-way as determined by the Planning Director;~~
  - ~~cc. The Planning Director may authorize increases in the number and size of signs upon finding that it is compatible with adjacent businesses;~~
- (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:

<u>No of Available Parking Spaces</u>	<u>Maximum Reduction</u>
0-25	0
26-35	2
36-49	3
59-99	4
100+	5

(c) Unattended Collection Boxes. An administrative use permit is required prior to placement of an individual unattended collection box on a site located along a major arterial as defined in the City’s General Plan, and 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.

The unattended collection box shall be placed on a site with an existing primary commercial, non-profit or religious facility use which is in compliance with zoning, building and fire code of the City of Hayward.

Unattended collection boxes are prohibited in all other zoning districts, unless located on the site of an educational or faith-based facility.

- (i) Approval of an administrative use permit for such facility shall be subject to the findings set forth in Section 10-1.3125, and the following requirements and standards:
- (ii) Unattended collection boxes shall be maintained in good condition and appearance with no structural damage, holes or visible rust and shall be free of graffiti.
- (iii) Notwithstanding subsection ix below, unattended collection boxes shall be a minimum distance of 2,500 feet from any other permitted unattended collection box, unless located on the site of an educational or faith-based institution.
- (iv) The responsible party shall maintain or cause to be maintained a minimum of ten 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.
- (v) 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 ten 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.
- (vi) Unattended collection boxes shall contain the following information in two-inch font visible from the front of each facility: the name, address, email address and phone number of the person(s) responsible for maintaining the unattended collection box, and the type of material to be deposited.
  - (vii) Unattended collection boxes shall be locked or otherwise secured.
  - (viii) Unattended collection boxes shall not exceed 25 square feet in size, and shall not be taller than seven feet in height, unless otherwise permitted through the AUP process.
  - (ix) 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 install a second box at a single location if the operator at the site demonstrates that daily collection from the permitted unattended collection box fails to provide adequate storage capacity and amends the administrative use permit accordingly.
  - (x) Unattended collection boxes shall not obstruct pedestrian or vehicular circulation and shall not be placed in required parking spaces, required landscaping, setbacks or the public right-of-way as defined in Chapter 10 of the Hayward Municipal Code.
  - (xi) Unattended collection boxes shall be visible from the public right-of way and located in a well-lit area.
  - (xii) Unattended collection boxes shall be free of any advertising which is unrelated to the business of the operator of the unattended collection box.
  - (xiii) Unattended collection boxes shall remain in the exact location for which a permit was issued and shall not be moved unless the box is removed from the property or replaced with an identical box in the same location.
- d. Removal of Unattended Collection Boxes and Liability. Upon discovering the existence of 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.
  - e. Implementation. The provisions of this section apply to all unattended collection boxes located within the City of Hayward as of the effective date of this ordinance, or that are proposed after the effective date of this ordinance.
    - i. All property owners of parcels on which unattended collection boxes exist as of the effective date of this Ordinance shall have sixty (60) days from that date to file a permit application as required by this chapter.

- ii. 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.

j. **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 6 foot-high 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.

ORDINANCE NO.

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE  
SECTION 10-1.3510 *ET SEQ.*, ZONING ORDINANCE USES  
AND ACTIVITIES DEFINED, RELATED TO UNATTENDED  
COLLECTION BOXES

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

Section 1. The City Council incorporates by reference the findings contained in  
Resolution, \_\_\_\_\_ approving the text changes requested in Zoning Text Amendment  
Application 2015-00056.

Section 2. Zoning Ordinance Section 10-1.3510, Uses and Activities Defined, is hereby  
amended to add a text reference to Unattended Collection Boxes in its unique location in  
alphabetical order within the section, to conform to the City’s standards and regulations governing  
Unattended Collection Boxes introduced herewith.

UNATTENDED COLLECTION BOXES. Any unattended 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. See General Regulations Section 10.1-2735.i.  
“Recycling Facilities” for specific regulations.

Section 3. Severance. Should any part of this ordinance be declared by a final decision  
by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the  
authority of the City, such decision shall not affect the validity of the remainder of this ordinance,  
which shall continue in full force and effect, provided that the remainder of the ordinance, absent  
the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City  
Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this  
ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,  
held the \_\_\_\_\_ day of \_\_\_\_\_, 2015 by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held  
the \_\_\_\_ day of \_\_\_\_\_, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE  
SECTION 5-7.20 *ET SEQ.*, PUBLIC NUISANCES, TO  
REFERENCE NEW ZONING REGULATIONS RELATED TO  
UNATTENDED COLLECTION BOXES

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

Section 1. The City Council incorporates by reference the findings contained in Resolution, \_\_\_\_\_ approving the text changes requested in Zoning Text Amendment Application 2015-00056.

Section 2. Chapter 5, Sanitation and Health, Article 7, Community Preservation and Improvement, Section 5-7.20, Public Nuisance, is hereby amended to add new subsection 5-7.20x related to Unattended Collection Boxes as follows:

- x. Any structure or condition in violation of Section 10-1.2735.i, of this code (Recycling Facilities and Recycling Collection Facilities).

Section 3. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward,  
held the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the\_ day of \_\_\_\_\_, 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO 15-

Introduced by Council Member \_\_\_\_\_

RESOLUTION ADOPTING FINDINGS SUPPORTING  
AMENDMENTS TO THE CITY OF HAYWARD MUNICIPAL CODE  
ESTABLISHING REGULATIONS FOR UNATTENDED  
COLLECTION BOXES AND AMENDING REGULATIONS RELATED  
TO RECYCLING COLLECTION FACILITIES

WHEREAS, at the direction of the City Council, staff prepared amendments to the City’s Municipal Code to establish regulations related to the placement, maintenance and enforcement of regulations related to Unattended Collection Boxes in conjunction with minor updates to recycling collection facility regulations and amendment to the Master Fee Schedule to implement the proposed regulatory framework (the “Project”); and

WHEREAS, the proposed project is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed project includes municipal code text amendments to regulate the placement of and to establish standards for small, unattended donation boxes on previously developed sites. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on February 19, 2015, and where the motion passed (5-0-2), that the City Council approve the proposed text amendments (Application No. 2015-00056), including the establishment of regulations governing Unattended Collection Boxes and minor amendments to Recycling Collection Facilities (Section 10-1.2735 *et seq.* of the Hayward Municipal Code), inclusion of the definition of Unattended Collection Boxes in the Zoning Ordinance (Section 10-1.3510 *et seq.* of the Hayward Municipal Code) and reference to the new Unattended Collection Box regulations within the Sanitation and Health chapter (Section 5-7.00 *et seq.*); and

WHEREAS, an amendment to the City of Hayward Fiscal Year 2015/2016 Master Fee Schedule is proposed to offset costs to the City from the implementation of the proposed regulations; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on March 24, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. The proposed project is exempt from CEQA under Section 15061(b)(3), as an activity that is covered by the general rule that CEQA in that the proposed zoning text amendments would not have the potential for causing a significant effect on the environment.

AMENDMENTS TO THE MUNICIPAL CODE RELATED TO UNATTENDED COLLECTION BOXES AND RECYCLING COLLECTION FACILITIES (REFERRED TO AS THE "TEXT AMENDMENTS")

- A. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward.**

The placement of Unattended Collection Boxes in a variety of conveniently accessible locations including commercial educational and faith-based institutions throughout the City would encourage individuals to recycle textile goods rather than placing those items in the waste stream. The proposed text amendments will promote the public health, safety, convenience, and general welfare of the residents of Hayward by amending the Zoning Ordinance to provide a separate purpose, definitions, process and standards whereby Unattended Collection Boxes could be permitted and regulated at appropriate locations throughout the City; establishing performance standards that would apply to all new and existing Unattended Collection Boxes to ensure that the boxes are located and maintained in a manner so as not to constitute a public nuisance; and, establishing enforcement provisions for Unattended Collection Boxes found to be in violation of the regulations. Other amendments to the recycling regulations would reduce potential noise impacts related to recycling collection facilities on residential uses thereby benefitting the health and safety of Hayward residents.

- B. The proposed change is in conformance with all applicable, officially adopted policies and plans.**

Recognizing that Unattended Collection Boxes are targets for public nuisances such as graffiti, litter, scavenging and unwanted dumping, their unregulated presence degrades the image and perceived safety of the City. Regulation of these facilities is consistent with the intent of HMC Chapter 5, Article 7, Community Preservation and Improvement, as well as City of Hayward General Plan Land Use Goal 4, related to improvement of commercial corridors. The proposed regulations would allow Unattended Collection Boxes, which offer a convenient location for recycling of salvageable goods, in limited numbers along major arterials, and on educational and faith-based institutions, subject to specific performance standards. The standards will ensure that the Unattended Collection Boxes blend in with surrounding primary uses without compromising safety or reducing required parking and landscaped areas. Further, the proposed text amendments will ensure that the City has a

mechanism to enforce the proposed regulations as a public nuisance if the facilities are not maintained.

**C. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified.**

No properties are proposed to be reclassified. Rather, the proposed text amendments would facilitate the limited placement of Unattended Collection Boxes in conjunction with allowable primary uses, subject to specific performance standards.

**D. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations.**

No properties are proposed to be reclassified. The proposed text amendments would facilitate the limited placement of Unattended Collection Boxes in conjunction with allowable primary commercial, educational and faith-based uses, subject to specific performance standards. The proposed regulations will result in a beneficial effect in that they will ensure that the Unattended Collection Boxes blend in with surrounding primary uses without compromising safety or reducing required parking and landscaped areas. Further, the proposed text amendments will ensure that the City has a mechanism to enforce the proposed regulations as a public nuisance if the facilities are not maintained.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the findings in support of Text Amendment Application No. 2015-00056, subject to the adoption of the companion ordinances.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_

City Clerk of the City of Hayward

Page 3 of Resolution No.

APPROVED AS TO FORM:

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City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO 15-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AMENDING THE CITY OF HAYWARD FISCAL YEAR 2015  
MASTER FEE SCHEDULE ASSOCIATED WITH AMENDMENTS TO THE CITY  
OF HAYWARD MUNICIPAL CODE TO PROVIDE REGULATIONS FOR  
UNATTENDED COLLECTION BOXES

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or,
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by city Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions.

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The proposed amendment to the Master Fee Schedule (MFS) to set an Administrative Use Permit fee for processing of permits related to Unattended Collection Boxes is considered a Planning Permit fee pursuant to Exception 1 for Fees for Benefits and Privileges, Article XIII C, § 1(e)(1) of Proposition 26.

WHEREAS, the City's goal is to achieve cost recovery associated with the permitting and public noticing process related Unattended Collection Boxes. Recognizing that the proposed boxes will be ancillary to the primary use on the site, reduced Administrative Use Permit (AUP) and AUP amendment fees shall be established on a per box basis for for-profit operators.

WHEREAS, the City recognizes that a high permit fee can be a burden for bona fide non-profit institutions and in accordance with the Planning Commission recommendation shall establish a reduced fee for non-profit operators. Non-profit organizations that submit a copy of a current 501(c)(3), and a statement that the organization submitting the application will receive all proceeds from the box shall submit a reduced fee of approximately half of the standard for-profit fee.

