

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO Members of the Alameda County Planning Commission
RE Unattended Collection Boxes
HEARING DATE February 4, 2013

GENERAL INFORMATION

The following is an overview of issues pertaining to Unattended Collection Boxes within unincorporated Alameda County.

STAFF RECOMMENDATION

Staff requests that the Commission hear staff's presentation, provide comments on regulations pertaining to Unattended Collection Boxes, and adopt the attached resolution. Staff recommends that the Commission approve the Administrative Conditional Use Permit version of the draft ordinance, herein included as Attachment A. In the alternative, staff has also prepared a draft ordinance based on a Conditional Use Permit, herein included as Attachment B.

STAFF ANALYSIS

Overview

On November 5, 2012, staff presented a draft Ordinance to your Commission. Since that time staff has sought the input of the Sunol Citizen's Advisory Committee (Sunol CAC) and Castro Valley Municipal Advisory Council (CVMAC). These public meetings were an opportunity to receive testimony from members of the public and collection box operators such as Campus California and UsAgain. The following discussion summarizes comments received during each of the meetings.

Sunol Citizen's Advisory Committee (CAC)

On November 14, 2012 the matter was discussed by the Sunol CAC. The group took no formal action on the Ordinance, but did express concerns over the deposit amount and the overall need for the Ordinance. There is one such box in Sunol and some members noted that it is well maintained. There were concerns expressed over the potential impact to businesses and local charities. After a lengthy discussion, the Sunol CAC reached a consensus, suggesting that the deposit should be lower (approximately \$100.00), and if possible, that there be different deposits for for-profit and not-for-profit entities.

Castro Valley Municipal Advisory Council

On November 26, 2012 the matter was discussed by the CVMAC. The Council members generally agreed that the Ordinance was needed; however, they were concerned that the Ordinance did not go far enough to minimize the number of collection boxes and that an Administrative Conditional Use Permit process did not provide sufficient community oversight. The CVMAC recommended that the Ordinance be approved by a vote of 7-0 with the following revisions:

- The proposed 400-foot separation be increased to 1,000 feet;

- That a Conditional Use Permit (CUP) process be the means through which approval is granted, rather than an Administrative Conditional Use Permit (ACUP); and
- That the Ordinance include a tiered fee system, differentiating fee amounts for profit and non-profit and for-profit operators.

The CVMAC based their recommendations on concerns that the boxes attract blight, and that further limitations were warranted. They believed that a CUP process was appropriate as community representatives, rather than County staff were better equipped to make a determination as to placement of the boxes. In addition, they believed that a public hearing process would provide greater transparency compared to staff level discretionary approval. Furthermore, a CUP process would allow the County to recover costs associated with the review and ongoing monitoring for compliance of unattended collection boxes. The CVMAC also suggested that the County consider placing stickers on the boxes to indicate to County staff and passers-by which boxes were permitted and which were not.

Revision of the Draft Ordinance

Lowered Fee for Permits

Staff has weighed the recommendations of the CVMAC and Sunol CAC very carefully, and has concluded that while a \$500.00 deposit may present an obstacle for some operators (be they for profit or not-for-profit) it is not excessive. Therefore, staff would not recommend that the Planning Commission reduce the fee or create another permit type with a lower fee to accommodate Unattended Collection Boxes, as the boxes do require County resources (staff time, materials, vehicle usage, etc.) for analysis and ongoing compliance monitoring. A lower fee would likely result in additional costs incurred by the County, for services rendered but not reimbursed. Furthermore, Section 1 of Article XIII C of the California Constitution requires that the fees charged for applications reflect the actual staff time and materials allotted to them. Staff has not proposed a two tiered fee structure whereby non-profit organizations are charged less because both the potential impacts of the use and the costs borne by the County are the same regardless of the tax status of the organization. Furthermore, staff believes that creating a two-tiered fee structure could be open to legal challenge.

Alignment with Code Enforcement Ordinances and Procedures

Staff has also considered comments from Code to ensure that the enforcement is feasible and consistent with existing procedures. Specifically, staff added language under Sections 17.52.1220 (B) and (C) to specify the areas subject to this Ordinance. Any conditions of blight (trash, graffiti, etc.) within a ten foot radius of the unattended collection box would be subject to the proposed Ordinance. Issues occurring outside of the 10 foot area would fall under the auspices of the Neighborhood Preservation Ordinance (Chapter 6.65). Moreover, staff substantially revised Section 17.52.1230 to align with the procedures contained in the Junk Vehicle Ordinance (Chapter 6.48). These procedures are intended to provide notification to both the property owner and the operator of an unattended collection box of a pending abatement, and what steps they need to take in order to rectify the nuisance.