WHEREAS, the City's Mural Art Program works in partnership with communities, youth and artists to create murals throughout the City to support cleanliness, blight elimination, beautification and the promotion of civic pride. The City believes that installation of murals on Unattended Collection Boxes to the extent permitted by State law would provide a unique and positive addition to commercial corridors where the boxes would be conditionally permitted. Therefore, the City supports implementation of a reduced fee for participation in the Mural Art Program on a box by box basis.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby adopts certain changes in the Master Fee Schedule, as reflected in Attachment A.

BE IT RESOLVED that this resolution shall become effective on the date that the last of the three companion ordinances (Ordinances No. 15- , No. 15- , and No. 15- ) becomes effective.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_

City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

## Attachment A

<b>B PLANNING</b>		
<b>1. Pre-Application Meeting<sub>1</sub></b> (includes Fire Dept. fee) No Charge	No Charge	
<b>2. Code Assistance Meeting <sub>1</sub></b> (payable with Fire Dept. fee)	No Charge	
<b>3. Annexation Proceedings</b> Costs shall also include, but not be limited to, current annexation filing fees established by the Board of Equalization in manner provided by the State Government Code Section 54902.5.	\$15,000	Time & Material; Initial Deposit*
<b>4. LAFCO Utility Service Agreement</b> (Preparation and processing of documents in connection with utility service to property outside of the City limits)	\$5,000	Time & Material; Initial Deposit*
<b>5. Environmental/Technical Analysis (Contract) Consultant</b>	\$5,000	Time & Material; Initial Deposit*
<b>6. General Plan Amendment<sub>1</sub></b>	\$12,000	Time & Material; Initial Deposit*
<b>7. Text Change to Zoning Ordinance<sub>1</sub></b>	\$12,000	Time & Material; Initial Deposit*
<b>8. Rezoning and Prezoning (Including New or Major Modification to a Planned Development)<sub>1</sub></b>	\$12,000	Time & Material; Initial Deposit*
<b>9. Rezoning (Planned Development Precise Plan or Preliminary Plan Minor Modification)</b>	\$6,000	Time & Material; Initial Deposit*
<b>10. Conditional Use Permit<sub>1</sub></b>	\$6,000	Time & Material; Initial Deposit*
<b>11. Administrative Use Permits</b>		
<b>a Chickens</b>	\$500	Per Application
<b>b Food Vendors</b>	\$700	Per Application
<b>c Unattended Collection Box</b>		
<b>1 First Box – For Profit Operator</b>	<b>\$1,300</b>	<b>Per Box</b>
<b>2 Second Box on Same Site – For-Profit Operator</b>	<b>\$600</b>	<b>Per Box</b>

Page 3 of Resolution No.

3	First Box – Non-Profit Operator <sup>2</sup>	\$600	Per Box
4	Second Box on Same Site – Non-Profit Operator <sup>2</sup>	\$300	Per Box
5	Unattended Collection Box (participating in Mural Art Program)	\$650	Per Box
<b>de</b>	<b>Processed Administratively</b>	\$2,000	Time & Material; Initial Deposit*
<b>ed</b>	<b>Involve Public Hearing</b>	\$6,000	Time & Material; Initial Deposit*
<b>12. Site Plan Review<sub>1</sub></b>			
<b>a</b>	<b>Processed Administratively</b>	\$2,000	Time & Material; Initial Deposit*
<b>b</b>	<b>Involving Public Hearing</b>	\$6,000	Time & Material; Initial Deposit*
<b>13.</b>	<b>Variance/Warrants - Processed Administratively</b>	\$2,000	Time & Material; Initial Deposit*
<b>14.</b>	<b>Variance/Warrants &amp; Exceptions – Involving Public Hearing</b>	\$6,000	Time & Material; Initial Deposit*
<b>15.</b>	<b>Modification of Approved Development Plan – Processed Administratively</b>	\$2,000	Time & Material; Initial Deposit*
<b>16.</b>	<b>Modification of Approved Development Plan – Involving Public Hearing</b>	\$6,000	Time & Material; Initial Deposit*
<b>17.</b>	<b>Extension of Approved Development Plan/Applications</b>	\$1,000	Time & Material; Initial Deposit*
<b>18.</b>	<b>Designation of Historical or Architectural Significance<sub>1</sub></b>	\$6,000	Time & Material; Initial Deposit*
<b>19. Development Agreement</b>			
<b>a</b>	Review of application, negotiation of agreements, processing through Planning Commission and City Council	\$12,000	Time & Material; Initial Deposit*
<b>b</b>	Amendment Processing	\$6,000	Time & Material; Initial Deposit*
<b>c</b>	Annual Review	\$1,000	Time & Material; Initial Deposit*
<b>20.</b>	<b>Written Verification of Zoning Designation or Similar Request</b>	\$500	Per Application

<b>21. Research</b>	\$216 plus \$41	per hour after first 15 minutes
<b>22. Sign Permits</b>		
<b>a</b> Sign Permit (one business)	\$300	
<b>b</b> Sign Permit (each additional business – same application)	\$250	
<b>23. Sign Program</b>	\$1,500	
<b>24. Appeal Fee for Applicant</b>	\$6,000	Time & Material; Initial Deposit*
<b>25. Appeal Fee Other Than Applicant</b>	\$250	
<b>26. Tentative Tract or Tentative Parcel Map</b>		
<b>a</b> Processed Administratively	\$4,000	Time & Material; Initial Deposit*
<b>b</b> Involving Public Hearing	\$6,000	Time & Material; Initial Deposit*
<b>27. Final Parcel Map</b>	\$2,000	Time & Material; Initial Deposit*
<b>28. Final Tract Map</b>	\$6,000	Time & Material; Initial Deposit*
<b>29. Lot Line Adjustment</b>	\$4,000	Time & Material; Initial Deposit*
<b>30. Certificate of Merger or Certificate of Compliance</b>	\$4,000	Time & Material; Initial Deposit*
<b>31. Grading Permit Application</b>	\$4,000	Time & Material; Initial Deposit*
<b>32. Security Gate Application</b>	\$2,000	
<b>33. Encroachment Permit – Street Events</b>	\$1,500	
The City Manager may reduce or waive this fee for certain events. ( <i>See Fee Reduction, Waiver, and Sponsorship for Special Events Policy</i> )		
<b>34. Encroachment Permit Application – Major Work</b>	\$4,000	Time & Material; Initial Deposit*

Page 5 of Resolution No.

<b>35. Encroachment Permit Application – Minor Work</b>	\$2,000	Time & Material; Initial Deposit*
<b>36. Food Sharing Event</b>	No charge	
<b>37. Tree Preservation:</b>		
<b>a</b> Annual Pruning Certification	\$126	
<b>b</b> Tree removal/pruning	\$211	
<b>38. Mobilehome Park Closure/Change of Use</b>	\$12,000	Time & Material; Initial Deposit*
<b>39. Review of Building Permit Applications</b>		
<b>a</b> Commercial/Industrial Tenant Improvements or Additions	\$416.00	
<b>b</b> Addition - Single-Family Dwelling	\$274.00	
<b>c</b> Addition - Multi-Family Dwelling	\$568.00	
<b>d</b> New Accessory Structure	\$186.00	
<b>e</b> New Single Family Dwelling	\$499.00	
<b>f</b> New Single-Family Dwelling – Hillside	\$721.00	
<b>g</b> New Industrial Building	\$686.00	
<b>h</b> New Commercial Building	\$742.00	
<b>i</b> Over-the-Counter Approvals	\$149.00	
<b>40. Inspections - Planning and Landscape</b>		
<b>a</b> Single-Family Residential - Subdivision	\$212	
<b>b</b> Multi-Family Residential Development	\$319	
<b>c</b> Single-Family Residential - Hillside	\$255	
<b>d</b> Re-Inspection	\$212	
<b>e</b> Miscellaneous	\$79	

**41. General Plan Update Fee**

12% of Building Permit  
Fee

<sup>1</sup> It is recommended that major projects be reviewed at a Pre-Application Meeting prior to submittal of a Development Review Application.

<sup>2</sup> **Non-Profit Operator Applicant must submit a current 510(c)(3) and a statement that the non-profit organization submitting the application will receive all proceeds from the box with the application.**

\*If during the review of the project the Planning Director estimates that the charges will exceed the deposit, additional deposit(s) will be required. Also, the Planning Director may authorize a lesser initial deposit than shown if he/she determines that processing of an application will not entail need for the full initial deposit. Prompt payments of deposits or outstanding fees owed in association with the application will assure continued staff review of the project. Failure to provide requested deposit or fees associated with the application within an appropriate time frame as determined by the Planning Director will be treated as a withdrawal without prejudice of the application. Any surplus deposit remaining shall be refunded promptly upon project completion.



ATTACHMENT VII

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, February 19, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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**MEETING**

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Chair McDermott.

**ROLL CALL**

Present: COMMISSIONERS: Schott, Enders, Faria, Lavelle, Parso  
CHAIRPERSON: McDermott  
Absent: COMMISSIONER: Loché, Lavelle  
Commissioner Lavelle arrived at 7:06 p.m.

Commissioner Enders led in the Pledge of Allegiance.

Staff Members Present: Alvarado, Buizer, Madhukansh-Singh, Rizk, Schmidt

General Public Present: 11

Chair McDermott welcomed Commissioner Schott to the Planning Commission.

Commissioner Schott was pleased to join the Planning Commission and announced that he would have to recuse himself from Public Hearing Item No. 1 due to a potential conflict of interest of this item with his business.

**PUBLIC COMMENTS**

There were none.

**PUBLIC HEARING**

1. Establish New Regulations Related to Unattended Collection Boxes, Update Regulations Related to Recycling Collection Facilities, and Establish a New Fee Associated with Amendments to Chapter 10, Article 1, Zoning Ordinance, of the Hayward Municipal Code (Text Amendment Application No. 2015-00056); City of Hayward (Applicant)

Development Services Director Rizk introduced Senior Planner Schmidt, who provided a synopsis of the staff report.

Senior Planner Schmidt noted the following documented nuisance issues related to the placement of unattended collection boxes, maintenance and enforcement. She stated that there were dozens of boxes along major corridors such as Mission, Tennyson, Foothill, and A Street. Often times, there were two boxes located on a single lot and these were placed on neighboring properties. Ms.



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Schmidt shared that sometimes, the unattended collection boxes are placed within required parking spaces, walkways and/or driveways creating vehicular and pedestrian hazards. She added that one of the challenges with the maintenance of the boxes is that it attracts garbage, illegal dumping, scavenging and graffiti. Furthermore, the operators of the unattended collection boxes may not either not respond right away or they might be unaware that the garbage has been sitting next to the boxes for days. She stated that in the absence of the regulations, Code Enforcement Officers do not have clear guidelines for abating nuisances and additionally, Code Enforcement Officers and property owners have a difficult time getting in touch with operators to remove trash, dumped items, or to pick up the collection boxes. She commented that staff's proposed regulations will help to ensure that the unattended collection boxes are safe, clean and green. She said that the minimum distance requirement would permit a box to be placed approximately every 4 blocks and would also maintain convenient access and prevent overconcentration of the boxes. Ms. Schmidt commented that the provision requiring that the boxes be placed in well-lit and highly visible locations promoted safety and would discourage scavenging.

Senior Planner Schmidt noted that staff received correspondence from: (1) West Properties, who wanted the property owners' prior approval and signatures to be included as a requirement on the Administrative Use Permit (AUP) before granting permission for placement of the boxes; and (2) USAgain LLC, a collections box operator, indicating that the regulations were too restrictive and the AUP was costly. Staff agreed with USAgain's request that schools and non-profit institutions be added to the list of primary uses where the boxes could be located. She highlighted that the proposed regulations related to the placement of unattended collection boxes and minimum distance requirements were fair and consistent with surrounding jurisdictions and were also for the betterment of the City.

In response to Commissioner Parso's question, Senior Planner Schmidt responded that the City does not have a record of how many unattended collection boxes are out in the field right now and described her experience that the boxes seem to be removed and/or replaced arbitrarily. She confirmed for Commissioner Parso that the way the current regulations were written, staff was proposing to allow only schools that were located in the commercial corridor as a primary use.

Senior Planner Schmidt confirmed for Commissioner Lavelle that surrounding jurisdictions have recently adopted regulations similar to the proposal; however, Alameda had a requirement that a Conditional Use Permit (CUP) be obtained by operators which was associated with having a higher fee. Commissioner Lavelle noted that the proposed regulations seemed simpler for unattended collection boxes as the proposed AUP process allowed for staff approval. She commented that nearby cities had a more stringent CUP process, which would require a hearing before the Planning Commission.

In regards to Commissioner Lavelle's question about adhering to the minimum distance requirement for the placement of unattended collection boxes, Senior Planner Schmidt indicated that the first operator to submit an application and get the AUP approved for a collection box would



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be the site used to determine the placement of surrounding collection boxes. Ms. Schmidt noted for Commissioner Lavelle that it was possible to have two collection boxes placed on the same parcel, adding that the operator would have to go through a separate AUP process for the second collection box. She elaborated that a single operator could apply for two AUPs in order to have two collection boxes at the same site or that the two collection boxes could be approved to be operated by different operators at the same site. This could occur at a site where there was a high demand to have two collection boxes to provide adequate overflow abatement.

Commissioner Lavelle expressed concern that the regulations would permit the operation of a second box on the same parcel, noting that the requirement of having a 2,500-foot separation between boxes was intended to avoid nuisances. She was amenable to adding churches and schools as non-profit organizations that could have collection boxes. She commented that it made sense to allow a religious facility located on a large property to have two collection boxes as these could be located at different places on the property.

Senior Planner Schmidt stated that the proposed regulations do not impact collection boxes located within a building thereby donation boxes located inside a school or a religious facility would not be subject to these regulations. She added that operators such as the Goodwill or the Salvation Army would not be impacted since these operators have collection boxes on their own property.

Development Services Director Rizk noted for Commissioner Lavelle that staff received feedback from the City Council and City Manager that while the goal was to avoid having many collection boxes dispersed throughout the City and this would be best accomplished by having a 2,500-foot buffer between donation bin locations, it was also important to balance this with the need to have additional capacity collection boxes at any particular site.

In regards to the proposed regulations, Commissioner Lavelle was concerned with who would be responsible for debris at a collection site that fell outside the ten foot buffer area. She noted that this potential problem could frustrate the property owner as it would be their responsibility to maintain the overall cleanliness of the vicinity, adding that the property owner should have a voice in decisions about the placement of collection boxes.

Development Services Director Rizk indicated that Code Enforcement Officers inspecting a site where a collection box was located could make the determination if the debris at the site were intended for the collection box. He further clarified that the regulations speak to any materials resulting from the collection boxes and also within ten feet of the donation bin.

Assistant City Attorney Alvarado added that the provisions strengthen the City's ability to enforce against public nuisance conditions, noting that the property owner will always be responsible for the conditions on his/her property through the City's Community Preservation and Improvement Ordinance. He indicated that the provisions grant the Code Enforcement Inspectors the authority to link the conditions outside the unattended collection boxes to the collection box operators.



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In response to Commissioner Lavelle's question, Senior Planner Schmidt stated that the property owner has to be agreeable to having an unattended collection box on his/her property prior to its placement, adding that the property owner signature is required on the AUP. Ms. Schmidt further clarified that the owner of the collection box was often not the property owner where the collection boxes were placed. She noted that a majority of the companies that own collection boxes were for-profit entities that partner with non-profit organizations to offer some of the proceeds collected to non-profit groups.

Commissioner Lavelle asked staff what would occur if the operators of the collection boxes do not comply with the proposed regulations and obtain an AUP and wondered if the collection boxes would be removed or the operators cited. Senior Planner Schmidt responded that operators who decide to not obtain an AUP may choose to relocate the collection boxes to a jurisdiction that has not adopted similar regulations like Hayward. She noted that the collection boxes could easily be removed as they were not bolted to the ground. Ms. Schmidt stated that the proposed regulations would grant the Code Enforcement Department more authority to abate and remove noncompliant boxes.

Commissioner Lavelle spoke favorably of the \$1,300 AUP fee that would be assessed for each unattended collection box as this accounted for staff time and resources expended in processing the AUP. Senior Planner Schmidt confirmed for Commissioner Lavelle that the AUP fee was not intended to penalize the organizations operating unattended collection boxes. Ms. Schmidt exemplified that the AUP process entailed sending public notifications, the findings made by staff to determine the conditions of approval, site visitations prior to placement of boxes. She added that the \$1,300 AUP fee for unattended collection boxes was \$700 lower than what a typical AUP fee would be, recognizing that the collection boxes were smaller in size.

Planning Manager Buizer noted for Commissioner Lavelle that all planning application fees were evaluated annually. She stated that if it was later determined that the AUP fee did not reflect the true cost of processing an AUP, then this fee would be adjusted accordingly.

Commissioner Faria asked staff if the collection boxes would be marked with some type of validation indicating which boxes had received an AUP. She suggested having something similar to a decal sticker since unattended collection boxes could be easily moved around.

Senior Planner Schmidt was amenable to the suggestion. She noted that California state law had specific signage regulations for unattended collection boxes and shared that one full side of the box was required to contain the operator's information such as the phone number, address, email, and non-profit or for-profit status. Ms. Schmidt shared that through the AUP process, staff would keep a file containing each operator's information and that staff would have a site plan to keep track of the placement of unattended collection boxes. Ms. Schmidt confirmed for Commissioner Faria that if a member of the public had concerns then staff could identify a collection box using the address of where the issue was occurring.



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Chair McDermott commented on the letter received by West Properties, which indicated that unattended collection boxes had been placed on their properties without the property owner's knowledge. She spoke favorably of the proposed regulations requiring the property owner to sign the AUP.

Planning Manager Buizer noted for Chair McDermott that as the proposed regulations were currently written, unattended collection boxes would not be permitted on school properties located outside the identified corridor areas.

Assistant City Attorney Alvarado indicated for Chair McDermott that the Code Enforcement Officers were not sworn personnel and that they performed various types of inspections on private property throughout the city. He noted that the proposed regulations would be an added component to the officers' enforcement mechanisms. Mr. Alvarado stated that the Code Enforcement Officers respond similarly to other violations occurring in the city, and this sometimes entailed issuing a notice of violation to the property owner requiring abatement of the nuisance. He highlighted that the Code Enforcement division would take primary responsibility of enforcing the proposed regulations, including the abatement of garbage on private property.

Chair McDermott supported the \$1,300 AUP fee to cover the City's costs for overseeing that the unattended collection box operators comply with City code.

Chair McDermott opened the public hearing at 7:42 p.m.

Jennifer Avila, a representative of USAgain LLC, shared that her company was the only operator of unattended collection boxes located in Hayward. She thanked the City for bringing forward the proposed regulations and noted that her company had a 24 hour pick-up in place. She added that USAgain LLC had signed agreements in place with the hosting sites where their collection boxes were located. Furthermore, their boxes contained the company's contact information and per state law, they were also required to indicate on the boxes that they are a for-profit organization. Ms. Avila stated that her company also works with non-profit organizations.

Ms. Alexandra Hoffman, Public Relations Director for Recycle for Change, indicated that her company was a non-profit organization that utilized unattended collection boxes for collecting and recycling used textiles. She highlighted that her company's self-sustaining programs aided municipalities by providing convenient textile recycling services to citizens that saved cities resources and money. She underscored that her company served Bay Area communities by working with other non-profit groups and also educated the public on textile recycling. Ms. Hoffman stated that the AUP fee would be cost-prohibitive to her organization and recommended that the City consider having a non-profit rate, similar to what the City of Livermore offered. She suggested that the following two modifications be made to the proposed regulations: that the operators of unattended collection boxes carry a liability policy and that operators be required to report annual diversion numbers to the City.



ATTACHMENT VII

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, February 19, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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Chair McDermott closed the public hearing at 7:48 p.m.

Commissioner Parso asked staff if a separate rate for non-profit groups had been considered. Senior Planner Schmidt responded that some cities had a fee waiver in place. Planning Manager Buizer commented that the Master Fee Schedule did grant the Planning Director some discretion with the reduction of fees. Commissioner Parso supported permitting the placement of unattended collection boxes at schools and religious facilities that were located outside the commercial corridor areas. He commented that some schools encourage teaching students about recycling. He stated that such boxes could be placed 50 feet away from a neighboring property and/or public right of way.

In regards to the insurance requirement which Ms. Hoffman discussed during the public hearing, Commissioner Faria asked staff who would be liable if someone was injured, resulting from an unattended collection box and inquired if a liability policy requirement should be added to the regulations. Senior Planner Schmidt underscored that since the boxes would be placed on private property and not the public right away, the liability would fall upon the property owner. Ms. Schmidt noted that she had seen regulations pertaining to liability on other ordinances and added that such a provision would protect a private property owner.

Chair McDermott agreed with Commissioner Parso to have a reduced rate for non-profit organizations recognizing the funding challenges that some non-profit organizations face, and noting that she did not want to see such non-profit organizations striving to do good in the community be impacted by costly fees.

Commissioner Enders supported a reduced fee for non-profit organizations as opposed to a fee waiver in order to compensate for City expended resources, such as staff time.

Commissioner Lavelle commented that the fees administered by the City were not a part of the ordinance but a part of the Master Fee Schedule. She agreed with deferring discretion to the Planning Director to process requests from non-profit entities for a fee reduction or waiver. She emphasized that the AUP fees that would be assessed were based upon specifically defined costs to the City. She stated that the diversion services provided by collection boxes were valuable to the community as it assisted in the reduction of waste throughout the City. She did not agree with allowing an exemption on fees for non-profit groups based upon diversion rates because it would be difficult to determine if the donations placed into the collection boxes were by Hayward residents or other parties.

Development Services Director Rizk stated that if the Planning Commission favored having a reduced fee for non-profit organizations, then he suggested that this be included in the motion. He noted that any reduced rate will be subsidized by the General Fund.



**MINUTES OF THE REGULAR MEETING OF THE  
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Chair McDermott commented that it did not appear that there were many non-profit organizations that had unattended collection boxes in operation in the City. She preferred that the reduced rate be included in writing.