Appeals

Staff has determined that given the nature of the permits, appeals could be effectively handled by the Board of Zoning Adjustments (BZA) rather than the Board of Supervisors. Should the applicant disagree with the decision of the BZA, they would then have the right to appeal that action to the Board of Supervisors. Section 17.52.1240 has been revised accordingly.

Referrals

At their November 26, 2012 meeting, the CVMAC expressed concern about not being notified as a referral body regarding permits for Unattended Collection Boxes. Staff added Section 17.52.1250 (Referrals) to address that concern. The Section directs staff to refer pending applications to any

person(s) that request it. In accordance with that section, all application requests within Castro Valley would be referred to the CVMAC for comment. The CVMAC Chair or Vice-Chair would then determine if the matter is to be placed on the CVMAC agenda.

Conditional Use Permit (CUP) Option

As was mentioned above, the CVMAC had requested that staff consider the Unattended Collection Box Permit using the CUP process rather than the ACUP. Based upon this recommendation, staff has prepared an alternative draft of the Ordinance. (*See Attachment B.*) This alternative draft ordinance includes the greater distance between proposed boxes and a higher deposit amount. Please note that staff did not incorporate a tiered fee system as the impacts of the use are the same regardless of the tax status of the operator.

Implementation & Construction Clause

Staff has included an Implementation and Construction Clause to the Ordinance, which requires that operators of existing Unattended Collection Boxes apply for a permit. At present, unattended collection box are not permitted under the County's Zoning Ordinance. The County could declare existing boxes a public nuisance and require that they be removed. Therefore, following the adoption of this proposed ordinance, they would not be considered a legal non-conforming use because they would not have been lawful at the time of adoption of the new regulation. Property owners wishing to retain an existing box shall have sixty days from the effective date of the Ordinance to file an application; otherwise any unattended collection box would be subject to abatement procedures specified in Sections 6.65, 17.58 and 17.59 of the County's General Ordinance Code. Staff has discussed this clause with County Counsel and County Counsel has confirmed the legality of this clause.

Planning Staff Recommendation

Staff recommends that the Commission adopt the Ordinance as provided in Attachment A. Please note the addition of noticing requirements and the requirement for referrals to individuals or groups that have requested them. These amendments are intended to ensure that there is sufficient notice and opportunity for public comment and to align the Unattended Collection Box Permit with other land use applications currently reviewed by the Planning Department. The Commission may want to revise the draft Ordinance based upon the recommendations of the CVMAC (Attachment B). That draft includes the CVMAC's request that the separation of collection boxes be increased to 1,000 feet, that the permitting process be based upon the CUP, and that the permit require a \$1,500 deposit (the same deposit as required for a CUP).

California Environmental Quality Act (CEQA)

Staff has determined that the proposed Ordinance is subject to Section 15061(B)(3) of CEQA, as the it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The proposed Ordinance would establish a discretionary review process for a use which has proliferated without any regulation. Unattended Collection Boxes could only be placed in a manner consistent with the County's Zoning, Building and Fire Codes. There is no substantial evidence that there are unusual circumstances arising from the use of Unattended Collection Boxes which may cause significant impacts which threaten the environment. The proposed Ordinance would not create any public health or safety hazards and would not have a significant impact on the resources or services within this area, such as water, sanitary services, surrounding roadways and intersections, schools, and existing agricultural uses.

The Alameda County General Plan contains numerous policies and standards that are designed to protect environmental resources such as public views, open space, the watershed function of the mountainsides, and habitats and other biological resources that serve to prevent development from having a significant, adverse effect on the environment. Therefore, any development determined to be consistent with the development standards of the County's General Plan will not result in any significant environmental impacts. Therefore, no significant environmental impacts are expected to result as a consequence of this Ordinance amendment.

CONCLUSION

The attached ordinance amendments will establish regulations for Unattended Collection Boxes within unincorporated Alameda County. In preparing these amendments, the County wishes to reduce or eliminate harmful impacts associated with their use. The amendments create a permitting process, and ongoing performance standards to ensure that the boxes do not become a public nuisance. At this time staff requests that the Planning Commission consider the proposed amendments and adopt the attached resolution. With the approval of the Planning Commission, the matter will be referred to the Board of Supervisors.

The following timeline lists the remaining meetings/tasks necessary to amend the County's Ordinance to address Unattended Collection Boxes.

Unattended Collection Box Meeting and Hearing Schedule

March 4, 2013	BOS - Transportation and Planning Committee
April 2, 2013	BOS Meeting –first reading
May 7, 2013	BOS Meeting –second reading
TBD	Notice of Exemption filing

ATTACHMENTS

- A. Draft Unattended Collection Box Ordinance (Based upon the ACUP permit)
- B. Draft Unattended Collection Box Ordinance, with Revisions Recommended by the CVMAC
November 26, 2012
- C. Draft Resolution

PREPARED BY:	Angela C. Robinson Piñon, Senior Planner
REVIEWED BY:	Sonia Urzua, Senior Planner

UNATTENDED COLLECTION BOXES

Chapter 17.52, Section 1160 et seq. Unattended Collection Box Ordinance

17.52.1160 - Title

This Section and the following Sections shall be known as the Unattended Collection Box Ordinance of Alameda County.

17.52.1170 - Purpose and Intent.

The purpose of this chapter is to regulate the placement of Unattended Collection Boxes within unincorporated Alameda County. The procedures and requirements of this chapter are enacted to:

- A. Promote the community's health, safety, and welfare by regulating Unattended Collection Boxes for clothing or other salvageable personal property within the County.
- B. Ensure that Unattended Collection Boxes do not pose a hazard to pedestrian and vehicular traffic.
- C. Ensure that material is not allowed to accumulate outside of the Unattended Collection Boxes where it can be scattered by adverse weather conditions, animal contact, or human activities.
- D. Establish criteria that avoid attracting vermin, unsightliness, and public health or safety hazards.

17.52.1180 - Definitions.

- A. "Department" means the Alameda County Planning Department.
- B. "Permittee" means the Property Owner who has been issued a permit authorizing the placement of an Unattended Collection Box.
- C. "Property Owner" means the person, entity, association or organization who owns the real property where the Unattended Collection Box is proposed to be located.
- D. "Unattended Collection Box" means any unattended container, receptacle, or similar device that is located on any property within unincorporated Alameda County, used for soliciting and collecting items of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated pursuant to the Alameda County General Ordinance Code.

17.52.1190 Permits.

- A. It shall be unlawful and a public nuisance to place, operate, maintain or allow Unattended Collection Boxes on real property unless the Property Owner first obtains an administrative conditional use permit pursuant to this chapter, sections 17.52.490 through 17.52.500 of the Alameda County General Ordinance Code and the Unattended Collection Box is placed, operated, and maintained in accordance with all provisions in this chapter.
- B. The permit application shall be made on a form provided by the County and shall include the following information:
 - 1. The name, address, e-mail, website (if available) and telephone number of the Operator.
 - 2. The text of the disclosures that will be made on the Unattended Collection Box as required in Section 17.52.1220 (A) (3) and (4).
 - 3. The physical address of the Property Owner's real property and a drawing sufficient to indicate the proposed location of the Unattended Collection Box on the Property Owner's real property, as well as the size of the proposed Unattended Collection Box, and consent of the Property Owner to place the Unattended Collection Box on its real property.
- C. Each application shall be accompanied by a deposit in an amount established by resolution by the Board of Supervisors. This deposit shall be in addition to any fee or tax imposed by the County pursuant to any other provision of this code.
- D. Applications shall be filed with the Department.
- E. Within forty-five (45) days of receiving a completed application, the Director shall issue a permit or deny the issuance of a permit.
- F. The County shall not issue a permit unless:
 - 1. The applicant has submitted a complete and accurate application accompanied by the applicable fee.
 - 2. Written consent of the Property Owner is provided.