Commissioner Enders stated that if a reduced fee for non-profit organizations was approved for the unattended collection boxes, then it would be plausible that this might encourage non-profit groups to pursue reduced fees for other types of permits in the future. She supported Commissioner Lavelle's comments to not have reduced rates for non-profit organizations.

Chair McDermott shared that with her experience in being involved with non-profit groups, she noted that some organizations relied on reduced rates.

Commissioner Parso offered a motion to recommend that the City Council approve the proposed regulations with the following modifications: that reduced fees be considered for non-profit organizations and that schools and faith based organizations be allowed to have unattended collection boxes temporarily placed on their premises. The motion was seconded by Commissioner Lavelle.

The motion passed with the following vote:

AYES: Commissioners Enders, Faria, Lavelle, Parso  
Chair McDermott

NOES: None

ABSENT: Commissioner Loché, Schott

ABSTAIN: None

### **COMMISSION REPORTS**

2. Oral Report on Planning and Zoning Matters

There were none.

3. Commissioners' Announcements, Referrals

Chair McDermott announced that the Hayward Education Foundation will have its annual fundraiser "Hayward Education - A Sure Bet" at CSUEB on Saturday, March 28, 2015 from 6:30 – 10:00 p.m.

### **APPROVAL OF MINUTES**

4. Approval of Minutes of the Planning Commission Meeting on February 5, 2015

The Planning Commission meeting minutes of February 5, 2015 were approved with Commissioner Loché absent, and Commissioners Faria and Schott abstaining.



ATTACHMENT VII

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, February 19, 2015, 7:00 p.m.  
777 B Street, Hayward, CA94541**

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**ADJOURNMENT**

Chair McDermott adjourned the meeting at 8:03 pm.

**APPROVED:**

\_\_\_\_\_  
Heather Enders, Secretary  
Planning Commission

**ATTEST:**

\_\_\_\_\_  
Avinta Madhukansh-Singh, Senior Secretary  
Office of the City Clerk

**West Properties**  
**1352 A Street**  
**Hayward, California 94541**  
**510-582-2272**

February 10, 2015

Mailed: USPS Priority  
Delivery Tracking

City of Hayward  
Planning Division  
777 B Street,  
Hayward, CA 94541

RE: Public Comment Notice: Feb. 19, 2015

Dear Sir and or Madam,

In response to your Notice of Public Meetings, February 19, 2015, we have the following comments.

Please include in your amendments to Chapter 10, Article 1 Zoning Ordinance, of the Hayward Municipal Code:

Language that will prohibit placement of Collection Boxes related to Recycling Facilities without knowledge and signed approval by the property owner; not the tenant.

All too often we are surprised to find uninvited Collection Boxes on our properties. These companies are placing these Collection Boxes without our permission or knowledge; they are trespassing and creating unwanted nuisances. These companies can be difficult to reach to ask them to remove their Collection Boxes, and slow to remove their uninvited Collection Boxes. They take no responsibility to clean up the items dumped in or around their Collection Boxes. They should be assessed the fines for creating the nuisance.

Protect the property owner and do not allow these Collection Boxes to be place anywhere in the City of Hayward without the property owners knowledge or a signed agreement having been entered into by the property owner; not the tenant.

We will not be giving our permission to place Collection Boxes on our properties in the City of Hayward as they are unwelcomed nuisances. There are plenty of responsible drop off sites to donate such as the Salvation Army on A Street and Main Street. We appreciate your support.

Sincerely,

Keith West  
Melissa Philips  
Scott West



February 18, 2015

Hayward Planning Commission  
City of Hayward  
777 B Street  
Hayward, CA 94541

*Via Electronic Mail*

RE: USAgain's Concerns with Text Amendment Application No. 2015-00056

Chairperson McDermott and Planning Commission Members,

It is our understanding that at the February 19, 2015 Meeting of the Planning Commission, the Commission will hold a public hearing on whether to make a recommendation to the City Council to establish new regulations related to Unattended Collection Boxes (Text Amendment Application No. 2015-00056). We appreciate the Planning Commission's efforts to develop a reasonable ordinance to regulate Unattended Collection Boxes; however, we have some concerns with the ordinance as recommended.

For background, USAgain is a for-profit textile recycling company with a base of operations in Hayward that owns and operates clothing collection and recycling boxes on public and private property for the purpose of diverting useful items from landfills and returning them to the stream of commerce. We operate on these properties with permission and in exchange we provide a revenue sharing agreement with the property owner or local business operator.

USAgain works with communities across the country, on our own and in concert with the Secondary Materials & Recycled Textiles (SMART) Association, to advocate and pass reasonable and equitable regulations that recognize and create standards for the placement and operation of collection boxes. We are confident that with meaningful regulation, as provided in the SMART Association's model ordinance (see enclosure), communities such as the City of Hayward can balance the interests and concerns of the community while promoting the best practices for the operation of Unattended Collection Boxes. Our concerns with the proposed ordinance are as follows.

First, the proposed ordinance is too restrictive. It limits boxes to only major arteries in commercial zoning areas and requires that box locations be at least



2,500 linear feet apart. As described in the staff report, the purpose of Unattended Collection Boxes is to divert clothing from the waste stream by offering a convenient recycling service to local residents which is not only close to home, but also accessible 24 hours a day and 7 days a week. By locating collection boxes within strategic population areas, it is possible to effectively divert items from entering the waste stream thereby helping the environment while decreasing community disposal costs for items that are easily reusable or recyclable. As written, the proposed ordinance restricts collection boxes to areas where they are not as convenient and further limits the number of collection boxes by specifying a required distance between boxes.

Second, the proposed ordinance provides that the Unattended Collection Box must be placed on a site with an existing primary commercial or religious facility use. We agree with this provision, but also propose that Unattended Collection Boxes could be placed at sites where there are schools or non-profit organizations.

Third, the fees for an Administrative Use Permit (AUP) are cost prohibitive. Although we appreciate that staff understands that the collection box would be ancillary to the primary purpose and has recommended a fee less than \$2,000, with the \$1,300 per box fee, the cost to enter this market remains far too high and would effectively prohibit most operators.

And finally, we appreciate that the staff understands that more than one Unattended Collection Box may be required on a single site to accommodate demand and prevent overflow; however, as written an applicant cannot request for two boxes in the initial AUP application, but can only amend the AUP after demonstrating that “daily collection from the permitted unattended collection box fails to provide adequate overflow abatement.” This provision requires that the operator must fail to maintain the current box before it can amend the AUP and does not take into account the knowledge and experience of the operator in understanding that some locations may need more than one box to meet demand and prevent overflow.

Overall, this ordinance attempts to balance the value of Unattended Collection Boxes against the need to regulate them. As a box operator we promote regulation, but believe that this ordinance can be improved. We understand that the City of Hayward wants to regulate the proliferation of Unattended Collection Boxes and related nuisance activities, but Unattended Collection Boxes can effectively divert items from entering the waste stream thereby



benefitting the environment, decreasing community disposal costs, and helping with AB 939 reporting. USAgain appreciates all the time and energy that has gone into developing this ordinance; however USAgain has concerns with the above mentioned provisions. We are willing to work with the City of Hayward to ensure that a fair and reasonable ordinance to regulate Unattended Collections Boxes is adopted.

Sincerely,

A handwritten signature in blue ink that reads "Sheila Caplis".

Sheila Caplis  
Government Relations Manager & Legal Counsel  
USAgain, LLC  
630-293-1239 x1012 (office)  
630-293-1237 (fax)  
[s.caplis@usagain.com](mailto:s.caplis@usagain.com)

Encl: SMART Model Ordinance

CC: Leigha Schmidt, AICP  
Tobin Costen  
Henry Rogers  
Weston LaBar



*The Association of Wiping Materials, Used Clothing and Fiber Industries*

### ***Key Elements of an Effective Clothing Collection Bin Ordinance***

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#### *SMART Association Recommendations*

As a growing number of local governments propose measures that aim to regulate organizations operating clothing collection bins (herein referred to as bins) that collect unwanted clothing, shoes, textiles and other household items, the leading organization of the textile recycling industry, **Secondary Materials and Recycled Textiles Association (SMART)**, offers recommendations to local governments for the drafting of effective ordinances.

**SMART** is frequently approached by officials seeking language for clothing collection bin regulations. While every city has different methods for regulating local businesses, which makes it difficult to craft a one-size-fits-all approach, **SMART** has identified a number of key recommendations to achieve effective and community sensitive ordinances.

While some local governments look to simply clarify existing policies, others are discussing a limit or outright ban on the presence of bins provided to the community by for-profit entities. Unfortunately, those measures in the latter category have unintended consequences for the communities they serve. Banning or limiting the ability of for-profit textile recyclers to operate clothing collection bins severely limits contributions that private sector businesses are making to meet national economic, philanthropic and environmental objectives.

For-profit textile recyclers create tens of thousands of jobs throughout local and international communities and create a vital stream of revenue for numerous well-respected charities. For-profit textile recyclers routinely partner with local charities to collect unwanted items through the use of convenient collection bins bearing the charity's name and logo. This partnership allows the charities to share in the profit from the proceeds of collecting unwanted clothing, shoes, textiles and other household items in communities. As a number of charities have stated on the record, these arrangements provide essential, risk-free funding that is difficult to secure through other sources. Therefore, policy measures that limit for-profit textile recyclers from operating these bins would devastate many charities' bottom line.

Clothing collection bin operators and other for-profit textile recyclers also play a vital role in national recycling activities by diverting nearly 4 billion pounds of used clothing and other textiles from landfills each year. Unfortunately, as Environmental Protection Agency data show, the average household only recycles approximately 15% - a fraction of the total textile waste generated annually. This reality has prompted public officials in Massachusetts, New York City, Arizona and elsewhere to work with for-profit organizations to institute textile recycling programs. These officials understand that the unique efficiencies and infrastructure that the private sector offers are absolutely necessary to successful waste reduction efforts.

Below are recommendations provided by **SMART**:

## RECOMMENDATIONS

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➤ ***An effective clothing collection bin ordinance SHOULD NOT ban bins operated by for-profit recyclers.***

Broadly held misconceptions about the textile recycling industry have led some communities to consider banning bins provided by for-profits, with critics charging that some companies aren't as transparent in their charitable affiliation arrangements as they should be, that some fail to properly maintain their bins, and that donations create debris and clutter in public places. It is a reality that there are non-**SMART** member companies that do in fact merit the critiques of detractors. **SMART** member organizations have approved a robust Code of Conduct that is designed specifically to prevent these outcomes and believe that these non-compliant companies are the "bad actors" that should be weeded out by local government regulation. However, imposing outright bans on all for-profit recyclers actually threatens the public good. For example:

- Banning clothing collection bins operated by all for-profits will significantly increase the stream of textile waste in disposal sites and increase the cost to local governments to operate local landfills.
- For-profit textile recyclers create positive tax bases across the United States by creating thousands of jobs, and by creating much needed revenue streams for worthy charities nationwide. Banning bins operated by for-profit textile recyclers will eliminate these meaningful contributions.

We believe that communities should work with local industry representatives to craft measures that simultaneously address concerns and enable textile recycling to thrive.

➤ ***Ordinances SHOULD NOT impose artificial limits on the number of clothing collection bins per organization.***

While some local governments have moved to impose outright bans on bins, others have called for limits on the number of bins allowed per organization. Although bin operators *must* ensure that bins meet all applicable public zoning, health and safety standards, strict limits on the number of bins per organization means reducing the number of convenient locations for the public to donate and recycle their used clothing and household items.

➤ ***Ordinances SHOULD impose disclosure and transparency requirements on clothing collection bin operators.***

Ordinances should require bins to display helpful information for the public, local government, property owners and bin operators, including:

- Contact information (name/address/telephone/email; url) for person, business entity, or organization responsible for placing and maintaining the bin;
- A statement making clear that those dropping off goods may contact the appropriate local operator for additional information regarding the manner in which the items will be used, sold, or dispersed;
- A copy of the bin permit, if one is required, should be made available to local government officials, as requested.

- ***Ordinances SHOULD discourage the use of deceptive or ambiguous labels/logos on clothing collection bins that falsely imply an underlying affiliation with a charitable organization when one does not exist.***
- ***Ordinances SHOULD require clothing collection bin operators to obtain written consent from a property owner or owner's agent prior to placing clothing collection bins.***

Though it is imperative that a bin operator should be required to obtain consent in order to preserve the respectability of the textile recycling industry and to uphold property rights, an “owner’s agent” should be broadly defined to include the authorized local agent at a chosen bin location. Many times large multinational corporations anchor sites where bin operators will choose to locate. It is nearly impossible to obtain a signed document from the CEO of these companies or their fiscal agent located at company headquarters. An owner’s agent should include a local property manager/agent or authorized general store manager, so that bin operators are realistically able to obtain the consent necessary, and to avoid undo and unwieldy consent thresholds.

- ***Ordinances SHOULD specify appropriate management/maintenance requirements to prevent clothing collection bins from becoming a threat to public health and safety.***

Maintenance requirements should be reasonable and realistic and should provide clothing collection bin operators the opportunity to respond to any potential issues. Requirements may be general, e.g. “Bins shall be serviced and emptied as needed or within 48 hours of a request by owner or owner’s agent.”

- Ordinances SHOULD require organizations to provide a Certificate of Liability Insurance of at least \$1 million.
- Ordinance should require bin operators to secure each clothing collection bin with a tamper proof lock.
- Ordinances should require bin operators to maintain the aesthetic presentation of the bins including fresh paint, readable signage, and general upkeep to maintain community standards.
- ***In addition it should be clearly posted on the bin that nothing should be left outside of the bin, and provide a clear and visible phone number to follow up on maintenance issues.***

- ***Ordinances SHOULD require clothing collection bin operators to provide property owners or owner's agents with an attended, working phone number and be required to respond to any bin maintenance complaints within 24 hours of receiving notification during regular business hours.***

- ***Ordinances SHOULD provide both property owners and clothing collection bin operators important civil liability protections by:***

- Giving property owners or owner’s agent the right to rescind consent for a bin to be placed on their property, provided written notice of the rescission is given to the bin operator within a specified period of time prior to the bin being removed.

- Shielding property owners or owner’s agents from civil liability from a clothing collection bin operator for the removal of an unauthorized bin or where removal is necessary to comply with local zoning ordinances.
- Ensuring that a property owner, owner’s agent or other entity that causes the unauthorized removal of a collection bin, despite valid written consent from the property owner at the time of removal, is civilly liable to the owner/ operator of the bin.

➤ **Ordinances mandating the acquisition of permits *SHOULD* mandate the requirements be reasonable, affordable and manageable.**

Many communities require bin operators to obtain a permit before placing a bin. **SMART** supports the right of a community to require permits, yet the following recommendations to assure a reasonable, affordable and manageable process.

- **Information requested on a permit application *SHOULD* be straightforward and necessary. Examples include:**

- Contact information (name/address/telephone/email) for person, business entity, or organization applying for the permit
- Proposed location/address where the bin is to be placed
- Contact information (name/address/telephone/email) for owner or owner’s agent of location where bin will be placed
- Written consent from the property owner or owner’s agent to place the bin on his or her property
- Contact information (name/address/telephone/email) for individual placing the bin
- Information as to the manner/ schedule for which the bin is to be emptied/maintained.

- **Permitting fees *SHOULD NOT* be cost-prohibitive.**

- A \$25-\$50 initial processing/application fee and \$10 for each additional bin is a standard adopted by many local governments and are fees that **SMART** supports. Keeping permitting fees at a reasonable and non-cost prohibitive level will assure the availability of donation bins and increase textile recycling.

- **Permits *SHOULD* remain in effect for at least one year.**
- **Permitting agencies *SHOULD* be required to respond to applicants within a specific amount of time and provide adequate justification if a permit is denied.**
- **Organizations applying for a permit should be required to be registered with the appropriate state corporation regulatory agency.**

➤ **Local governments *SHOULD* provide for enforcement and abatement when certain key obligations are not met.**

Many local governments have opted to codify clothing collection bin ordinances within jurisdictional zoning provisions. **SMART** respects the ability of local government to determine the best statutory

method for regulation, yet recommends that ordinances specifically provide for tangible enforcement and penalty provision for failure to meet ordinance provisions.

Ordinances should have enforcement provisions for:

- unlawful placement of bins
- infringement on another permittee's location
- failure to remove debris, graffiti or bulk items in allotted time
- failure to respond to maintenance requests in allotted time
- violation by property owners or bin operators to adhere to permit provisions for initial location and removal of bins
- to provide for legal protections for both property owners and bin operators

## SECONDARY RECOMMENDATIONS

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**SMART** also has the following suggestions for other less critical provisions that communities may wish to include in clothing collection bin ordinances:

➤ ***Local governments may wish to include language establishing that the purpose/intent of the measure is to establish procedures and requirements that:***

- Encourage the use of clothing collection bins to provide free, easy and convenient public solutions for community textile recycling.
- Adopt textile recycling programs to reduce the amount of textile and household waste going to landfills and reduce landfill dumping fees.
- Implement these no cost private sector recycling solutions to meet local and statewide waste reduction mandates.
- Support textile collection and recycling programs that provide funding to charitable organizations and stimulate local economies.
- Ensure transparency about how these contributions will be used.
- Promote the community's health, safety and welfare.

➤ ***Local governments may wish to specify appropriate dimensions/bin specifications.***

Officials may wish to work with local industry representatives to recommend specifications that are consistent with industry standards.

- ***Local governments may wish to include a definitions section identifying key stakeholders, terminology, etc.***
- ***Local governments should endeavor to harmonize ordinance terminology with that used by other local governments when at all possible.***
  - There are many cases where it is difficult to determine the applicability of an existing clothing bin ordinance because of differences in the terminology used by various local governments to describe/define these bins (e.g. some refer to bins as “temporary structures,” while others deems them “dumpsters” or “accessory units,” etc.). This ambiguity, in many cases, makes it difficult for the bin operator and often times even for local officials to identify the appropriate requirements and may result in inadvertent ordinance violations. To address this concern, local governments when at all possible should aim to harmonize terminology with that which is being most commonly used by other local governments.

Questions? Please contact the Secondary Materials Recycled Textiles Association at 443-640-1050 or via e-mail: [smartinfo@kingmgmt.org](mailto:smartinfo@kingmgmt.org) or visit our website at [www.smartasn.org](http://www.smartasn.org).

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY/VILLAGE OF  
[INSERT HERE]

RECYCLING COLLECTION BINS

SUMMARY

An Ordinance amending the Municipal Code of the City/Village of [INSERT HERE] establishing rules, regulations and registrations of Recycling Collection Bins.

LEGISLATIVE INTENT

The City Council/Village Board notes that the citizens of the United States disposes of more than 242.96 million tons of solid waste each year, 55%-65% of which comes from single family residences. With a national recycling rate of just 33.8% such disposal unnecessarily burdens the state's landfills and contributes to pollution and climate change by emitting greenhouse gases such as CO<sub>2</sub> and methane.

It is the intent of this ordinance to support and encourage, in a responsible manner, the placement and use of attended and unattended recycling collection bins. These bins are most commonly used to collect for recycling, re-sale or re-use general household goods such as clothing, shoes, books and small appliances. When enacted, this ordinance will protect the environment by increasing community recycling and reducing the burden on local landfills, and will improve the economy by creating more jobs and provide goods for reuse and recycling.

**Definitions.**

Recycling Collection Bin

An attended or unattended receptacle, trailer or container made of metal, wood, steel or similar material for permanent or temporary use, designed or intended for the collection of unwanted clothing, shoes, textiles, books and other household items.

Site Host

The owner or lawful occupant (or their respective representatives) of the site of a Recycling Collection Bin within the City.

Permittee

Any organization, firm or other entity that owns and receives a permit to operate a Recycling Collection Bin in the City pursuant to this Chapter.

**§xxx. Permit required; dates of issuance, expiration, response**

- A. It shall be unlawful to erect, place, maintain or operate any Recycling Collection Bin without first obtaining a permit issued by the City.
- B. The City shall approve permittee's application if such application fulfills the application requirements under **§xxx. Qualifications of Permittee and Form of Application.**
- C. A permit issued under this Chapter shall be valid for one year and renewable for one-year periods thereafter.
- D. Recycling collection bins owned and/or operated by one entity for the benefit of another entity require the contact information for both entities on the permit application.

**§xxx. Fee required.**

- A. Initial Application (one-year period) e.g. \$25.00.
- B. Renewal Applications (one-year period) e.g. \$25.00.
- C. Sticker fee (one year period) e.g. \$10.00.

**§xxx. Qualifications of Permittee and Form of Application.**

In order to qualify as a permittee under this Chapter, an applicant must either be (1) a public charity exempt from taxes under Section 501(c)(3) of the United States Internal Revenue Code, and in good standing with the State of xxx, or (2) a business in good standing with the State of xxx. The application for a Recycling Collection Bin permit shall require the following information from the applicant:

- A. If the applicant claims to be a qualified nonprofit entity, (1) a copy of the determination letter issued by the Internal Revenue Service stating that the applicant is a public charity exempt under Internal Revenue Code Section 501(c)(3), and (2) a certificate of good standing issued by the state office that regulates corporations.. If the applicant is a business, a certificate of good standing issued by the Office of the Secretary of State of xxx. A certificate of good standing must not be older than 3 months at the time of application for a permit.
- B. Name, address and telephone number of contact person of the applicant.
- C. Written consent from the Site Host to place the Recycling Collection Bin on the property, including name, address and telephone number of the Site Host.
- D. Permittee must provide proof to the City of a Certificate of Liability Insurance of at least \$1million covering permittee's Recycling Collection Bins.

**§xxx. Proof of Permit**

The City shall provide the permittee with one permit sticker for each approved permit. The permit sticker shall be placed in a conspicuous place in front of the recycling collection bin that is installed on the permitted property. The City will provide replacement stickers for (insert value) should the original sticker become damaged, fall off or disappear.