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3. The proposed location and placement of the Unattended Collection Box on the Property Owner's real property is in compliance with all applicable laws.
- G. If the Director denies an application, the Director shall provide the Property Owner, in writing, the specific reasons for the denial.
- H. A permit issued hereunder shall be valid for one Unattended Collection Box. Each Unattended Collection Box shall have its own individual permit.
- I. The term of the permit shall expire one year from the date of issuance.
- J. No Permittee shall transfer, assign, or convey such permit to another party.
- K. Prior to expiration of the permit, the Permittee may voluntarily cancel the permit by notifying the Director in writing of the intent to cancel the permit. The permit shall become void upon the Director's receipt of a written notice of intent to cancel the permit.

17.52.1200 Renewal of Permits.

- A. A Permittee may apply for permit renewal by submitting to the County a renewal application and a deposit in an amount set by resolution of the Board of Supervisors before the expiration of the permit.
- B. The County shall either approve or deny the renewal of a permit within forty-five (45) days of receipt of the complete renewal application and payment of the application deposit.
- C. The County may renew the permit if no circumstances existed during the term of the permit, at the time of submission of an application for renewal, or at any time during the review of the application for renewal, that are inconsistent with any finding required for approval of a new permit as specified in Section 17.52.1190 or that would justify the revocation of the permit as specified in Section 17.52.1230.

17.52.1210 Modification of Permits.

- A. If during the term of the permit, a Permittee desires to change the operator of the Unattended Collection Box or would like to change the location of the Unattended Collection Box, the Permittee may request a modification to their permit by submitting to the County an application and a deposit in an amount set by resolution of the Board of Supervisors.
- B. The Director shall either approve or deny the modification of a permit within forty-five (45) days of receipt of the complete application and payment of the deposit.
 - C. The County may approve the modification if no circumstances existed during the term of the existing permit, existed at the time of submission of an application for modification, or existed at any time during the review of the application for modification, that are inconsistent with any finding required for approval of a new permit as specified in Section 17.52.1190 or that would justify the revocation of the permit as specified in Section 17.52.1230.
- D. The in-kind replacement of an Unattended Collection Box that is operated by the same vendor and is positioned at the same location on the parcel as the previous Unattended Collection Box placed in accordance with this chapter shall not constitute a modification of a permit.

17.52.1220 Requirements and Maintenance.

- A. The Permittee shall be responsible for operating and maintaining or causing to be operated and maintained all Unattended Collection Boxes located in the unincorporated Alameda County as follows:
 1. 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.
 2. Unattended Collection Boxes shall be locked or otherwise secured.
 3. Unattended Collection Boxes shall contain the following contact information in two-inch (2) font visible from the front of each Unattended Collection Box: the name, address, e-mail, and phone number of the person(s) responsible for maintaining the Unattended Collection Box.;
 4. The front of every Unattended Collection Box shall display conspicuously a statement in at least two-inch font that either reads, "This collection box is owned and operated by a for-profit organization." or "This collection box is owned and operated by a nonprofit organization." For purposes of this Chapter, a commercial fundraiser shall be classified as a for-profit organization.

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- (a) If the Unattended Collection Box is owned by a nonprofit organization, the front of the Unattended Collection Box shall also display conspicuously a statement describing the charitable cause that will benefit from the items collected.
- (b) If the Unattended Collection Box is owned by a for-profit entity, the front of the Unattended Collection Box shall also conspicuously display a statement that reads "This collection is not tax deductible." If the Unattended Collection Box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of collections to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the box.
- 5. Unattended Collection Boxes shall be serviced and emptied as needed, but at least every seven days.
- 6. Unattended Collection Boxes shall be no more than eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.
- 7. Unattended Collection Boxes shall be marked clearly to identify the type of material to be deposited.
- B. The Permittee shall be responsible for maintaining or causing to be maintained a ten foot area surrounding the Unattended Collection Box. This area shall be free of any junk, garbage, trash, debris or other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code.
- C. The Permittee shall be responsible for abating and removing all junk, garbage, trash, debris and other refuse material within the ten foot area surrounding the Unattended Collection Box within 24 hours of written notice from the County.
- D. The Permittee shall be responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code from the area surrounding the Unattended Collection Boxes.
- E. It shall be unlawful for any party to place an Unattended Collection Box in any R District or any adopted specific plan area that regulates residential uses; provided, however, that a permit for an Unattended Collection Box may be approved on a parcel with a community facility as defined in Chapter 17.04 of the Alameda County General Ordinance Code.
- F. No Unattended Collection Box shall be placed within four hundred (400) feet from another Unattended Collection Box.
- G. No Unattended Collection Box shall be placed in required parking spaces, required landscaping, setbacks, or the public right of way as defined in Title 17 of the Alameda County General Ordinance Code.
- H. No more than one Unattended Collection Box shall be placed on each parcel of real property.