**§xxx. Management, Maintenance; Requirements**

- A. Permittee must maintain the aesthetic presentation of each recycling collection bin including fresh paint, readable signage and general upkeep.
- B. Permittee must provide to the Site Host a telephone number for requests to respond to recycling collection bin maintenance complaints.
- C. Permittee must respond to recycling collection bin maintenance complaints within 24 hours of receiving notification during regular business hours.
- D. Permittee must remove graffiti within 72 hours following receipt of notice of its existence.
- E. If a recycling collection bin becomes damaged or vandalized, it shall be repaired, replaced or removed within five days of receipt of notice of such condition.

**§xxx. Placement of Recycling Collection Bins**

- A. Recycling Collection Bins shall be placed on the site in a manner that does not impede vehicular or pedestrian traffic flow.
- B. Recycling Collection Bins shall not be placed in the right-of-way and shall adhere to the set-back standards for the site where they are placed.
- C. Recycling Collection Bins shall not be placed in a required parking space (designated for handicap/disabled parking) or reduce the number of parking spaces below the minimum number required by local zoning codes.
- D. Recycling Collection Bins placed on sidewalks must allow for five (5) feet of pedestrian walkway in front of the Recycling Collection Bin.
- E. Recycling Collection Bins shall not be placed within the sight triangle of any intersection.

**§xxx. Information and Label Requirement for all Bins**

The front of every Recycling Collection Bin shall conspicuously display the following:

- (a) The name, address, telephone number and the Internet Web address of the Owner and Operator the recycling collection bin;
- (b) A statement, in at least two-inch typeface, that either reads, or “this collection bin is owned and operated by a nonprofit organization” or “this collection bin is owned and operated by a for-profit organization”;
- (c) If the recycling collection bin is owned by a non-profit organization, the front of the collection bin shall also conspicuously display a statement describing the charitable causes that will benefit from the donations;
- (d) If the recycling collection bin is owned by a for-profit company, the front of the collection bin shall conspicuously display a statement that reads “[name of company] is a for-profit company, deposits are not tax deductible”;

Recycling collection bins operated by a for profit entity on behalf of or in conjunction with a non-profit organization shall have the name ,address, telephone number and web address of both entities on the front of the bin.

(e) Recycling collection bins operated by corporate fundraisers or any entity placing and operating collection bin(s) for the benefit of another for-profit entity or non-profit entity shall abide by the requirements of (d) above and any additional guidelines and labeling requirements required under state law.

**§xxx. Reporting of Recycled Goods.**

The Permittee must report the total number of tons of goods diverted from the municipal waste stream in the city. Such reporting should be done on a quarterly basis to the City Clerk by letter or e-mail.

**§xxx. Violations and Penalties.**

- A. In addition to any other penalties or remedies authorized by law, any permittee which violates any provision of this Chapter shall be subject to a penalty of \$250 for each violation, which includes:
1. Unpermitted placement of a Recycling Collection Bin;
  2. failure to adequately respond to maintenance request pursuant to this Chapter;
  3. failure to maintain Recycling Collection Bins pursuant to this Chapter;
  4. failure to adhere to Recycling Collection Bin placement and removal provisions pursuant to this Chapter; and
  5. Failures to adhere to all permit requirements pursuant to this Chapter.
- B. If a permittee is found to have willfully violated the provisions of this Chapter and ignores mitigation, on more than 3 occasions in a calendar year, the permittee shall, in addition, be deemed ineligible to place, use or employ a recycling collection bin within the City pursuant to this Chapter for a period of five years, and the City may remove any or all of such permittee's recycling collection bins upon 30 days advance notice.

**§ xxx Liability; protections**

- A. A Site Host shall have the right to rescind consent for a recycling collection bin to be placed on the property, provided written notice of the rescission is provided to the permittee, as provided in their agreement but in no event less than 10 business days prior, to the recycling collection bin being removed.
- B. The Site Host will be held harmless by the permittee for the removal of an unauthorized recycling collection bin or where removal is necessary to comply with local zoning ordinances.
- C. A Site Host that causes the unauthorized removal of a permitted recycling collection bin pursuant to this chapter is civilly liable to the permittee of that recycling collection bin.
- D. Permittees shall maintain general liability insurance that covers any claims or losses due to the placement, operation or maintenance of the recycling collection recycling collection bin.

March 9, 2015

*Via Electronic Mail and U.S. Mail*

Mayor Barbara Halliday  
*Barbara.Halliday@hayward-ca.gov*

Council Member Al Mendall  
*Al.Mendall@hayward-ca.gov*

Council Member Greg Jones  
*Greg.Jones@hayward-ca.gov*

Council Member Sara Lamnin  
*Sara.Lamnin@hayward-ca.gov*

Council Member Francisco Zermeño  
*Francisco.Zermeño@hayward-ca.gov*

Council Member Elisa Márquez  
*Elisa.Marquez@hayward-ca.gov*

Council Member Marvin Peixoto  
*Marvin.Peixoto@hayward-ca.gov*

Michael Lawson, Esq., City Attorney  
*Michael.Lawson@hayward-ca.gov*

City of Hayward  
777 B Street  
Hayward, California 94541

Re: **Proposed Regulations Pertaining to Unattended Donation Bins**

Dear Mayor Halliday, Counsel Members and Counsel:

TENAX Law Group, P.C. represents Recycle for Change (formerly “Campus California”), a 501(c)(3) nonprofit public benefit corporation. Recycle for Change maintains a number of unattended donation bins (“UDBs”) on privately-owned parcels in cities throughout California.

We thank you for taking under consideration the positive environmental impact that Recycle for Change has had in Hayward. In 2014, Recycle for Change diverted **approximately 400,000 pounds from Hayward landfills** for the year, proving that it has had a positive impact on both the environment and the community. We are optimistic that an agreement on a sensible ordinance that is in line with both the City’s environmental and aesthetic goals can be reached, and we look forward to working with the City to help craft such an ordinance.

Recycle for Change is a non-profit organization that has been collecting and recycling used textiles to protect the environment and support sustainable development work across the globe for 14 years. Its self-sustaining program aids municipalities by providing convenient textile recycling locations to their residents, which saves the cities both resources and money. In 2013, the receipt of textile donations enabled Recycle for

Change to provide grant support that funded the training and placement of 128 volunteers who benefited an estimated 234,150 people in the U.S., South America and Africa. Recycle for Change is proud to serve a number of Bay Area communities, including Hayward. Some examples of Recycle for Change's community involvement include:

- A long-standing partnership with Sister Alice Muhammad at East Bay Educational Fund, where Recycle for Change has been donating all non-perishable food items and providing regular volunteer work.
- A commitment to educating the public on the often poorly-addressed issue of textile recycling. In 2013 and 2014, Recycle for Change participated in SF Earth Day, Marin Earth Day, ARC Earth Day, SF Green Festival, NCRA Recycling Update, Fairfax Festival and the CRRRA/SWANA Annual Conference.
- Promoting textile recycling awareness among school-aged children. This year, Recycle for Change is proud to be a Community Partner for the Marin School of Environmental Learning. It is interested in forming a partnership to provide free educational outreach support to OUSD to promote Zero Waste. Its goals also include restarting its Books Back to Schools program to provide underserved schools with used books.
- Working with Alexa Kielty of SF Environment this past year to promote their Zero Waste Textile Recycling Initiative and have made great strides this year in increasing textile recycling at MFUs and throughout the city. (The San Francisco model would be a great program to start in Hayward to help it reach zero waste goals.)
- Providing well-paying jobs to 26 residents of the Bay Area. Recycle for Change employees are paid a living wage with optional benefits.

**Unfortunately, as it stands, the current draft ordinance would prohibit Recycle for Change from continuing operations in Hayward.** Recycle for Change supports a fair ordinance that holds the industry accountable to service standards, ensures public safety and adheres to zoning requirements. As currently written, the proposed framework is tantamount to a ban on UDBs in the City of Hayward and we must object to the passage of such an ordinance.

The main problems with the proposed ordinance are the zoning limitations, the 2,500 foot requirement and the \$1,300 accessory use permit fee.

The **zoning limitations** placed on the UDBs would impose a maximum limit of 34 UDBs, within a confined zone, which would effectively end Recycle for Change's textile diversion efforts in large parts of Hayward. Hayward residents would then have limited access to these recycling facilities. The lack of convenient access would deter textile recycling and would almost inevitably lead to increased disposal of textiles in the landfill.

The **2,500 foot requirement** is also extremely limiting. In addition to making UDBs less accessible to Hayward residents, it would effectively impose a low numerical cap on the number of UDBs in Hayward.

The **\$1,300 accessory use permit fee** is cost prohibitive and would effectively be a ban on UDBs, particularly for charitable organizations like Recycle for Change. Again, the effect will be to reduce the accessibility of textile recycling to Hayward residents and end up costing the City more money in disposal fees.

We have previously corresponded with Mr. Lawson's office regarding the constitutional implications of regulating UDBs. To recap briefly, we previously acknowledged (and we *continue* to acknowledge) that the City of Hayward has a right to regulate UDBs under its police powers. However, we also provided authority showing that under the First Amendment of the U.S. Constitution, the solicitation of charitable donations is protected free speech: "Our First Amendment jurisprudence has long found charitable solicitations 'so intertwined with speech that they are entitled to the protections of the First Amendment.'" (*Gospel Missions of America v. Bennett* (1997) 951 F.Supp. 1429, 1440.) In the *Gospel Missions* case, just cited, the court stated that to survive a First Amendment challenge, the ordinance must be **narrowly tailored** to serve the state's legitimate interests **without unnecessarily interfering with First Amendment freedoms**. (*Gospel Missions* at 1440, emphasis added.)

It is our belief that *Gospel Missions* sets forth the current law with respect to regulating UDBs and that it requires that any such regulations must be narrowly tailored for specific purposes such as preventing blight. A proper, narrowly tailored ordinance would **punish** UDB operators whose failure to properly manage their UDBs give rise to blight. An unconstitutional ordinance, on the other hand, would try to prevent blight by making it difficult or expensive to place a UDB in the City, or by strictly limiting the number of UDBs that can be placed within City limits, with the result that all UDB operators are punished as a preventative measure. (This is called a "prior restraint" on speech, and prior restraints are typically disfavored by courts on constitutional grounds.)

Mr. Lawson's office acknowledged that the city cannot totally ban UDBs. We simply wish to point out that any regulatory scheme regarding UDBs must not regulate them out of existence. (A good analogy would be a city that tries to prevent littering and civil disorder by imposing a \$10,000 permit fee for political rallies or limits such rallies to 50 people. While this would not result in an outright ban on such rallies, the practical effect would be to impermissibly chill the free expression of speech.)

Again, our client acknowledges that the City has authority to regulate UDBs, and we and our client applaud the fact that the City is attempting to do so in a manner that preserves the constitutional rights of nonprofits, like Recycle for Change, that solicit charitable donations by way of UDBs. Our concern is that the current version of the regulations, as discussed above, appears to be overly restrictive and not narrowly tailored to the aim of preventing blight. It would have the effect of eliminating all UDBs from significant portions of the City, significantly limit the number of UDBs that can actually be placed and impose an onerous application fee. These proposed regulations would amount to a *de facto* ban on UDBs.

Recycle for Change earns goodwill from the public and from municipalities by regularly monitoring its UDBs in order to keep them clean and safe. It believes that the City of Hayward can protect the free speech rights of compliant UDB operators, while preventing blight, by enacting a regulatory scheme that **punishes violations** rather than preemptively regulates UDBs into oblivion.

We previously offered our time and resources to assist the City in drafting a constitutionally-compliant regulatory framework. Unfortunately, we were not contacted until after the current proposed regulations were drafted. Going forward, we would appreciate being given the opportunity to work with the City to create a regulatory scheme that achieves the desired goals in a constitutionally-compliant manner.

Very Truly Yours,



John W. Schilt  
[johnschilt@tenaxlawgroup.com](mailto:johnschilt@tenaxlawgroup.com)

JWS/jss  
cc: client



March 17, 2015

David Rizk, Director  
City of Hayward  
Development Services Department  
777 B Street  
Hayward, CA 94541  
[David.Rizk@hayward-ca.gov](mailto:David.Rizk@hayward-ca.gov)

*Via Electronic Mail*

RE: Unattended Collection Boxes

Dear Mr. Rizk,

At the February 19, 2015 Meeting of the Planning Commission, the Commission held a public hearing on whether to make a recommendation to the City Council to establish new regulations related to Unattended Collection Boxes (Text Amendment Application No. 2015-00056). We appreciate the Planning Commission's efforts to develop a reasonable ordinance to regulate Unattended Collection Boxes; however, we want to address our concerns with the ordinance as recommended.

For background, USAgain is a for-profit textile recycling company with a base of operations in Hayward that owns and operates clothing collection and recycling boxes on public and private property for the purpose of diverting useful items from landfills and returning them to the stream of commerce. We operate on these properties with permission and in exchange we provide a revenue sharing agreement with the property owner or local business operator.

USAgain works with communities across the country, on our own and in concert with the Secondary Materials & Recycled Textiles (SMART) Association, to advocate and pass reasonable and equitable regulations that recognize and create standards for the placement and operation of collection boxes. We are confident that with meaningful regulation communities such as the City of Hayward can balance the interests and concerns of the community while promoting the best practices for the operation of Unattended Collection Boxes. Our concerns with the proposed ordinance are as follows.

First, the proposed ordinance is too restrictive. It limits boxes to only major arteries in commercial zoning areas and requires that box locations be at least



2,500 linear feet apart. As described in the staff report, the purpose of Unattended Collection Boxes is to divert clothing from the waste stream by offering a convenient recycling service to local residents which is not only close to home, but also accessible 24 hours a day and 7 days a week. Specifically, for USAgain, the majority of our collection boxes are located in gated residential apartment complexes, which allow the residents of the complex to recycle their textiles conveniently.

As written, the proposed ordinance restricts collection boxes to areas where they are not as convenient and further limits the number of collection boxes by specifying a required distance between boxes. The proposed ordinance also provides that the Unattended Collection Box must be placed on a site with an existing primary commercial or religious facility use. We agree with this provision, but also propose that Unattended Collection Boxes could be placed at additional sites, including residential apartment complexes, educational institutions, and non-profit organizations (both inside and outside the permitted zones).

Second, the fees for an Administrative Use Permit (AUP) are cost prohibitive. Although we appreciate that staff understands that the collection box would be ancillary to the primary purpose and has recommended a fee less than \$2,000, with the \$1,300 per box fee, the cost to enter this market remains far too high and would effectively prohibit most operators. Both for-profit and non-profit operators re-sell the used textiles at competitive price per pound, and the high price tag to permit a bin would effectively prohibit operations in the City of Hayward.

Finally, we appreciate that the staff understands that more than one Unattended Collection Box may be required on a single site to accommodate demand and prevent overflow; however, as written an applicant cannot request for two boxes in the initial AUP application, but can only amend the AUP after demonstrating that “daily collection from the permitted unattended collection box fails to provide adequate overflow abatement.” This provision requires that the operator must fail to maintain the current box before it can amend the AUP and does not take into account the knowledge and experience of the operator in understanding that some locations may need more than one box to meet demand and prevent overflow.

As a local box operator we promote regulation, but believe that this ordinance can be improved. We understand that the City of Hayward wants to regulate



the proliferation of Unattended Collection Boxes and related nuisance activities, but Unattended Collection Boxes can effectively divert items from entering the waste stream thereby benefitting the environment, decreasing community disposal costs, and helping with AB 939 reporting. USAgain appreciates all the time and energy that has gone into developing this ordinance; however USAgain has concerns with the above mentioned provisions.

We are willing to work with the City of Hayward to ensure that a fair and reasonable ordinance to regulate Unattended Collections Boxes is adopted.

Sincerely,

A handwritten signature in blue ink that reads "Sheila Caplis".

Sheila Caplis  
Government Relations Manager & Legal Counsel  
USAgain, LLC  
630-293-1239 x1012 (office)  
630-293-1237 (fax)  
[s.caplis@usagain.com](mailto:s.caplis@usagain.com)

CC: Tobin Costen  
Henry Rogers  
Weston LaBar

**DATE:** March 24, 2015  
**TO:** Mayor and City Council  
**FROM:** City Clerk  
**SUBJECT:** Adoption of Ordinance Adding Article 20 to Chapter 8 of the Hayward Municipal Code Relating to Establishment of Community Benefit Districts

**RECOMMENDATION**

That the City Council adopts the Ordinance re-introduced on March 17, 2015.

**BACKGROUND**

The Ordinance was re-introduced by Council Member Lamnin at the March 17, 2015 meeting of the City Council with the following vote:

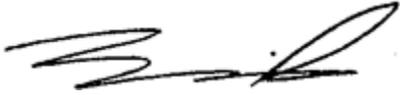
<b>AYES:</b>	Council Members:	Zermeño, Mendall, Lamnin
	Mayor	Halliday
<b>NOES:</b>	Council Members:	Peixoto
<b>ABSENT:</b>	Council Members:	Jones, Márquez
<b>ABSTAIN:</b>	Council Members:	None

The Ordinance was re-introduced per direction by Council to modify the language in the ordinance to require a signed petition to be presented to the City Council in order to trigger the district formation process. This petition must be from at least the property owners who will pay a majority (50% + 1) of the proposed assessment. The original staff recommendation would have required a petition signed by property owners who will pay more than 30% of the total proposed assessment to be presented to the City Council in order to initiate formation proceedings. Attached is the revised Ordinance (Attachment II).

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, March 21, 2015. Adoption at this time is therefore appropriate.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:



---

Fran David, City Manager

Attachments:

Attachment I	Summary of Ordinance Published on 3/21/15
Attachment II	Revised Ordinance

PUBLIC NOTICE OF THE RE-INTRODUCTION OF ORDINANCE  
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA ADDING ARTICLE 20 TO  
CHAPTER 8 OF THE HAYWARD MUNICIPAL CODE RELATING TO ESTABLISHMENT  
OF COMMUNITY BENEFIT DISTRICTS

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

Section 1. Article 20 is added to Chapter 8 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 20  
ESTABLISHMENT OF COMMUNITY BENEFIT DISTRICTS

- SEC. 8-20.00 FINDINGS AND PURPOSE.
- SEC. 8-20.10 AUTHORITY.
- SEC. 8-20.15 NONEXCLUSIVE PROCEDURE.
- SEC. 8-20.20 ESTABLISHMENT OF DISTRICT.
- SEC. 8-20.25 INCORPORATION OF STATE LAW.
- SEC. 8-20.30 RELATIONSHIP OF ASSESSMENT TO ZONING
- SEC. 8-20.35 ASSESSMENT AGAINST REAL PROPERTY.
- SEC. 8-20.40 INITIATION OF PROCEEDINGS.
- SEC. 8-20.45 FORMATION COSTS.
- SEC. 8-20.50 ADVANCEMENT OF COSTS.
- SEC. 8-20.55 DURATION.
- SEC. 8-20.60 RENEWAL.
- SEC. 8-20.65 DISESTABLISHMENT.

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

Re-Introduced at the meeting of the Hayward City Council held March 17, 2015, the above-entitled Ordinance was re-introduced by Council Member Lamnin.

This Ordinance will be considered for adoption at a meeting of the Hayward City Council, to be held on March 24, 2015, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: March 21, 2015  
Miriam Lens, City Clerk  
City of Hayward

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA  
ADDING ARTICLE 20 TO CHAPTER 8 OF THE HAYWARD  
MUNICIPAL CODE RELATING TO ESTABLISHMENT OF  
COMMUNITY BENEFIT DISTRICTS

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

Section 1. Article 20 is added to Chapter 8 of the Hayward Municipal Code and is hereby enacted to read as follows:

ARTICLE 20

ESTABLISHMENT OF COMMUNITY BENEFIT DISTRICTS

SEC. 8-20.00 FINDINGS AND PURPOSE. The City Council finds as follows:

- (1) The City of Hayward contains many property owners desirous to form property-based assessment districts for the purpose of enhancing the security, safety, appearance, and economic viability of their environs;
- (2) The California Street and Highways Code provides for the establishment of a property-based improvement district and requires that property owners in the proposed district submit a petition signed by property owners who will pay more than fifty (50) percent of the assessments proposed to be levied;
- ~~(3) The fifty (50) percent petition requirement may result in areas with a large percentage of absentee property owners being denied the ability to vote on the merits of establishing a property and business improvement district;~~
- (4)(3) The California Street and Highways Code limits the maximum number of years during which an assessment can be levied to five and the City Council believes that it would be in the best interests of some property and business improvement districts to plan for expenditures in excess of five years, such as for the maintenance of improvements;
- (5)(4) The City Council desires to enact an enabling ordinance which will be responsive to the needs of property owners in the City.

~~(6)~~(5) The establishment of Community Benefit Districts and the levying of assessments therefor is a municipal affair.

The purpose of this chapter is to enhance the ability of the City and businesses therein to establish property and business improvement districts pursuant to the Property and Business Improvement District Law of 1994 (Streets & Highways Code Section 36600 et seq.) by: (1) ~~reducing the percentage of property owners whose signatures are required to initiate formation of a Property and Business Improvement District (“Property BID”) from fifty percent (50%), as authorized by the Property and Business Improvement District Law of 1994, to thirty percent (30%);~~ (2) extending the period for which a ~~Property BID~~Community Benefit District may exist from five years, as authorized by the Property and Business Improvement District Law of 1994, to ~~fifteen~~twenty years; and ~~(23)~~ authorizing the reimbursement of formation costs.

SEC. 8-20.10 AUTHORITY. This Chapter is adopted pursuant to Article II of the City Charter and Article XI, Section 5 of the California Constitution, which confer unto the City the power to may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in its charter and the Constitution of the State of California.

SEC. 8-20.15 NONEXCLUSIVE PROCEDURE. This Chapter provides a procedure for the establishment of assessment districts that is separate from, and alternative to, other procedures existing under state or municipal law. This Chapter does not prohibit the City Council from establishing an assessment district or conducting proceedings for such district under any other procedure authorized by law.