17.52.1230 Removal of Unattended Collection Boxes and Liability.

Upon discovering the existence of an Unattended Collection Box on private property within the County, lacking the required permit, the Planning Director or designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure outlined in Chapter 17.59 – Abatement.

17.52.1240 - Appeals.

A property owner or other aggrieved person shall have a right to appeal any decision of the Director to the Board of Zoning Adjustments by filing a Notice of Appeal specifying the grounds for such appeal with the Planning Department no more than five days from the date of the Director's decision. Filing such notice shall stay all proceedings in furtherance of the order appealed from. A fee for such an appeal shall be established by resolution of the Board of Supervisors. The Board of Zoning Adjustments shall consider the appeal at a regularly scheduled meeting. Notice of the date and time of the hearing shall be provided to the applicant.

17.52.1250 - Violations.

Any violation of the provisions of this section is a public nuisance and shall be subject to enforcement remedies, penalties, and abatement provided by Title 6.65 and 17.58 and 17.59 of the Alameda County General Ordinance Code.

UNATTENDED COLLECTION BOXES

17.52.1260 Referrals.

A party(ies) may request that the Department notify them of pending permit applications. The Department shall maintain a list of requests for referral. The County shall notify and provide opportunity for those person(s) requesting a referral to comment upon pending permit applications. This requirement shall be in addition to the notice required under Section 17.52.1280.

17.52.1270 - Implementation and Construction.

- A.** The provisions of this Chapter shall apply to all Unattended Collection Boxes located within unincorporated territory of the County as of the effective date of this Ordinance. 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 provided for in this Chapter.
- B.** Nothing in this Ordinance is intended to diminish or otherwise alter the requirements of any other federal, state or municipal law governing regulation of Unattended Collection Boxes.

17.52.1280 – Notice.

The Department shall mail a notice to surrounding residents and property owners within a five hundred (500) foot radius of the exterior limits of the property or properties under consideration for an Unattended Collection Box.

17.52.1290 - Exemption.

Unattended Collection Boxes located entirely within the interior of a building are exempt from the requirements of this chapter.

RELATED SECTIONS TO BE AMENDED

17.52.490 Temporary uses—Administrative conditional uses.

In any district minor temporary uses of land of a duration of sixty (60) days or less, except as otherwise provided herein, having negligible or no permanent effects on the environment that are categorically exempt from the requirements of an environmental impact report under the provisions of the county guidelines for implementation of the California Environmental Quality Act of 1970 including, but not limited to: grand opening sales and displays, Christmas tree lots, neighborhood and church festivals, firewood sales lots in the A district (but no such permit shall be approved for a period to exceed one year), mobilehome occupancy for a period of one year during construction of permanent living quarters on the same premises in any A or R district, occupancy of a commercial office trailer for a period not to exceed one year in any C or M district, tract and sales office with accessory signs and directional tract signs during the period of construction and original sale of the buildings or lots in a new subdivision, shall be permitted only if an administrative conditional use permit is approved by the planning director. In addition to the above, the planning director may grant an administrative conditional use permit for a tent or canopy subject to the provisions of Sections 17.52.1110 through 17.52.1160. The planning director may also grant an administrative conditional use permit for an unattended collection box subject to the provisions of Section 52.1160 et seq. of the Alameda County General Ordinance Code. The planning director shall make such investigations as are necessary to determine whether or not the proposed use conforms or may be conditioned to conform to the requirements and intent of this title. If from the information submitted or developed upon investigation, the planning director finds that compliance with the requirements and intent of this title would be secured, the administrative conditional use permit shall be approved. If it is found that such compliance is not secure, the permit shall be denied or approved subject to such specified conditions, changes or additions as will assure such compliance. The order approving or disapproving an administrative conditional use permit shall become effective five days after the date of such action unless a written appeal is filed pursuant to and in compliance with Section 17.54.670.

17.52.495 Temporary uses—Modification. [To be added]

The planning director may approve a modification of an administrative conditional use permit subject to the provisions of Section 17.52.1210 of the Alameda County General Ordinance Code.

UNATTENDED COLLECTION BOXES
BASED UPON CVMAC RECOMMENDATIONS ON NOVEMBER 26, 2012

Chapter 17.52 Section 1160 et seq. Unattended Collection Boxes Ordinance

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- A. Promote the community's health, safety, and welfare by regulating Unattended Collection Boxes for clothing or other salvageable personal property within the County.
- B. Ensure that Unattended Collection Boxes do not pose a hazard to pedestrian and vehicular traffic.
- C. Ensure that material is not allowed to accumulate outside of the Unattended Collection Boxes where it can be scattered by adverse weather conditions, animal contact, or human activities.; and,
- D. Establish criteria that avoid attracting vermin, unsightliness, and public health or safety hazards.

17.52.1180 - Definitions.

- A. "Department" means the Alameda County Planning Department.
- B. "Permittee" means the Property Owner who has been issued a permit authorizing the placement of an Unattended Collection Box.
- C. "Property Owner" means the person, entity, association, or organization who owns the real property where the Unattended Collection Box is proposed to be located.
- D. "Unattended Collection Box" means any unattended container, receptacle, or similar device that is located on any property within unincorporated Alameda County, used for soliciting and collecting items of clothing or other salvageable personal property. This term does not include recycle bins for the collection of recyclable materials governed or regulated pursuant to the Alameda County General Ordinance Code.

17.52.1190 - Permits.

- A. It shall be unlawful and a public nuisance to place, operate, maintain or allow Unattended Collection Boxes on real property unless the Property Owner first obtains a conditional use permit pursuant to this chapter, sections 17.54.130, 17.54.140, 17.54.142, 17.54.150, 17.54.160, 17.54.170, 17.54.180, and 17.54.190 of the Alameda County General Ordinance Code and the Unattended Collection Box is placed, operated, and maintained in accordance with all provisions in this chapter.
- B. The permit application shall be made on a form provided by the County and shall include the following information:
 - 1. The name, address, e-mail, website (if available) and telephone number of the Operator.
 - 2. The text of the disclosures that will be made on the Unattended Collection Box as required in Section 17.52.1220 (A) (3) and (4).
 - 3. The physical address of the Property Owner's real property and a drawing sufficient to indicate the proposed location of the Unattended Collection Box on the Property Owner's real property, as well as the size of the proposed Unattended Collection Box, and consent of the Property Owner to place the Unattended Collection Box on its real property.
- C. Each application shall be accompanied by a deposit in an amount established by resolution by the Board of Supervisors. This deposit shall be in addition to any fee or tax imposed by the County pursuant to any other provision of this code.
- D. Applications shall be filed with the Department.
- E. The County shall not issue a permit unless:
 - 1. The applicant has submitted a complete and accurate application accompanied by the applicable fee.
 - 2. Written consent of the Property Owner is provided.
 - 3. The proposed location and placement of the Unattended Collection Box on the Property Owner's real property is in compliance with all applicable laws.
- F. A permit issued hereunder shall be valid for one Unattended Collection Box. Each Unattended Collection Box shall have its own individual permit.

**UNATTENDED COLLECTION BOXES
BASED UPON CVMAC RECOMMENDATIONS ON NOVEMBER 26, 2012**

- G.** The term of the permit shall expire one year from the date of issuance.
- H.** No Permittee shall transfer, assign, or convey such permit to another party.

17.52.1200 - Renewal of Permits.

- A.** A Permittee may apply for permit renewal by submitting to the County a renewal application and a deposit in an amount set by resolution of the Board of Supervisors before the expiration of the permit.
- B.** The County may renew the permit if no circumstances existed during the term of the permit, at the time of submission of an application for renewal, or at any time during the review of the application for renewal, that are inconsistent with any finding required for approval of a new permit as specified in Section 17.52.1190 or that would justify the revocation of the permit as specified in Section 17.52.1230.

17.52.1210 - Modification of Permits.

- A.** If during the term of the permit, a Permittee desires to change the operator of the Unattended Collection Box or would like to change the location of the Unattended Collection Box, the Permittee may request a modification to the permit by submitting to the County an application and a deposit in an amount set by resolution of the Board of Supervisors.
- B.** The County may approve the modification if no circumstances existed during the term of the existing permit, at the time of submission of an application for modification, or at any time during the review of the application for modification, that are inconsistent with any finding required for approval of a new permit as specified in Section 17.52.1190 or that would justify the revocation of the permit as specified in Section 17.52.1230.
- C.** The in-kind replacement of an Unattended Collection Box, that is operated by the same vendor and is positioned at the same location on the parcel as the previous Unattended Collection Box placed in accordance with this chapter, shall not constitute a modification of a permit.