SEC. 8-20.20 ESTABLISHMENT OF DISTRICT. The City Council may, by resolution, establish a Community Benefits District and levy assessments in connection with such a District pursuant to this Chapter. Pursuant to Section 1-5.00 of this Code any court action or proceeding to attack, review, set aside, void, or annul a resolution establishing a Community Benefit District pursuant to this Chapter shall not be maintained by any person unless such action or proceeding is commenced within 30 days after the effective date of such decision. Thereafter, all persons are barred from any such action or proceeding or any defense of

invalidity or unreasonableness of such decisions or of such proceedings, acts, or determinations.

SEC. 8-20.25 INCORPORATION OF STATE LAW. This Chapter incorporates the Property and Business Improvement District Law of 1994 (Streets & Highways Code §§ 36600 et seq.), which is referred to in the Chapter as the “PBID Law”. In connection with such incorporation, all references in the PBID Law to a “District” or a “Property and Business Improvement District” shall be interpreted as references to a Community Benefits District. Except where a provision of the PBID law is inconsistent with a provision of this Chapter, all provisions of the PBID law shall apply to the establishment and operation of any Community Benefits District established pursuant to this Chapter. In the event of a conflict between the provisions of this Chapter and those of the PBID Law, the provisions in this Chapter shall prevail.

SEC. 8-20.30 RELATIONSHIP OF ASSESSMENT TO ZONING. Notwithstanding the requirements of Section 36632 of the PBID Law, any parcel of real property, regardless of the zoning of such parcel, may be included in a Community Benefits District and subject to an assessment in connection therewith, so long as such parcel specially benefits from the services and improvements funded by that District.

SEC. 8-20.35 ASSESSMENT AGAINST REAL PROPERTY. Only assessments against real property may be levied in connection with a Community Benefits District.

SEC. 8-20.40 INITIATION OF PROCEEDINGS. In lieu of Proceedings to initiate formation of a Community Benefit District shall be pursuant to the requirements of Section 36621(a) of the PBID Law. Upon the submission of a written petition, signed by the property owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property owned by the same property owner that is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property owners who will pay more than 50 percent of the total amount

~~of assessments proposed to be levied, the city council may initiate proceedings to form a Community Benefits District upon the submission of a written petition, signed by property owners in the proposed district who will pay more than thirty percent of the assessments proposed to be levied in connection with such district. The amount of assessment attributable to property owned by the same property owner that is in excess of twenty percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property owners who will pay more than thirty percent of the total amount of assessments proposed to be levied.~~

SEC. 8-20.45 FORMATION COSTS. If so provided in the engineers report for a Community Benefits District, the assessment levied in connection with such a District may include amounts sufficient to recover the costs incurred in forming the District, including:

- a. The costs of preparation of the management plan and engineer's report required by state law;
- b. The cost of preparing, circulating and submitting the petition to the City Council seeking establishment of the District;
- c. The costs of printing, advertising and the giving of published, posted or mailed notices;
- d. Compensation of any consultant, engineer or attorney employed to render services in proceedings under this chapter or the PBID Law; and
- e. Costs incurred by the City for public hearings, notices, ballots and other proceedings required by law for approval of a new or increased assessment.

The engineer's report shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of those costs, and the basis for determining the amount of the additional assessment for recovery of costs, including the maximum amount of the additional assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

SEC. 8-20.50 ADVANCEMENT OF COSTS. The City Council may, in the resolution of intention for a Community Benefits District, provide that if the District is established funds may be advanced from the City's General Fund to permit the operation of the District prior to the City's collection of the assessment. Such advance shall occur only after the establishment

of the District, and no advance shall be made if the District is not established. Any such advance may not exceed the total anticipated assessment proceeds for the first year of the assessment. Any such advance must be recovered from assessment proceeds as provided in the Resolution of Intention, along with interest calculated at a rate set forth in the Resolution of Intention. The duration of any such advance shall not exceed five years.

SEC. 8-20.55 DURATION. The duration of a new Community Benefits District shall be no greater than specified in the Resolution of Intention for the District, and shall in no event be in excess of ~~fifteen~~~~twenty~~ years. This Section is intended to supplant any shorter limitation set forth in the PBID Law on the duration of assessments levied in connection with an assessment district.

SEC. 8-20.60 RENEWAL. A Community Benefits District may be renewed for a period ~~of~~ not to exceed ~~ten~~~~twenty~~ additional years by following the procedures set forth in Section 36660 of the PBID Law.

SEC. 8-20.65 DISESTABLISHMENT. The City Council may, on its own initiative, at any time adopt a resolution of intention to disestablish a Community Benefits District and shall adopt ~~a~~ such a resolution if, during the annual thirty-day period set forth in Section 36670(a)(2) of the PBID Law, the City Council receives a written petition requesting disestablishment signed by property owners who pay more than ~~fifty (50)~~~~thirty~~ percent of the assessments levied in connection with the district. This section provides an alternative method for the initiation of proceedings to disestablish a Community Benefits-District and shall not be interpreted to preempt the existence of other methods set forth in Section 36670(a)(2) of the PBID Law. A resolution of intention adopted pursuant to this section shall have the same effect, and trigger the same notice and hearing requirements, as a resolution of intention otherwise adopted pursuant to Section 36670 of the PBID Law.

Section 2. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_ day of \_\_\_, 2015, by Council Member \_\_\_\_\_ .

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_\_\_\_ day of \_\_\_\_\_ , 2015, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:  
Mayor of the City of Hayward

DATE:

ATTEST:  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney of the City of Hayward

**DATE:** March 24, 2015

**TO:** Mayor and City Council

**FROM:** Director of Public Works – Engineering & Transportation

**SUBJECT:** Interstate 880 Express Lane Implementation by Metropolitan Transportation Commission

### **RECOMMENDATION**

That Council accepts this report as information only; no action is necessary.

### **BACKGROUND**

The Metropolitan Transportation Commission (MTC) forecasts that the Bay Area will add 2.1 million more people and 1.1 million more jobs by 2040. However, just 5% of the region's transportation dollars are available to fund new roads or additional transit. Not enough transportation funding and land is available to build new transportation facilities to keep up with the anticipated population and job growth. To accommodate the projected growth, it is preferable to make the best use of the transportation system we already have as opposed to building new, more expensive facilities.

To take advantage of available capacity on high occupancy vehicle (HOV) lanes, MTC, Caltrans, and other regional agencies have begun converting existing HOV lanes to Express Lanes throughout the Bay Area. Express Lanes are free for carpools, vanpools, buses, motorcycles, and other toll-free eligible vehicles, while solo drivers are allowed to pay tolls to use the lanes.

According to the report, converting HOV lanes to Express Lanes would increase utilization of HOV lane capacity, improve carpool lane enforcement with additional California Highway Patrol (CHP) staff and advanced technology, improve traffic flow, and raise funds to close gaps in the HOV lane network to encourage more carpooling.

Currently, Express Lanes are in operation along I-680 in Alameda and Santa Clara Counties, and along SR-237 in Santa Clara County. As part of a regional effort to convert HOV lanes to Express Lanes, MTC plans to convert the HOV lanes on northbound and southbound Interstate 880 (I-880), including the portion of the freeway that traverses through Hayward (dates included in Schedule section).

## DISCUSSION

The proposed project will convert existing HOV lanes along I-880 in both the northbound and southbound directions to Express Lanes. In the northbound direction, the project will extend from Dixon Landing Road at the Alameda County line to just north of Lewelling Boulevard in San Leandro. In the southbound direction, the project will extend from Hegenberger Road in Oakland to Dixon Landing Road. The result will be fifty-one Express Lane miles on I-880 between Oakland and Milpitas. The conversion will involve striping lanes, upgrading CHP observation areas, installing signs, FasTrak® toll tag readers and traffic monitoring equipment.

The project is a part of a larger vision to build a 550-mile network of Express Lanes in the Bay Area. Express Lanes are free for carpools, vanpools, buses and other toll-free eligible vehicles, but also allow solo drivers to pay tolls to use the lanes. The cost to use the lanes will change depending on traffic congestion within the lane. Tolls increase as traffic increases and decrease to make the best use of capacity while maintaining traffic flow. The traffic within the Express Lanes will be managed by the changing toll so that the vehicles will travel at approximately 45 miles per hour or faster. Actual toll rates in the Express Lane will depend on traffic conditions, and have not yet been determined for the I-880 corridor. Typical tolls paid by solo drivers on the existing I-680 Express Lane during the morning peak is \$3.84, an average of \$0.27 per mile over the fourteen mile express lane on I-680.

Today's continuous access HOV lane on I-880 allows vehicles to enter and exit the lane at any point. As a result, drivers typically move quickly to get in the HOV lane and also wait to the last possible point to exit. With the large number of interchanges and short distance between them on I-880, these weaving vehicles slow traffic in the HOV lane causing increased traffic congestion. To resolve this, parts of the I-880 Express Lane will have double-white striped buffers in locations where weaving has been historically observed. In areas where double-white lines are striped, vehicles can only enter or exit the Express Lane at designated entry and exit points.

In Hayward, the Express Lane will be striped with double-white lines in several sections. In the northbound direction, double-white lines will be striped between the Whipple Road and Winton Avenue interchanges. One designated exit point will be provided just north of Tennyson Road to allow vehicles using the Express Lane to access the SR-92/Jackson Street interchange. Staff is watching this to assess traffic impacts on east-bound Jackson. A traffic study is underway on this project and staff will evaluate impact to traffic on all local streets when the study is completed, which should be relatively soon.

In the southbound direction, the Express Lane will be striped with double-white lines between the Washington Avenue/SR-238/Lewelling Boulevard interchange in San Leandro to just south of the SR-92 off-ramp. Open entry and exit will be allowed between just south of SR-92 to just south of the Tennyson Road interchange, where another buffer begins and extends to the Industrial Parkway interchange.

## FISCAL & ECONOMIC IMPACT

The project does not have a direct fiscal impact on the City of Hayward. When completed, the project would likely encourage carpools, vanpools, transit usage, and provide reliability for regional traffic travelling through Hayward on I-880. The project is expected to reduce traffic congestion along I-880 at major interchanges in Hayward, such as the I-880/SR-92/Jackson Street interchange. Toll revenues from the project will be used by MTC to close gaps in the HOV lane network and improve corridors throughout the region.

## PUBLIC CONTACT

MTC hosted a public meeting for the project on January 29, 2015 at Hayward City Hall. Only a handful of members of the public attended the meeting, which was similar to the Fremont Open House. Approximately 195 visitors have viewed the online open house at the MTC website at [www.bayareaexpresslanes.org](http://www.bayareaexpresslanes.org). Questions and comments were mostly related to understanding what the Express Lane means to a general commuter and how it operates.

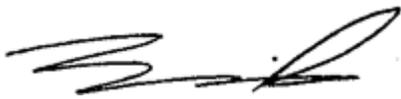
## SCHEDULE

Public Meeting	January 29, 2015
Design Completion	January 2016
Construction Begins	February 2016
End Construction	February 2017
Toll System Installation & Testing	September 2016 – June 2017
Lanes Open	Summer/Fall 2017

*Prepared by:* Abhishek Parikh, Senior Transportation Engineer

*Recommended by:* Morad Fakhrai, Director of Public Works – Engineering & Transportation

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: Location Map