17.52.1220 - Requirements and Maintenance.

- A.** The Permittee shall be responsible for operating and maintaining, or causing to be operated and maintained all Unattended Collection Boxes located in the unincorporated Alameda County as follows:
 - 1.** 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.
 - 2.** Unattended Collection Boxes shall be locked or otherwise secured.
 - 3.** Unattended Collection Boxes shall contain the following contact information in two-inch font visible from the front of each Unattended Collection Box: The name, address, e-mail, and phone number of the person(s) responsible for maintaining the Unattended Collection Box.
 - 4.** The front of every Unattended Collection Box shall display conspicuously a statement, in at least two-inch (2) font, that either reads, "This collection box is owned and operated by a for-profit organization." or "This collection box is owned and operated by a nonprofit organization." For purposes of this Chapter, a commercial fundraiser shall be classified as a for-profit organization.
 - (a)** If the Unattended Collection Box is owned by a nonprofit organization, the front of the Unattended Collection Box shall also display conspicuously a statement describing the charitable cause that will benefit from the items collected.
 - (b)** If the Unattended Collection Box is owned by a for-profit entity, the front of the Unattended Collection Box shall also conspicuously display a statement that reads, "This collection is not tax deductible." If the Unattended Collection Box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of collections to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the box.
 - 5.** Unattended Collection Boxes shall be serviced and emptied as needed, but at least every seven days.
 - 6.** Unattended Collection Boxes shall be no more than eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.
 - 7.** Unattended Collection Boxes shall be marked clearly to identify the type of material to be deposited.

**UNATTENDED COLLECTION BOXES
BASED UPON CVMAC RECOMMENDATIONS ON NOVEMBER 26, 2012**

- B.** The Permittee shall be responsible for maintaining or causing to be maintained a ten foot area surrounding the Unattended Collection Box. This area shall be free of any junk, garbage, trash, debris, or other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code.
- C.** The Permittee shall be responsible for abating and removing all junk, garbage, trash, debris, and other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code within the ten foot area surrounding the Unattended Collection Box within 24 hours of written notice from the County.
- D.** The Permittee shall be responsible for all costs for abating and removing any junk, garbage, trash, debris and other refuse material as defined in Chapter 6.65 of the Alameda County Ordinance Code from the area surrounding the Unattended Collection Boxes.
- E.** It shall be unlawful for any party to place an Unattended Collection Box in any R District or any adopted specific plan area that regulates residential uses; provided, however, that the County may approve a permit for an Unattended Collection Box on a parcel with a Community Facility as defined in Chapter 17.04 of the Alameda County General Ordinance Code.
- F.** No Unattended Collection Box shall be placed within one thousand (1,000) feet of another Unattended Collection Box.
- G.** No Unattended Collection Box shall be placed in required parking spaces, required landscaping, setbacks, or the public right of way as defined in Title 17 of the Alameda County General Ordinance Code.
- H.** No more than one Unattended Collection Box shall be placed on each parcel of real property.

17.52.1230 - Revocation of Permit

The Board of Zoning Adjustments shall have the right to revoke any permit issued hereunder if any of the grounds to refuse issuance of the initial permit exists. In addition, the failure of the Permittee to comply with the provisions of this Chapter, or other provisions of this Code or other law, shall also constitute grounds for revocation of the permit. The County shall provide a written notification to the Permittee stating the specific grounds for revocation. Upon revocation, the Unattended Collection Box shall be removed from the Permittee's real property within thirty (30) calendar days and if not removed within this time period the County may remove and dispose of the Unattended Collection Box at the Permittee's sole cost and expense.

17.52.1240 - Removal of Unattended Collection Boxes and Liability.

Upon discovering the existence of Unattended Collection Box on private property within the County lacking the required Permit, the Planning Director or designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure outlined in Chapter 17.59 - Abatement

17.52.1250 - Appeals.

Appeals shall be handled in accordance with Section 17.54.670 of this Code

17.52.1260 - Violations.

Any violation of the provisions of this section is a public nuisance and shall be subject to enforcement remedies, penalties, and abatement provided by Title 6.65 , 17.58 and 17.59 of the Alameda County General Ordinance Code.

17.52.1270 - Implementation and Construction.

- A.** The provisions of this Chapter shall apply to all Unattended Collection Boxes located within unincorporated territory of the County as of the effective date of this Ordinance. 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 provided for in this Chapter.
- B.** Nothing in this Ordinance is intended to diminish or otherwise alter the requirements of any other federal, state, or municipal law governing regulation of Unattended Collection Boxes.

17.52.1280 - Exemption.

Unattended Collection Boxes located entirely within the interior of a building are exempt from the requirements of this Chapter.

UNATTENDED COLLECTION BOXES
BASED UPON CVMAC RECOMMENDATIONS ON NOVEMBER 26, 2012

RELATED SECTIONS TO BE ADDED

17.54.142 Conditional Uses - Unattended Collection Boxes.

In addition to the findings required of the Board of Zoning Adjustments under Sections 17.54.130 (Conditional Uses) and 17.54.140 (Conditional Uses--Action), a conditional use permit for any conditionally permitted Unattended Collection Box may only be granted upon determination that the proposal conforms to the additional use permit criteria in Section 17.52.1190. If the application is to allow the continued use of an Unattended Collection Box or to modify a conditional use permit for which approval was previously granted by the County, the Board of Zoning Adjustments shall also find that there are no circumstances that would justify revocation of the Conditional Use Permit or removal of the Unattended Collection Box as specified in Section 17.52.1230.

In addition to the above language, staff will add Unattended Collection Boxes as a conditional use in commercial and industrial districts as appropriate.

**THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY
HAYWARD, CALIFORNIA**

RESOLUTION NO. ## - AT MEETING HELD FEBRUARY 4, 2013

UNATTENDED COLLECTION BOX ORDINANCE OF ALAMEDA COUNTY

**Introduced by Commissioner
Seconded by Commissioner**

WHEREAS, the Alameda County Planning Commission did hold three public hearings on the proposed Unattended Collection Box Ordinance (“Ordinance”) of Alameda County on the fifteenth day of October fifth day of November and the fourth day of February 2013 at the County of Alameda, 224 West Winton Avenue, Hayward, California, for which notice was given as required by law, and at which time the Commission took public testimony; and

WHEREAS, notice was given as required by law; and

WHEREAS, the Alameda County Planning Commission did review the proposed Ordinance in accordance with the provisions of the California Environmental Quality Act, and considered an exemption under Section 15061(b)(3).

WHEREAS, Section 15061(b)(3) of CEQA states “Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”.; and

WHEREAS, on the basis of the record before the Alameda County Planning Commission, there is no substantial evidence that the proposed Ordinance will have a significant effect on the environment.

WHEREAS, this chapter of the General Ordinance Code will require property owners of Unattended Collection Boxes to obtain a Permit from the County to operate and maintain all Unattended Collection Boxes within the County; and

WHEREAS, this chapter of the General Ordinance Code establishes and requires compliance with regulatory and operational standards by the applicant in order to legally operate an Unattended Collection Box; and

WHEREAS, the Planning Commission is authorized and obligated to make recommendations to the Board of Supervisors on matters related to planning and zoning; and

WHEREAS, the testimony submitted in writing and at the public hearing and items in the public record have been considered by the Planning Commission prior to this action; and

WHEREAS, the complete record for this process is in the custody of the Alameda County Planning Department, and may be found at Room 111, 224 West Winton Avenue, Hayward, California 94544.

BE IT RESOLVED, that this Commission does hereby recommend adoption of the proposed amendments to the Alameda County General Ordinance Code regulating the placement and maintenance of unattended collection boxes as provided in Exhibit A (Draft Ordinance); and

BE IT FURTHER RESOLVED, the Alameda County Planning Commission did find that the proposed Ordinance meets all provisions of Section 15061 (b) (3) of the California Environmental Quality Act and that the Commission hereby recommends that the Board of Supervisors adopt a Declaration of Categorical Exemption.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOE:

EXCUSED:

ABSENT:

ABSTAINED:

ALBERT LOPEZ, PLANNING DIRECTOR AND SECRETARY,
ALAMEDA COUNTY PLANNING COMMISSION