



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

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MEMORANDUM

TO: Board of Supervisors' Transportation and Planning Committee

FROM: Chris Bazar, Director, Community Development Agency
Albert Lopez, Planning Director

DATE: April 11, 2013

SUBJECT: Unattended Collection Box Ordinance

BACKGROUND

Brief History and Overview

Unattended collection boxes may be found throughout unincorporated Alameda County. The lack of regulation for these boxes has resulted in many negative impacts affecting County residents. Code Enforcement staff has noted that unattended collection boxes have become a target for illegal dumping and scavenging, thereby creating a health and safety concern. Members of both the West County Board of Zoning Adjustments and the Castro Valley Municipal Advisory Council have requested that staff develop an ordinance to address unattended collection boxes.

In response to these concerns, staff recommends that the County adopt a permitting process for collection boxes with the following requirements:

- Owner consent
- The collection box must contain contact information of the organization/persons maintaining the box
- The collection box must remain in good order (i.e. free of graffiti, no litter present, etc.)
- The box must not affect the flow of traffic or pedestrians

Ordinance Development

In preparing the proposed amendments staff has consulted various sources. On October 24, 2012 and February 27, 2013, staff met with representatives from various collection box operators to discuss their operations within unincorporated Alameda County and to gather their input on how other jurisdictions have regulated unattended collection boxes. Staff has also sought comments from the following County entities: the Planning Commission, County Counsel, the Public Works Agency, the Castro Valley Municipal Advisory Council (CVMAC), the Sunol Citizens Advisory Committee (SCAC), and the Board of Supervisors' (BOS) – Unincorporated Services Committee (USC).

The following table summarizes the meetings where the draft Ordinance has been discussed.

| MEETING BODY | DATE | MEETING OBJECTIVES |
|---------------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CVMAC | September 10, 2012 | Inform the Council that staff had begun working on the Ordinance |
| Planning Commission | October 15, 2012 | Inform the Commission that staff had begun working on the Ordinance; describe the process to be used and the parameters to be addressed under the proposed Ordinance |
| Planning Commission | November 5, 2012 | Introduce and seek feedback on the draft Ordinance |
| SCAC | November 14, 2012 | Introduce and seek feedback on the draft Ordinance |
| CVMAC | November 26, 2012 | Introduce and seek feedback on the draft Ordinance |
| BOS - USC | December 5, 2012 | Introduce and seek feedback on the draft Ordinance |
| Planning Commission | February 4, 2013 | Introduce and seek feedback on the draft Ordinance |
| CVMAC | February 11, 2013 | Make recommendations to the Planning Commission regarding the Ordinance |
| Planning Commission | March 4, 2013 | Seek feedback on Ordinance options; recommend an option to the BOS |

Ordinance Implementation

Staff recommends that within a time period to be specified in the Ordinance, all persons having an unattended collection box on their property apply for a permit. Unattended collection boxes not having the required permit would be cited for action by Code Enforcement. Staff recommends this approach as the precise number and location of the boxes is unknown; therefore, allowing pre-existing uses to continue would make enforcement nearly impossible as the County would not be able to determine which collection boxes were placed prior to the adoption of the Ordinance.

Planning Commission Action

The Alameda County Planning Commission met on March 4, 2013 to discuss a proposed Unattended Collection Box Ordinance. Today, staff will provide a summary of what occurred at that meeting.

COST

The Ordinance amendment has been prepared in-house by County staff. Therefore, no additional costs are anticipated to the County for the preparation of the Ordinance amendment.

NEXT STEPS

At this time, staff is requesting feedback on the draft amendments and direction as to next steps.

ATTACHMENT

Planning Commission Staff Report, March 4, 2013

**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**



STAFF REPORT

TO Members of the Alameda County Planning Commission

RE Unattended Collection Boxes

HEARING DATE March 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 (ACUP) version of the draft ordinance, herein included as Attachment A. Attachment A has been revised per your comments on February 4, 2013. Staff has also prepared a draft ordinance based upon the Conditional Use Permit (CUP) that incorporates your suggested revisions on February 4, 2013, herein included as Attachment B, and another option (Attachment C) that was proposed by the Castro Valley Municipal Advisory Council (CVMAC).

STAFF ANALYSIS

Overview

This matter was continued from the February 4, 2013 hearing at which time staff was directed to revise the draft Ordinances to include the following provisions:

- 700 feet separation between boxes;
- A clause to describe circumstances where two boxes might be appropriate;
- Additional language requiring the reporting of how the boxes contribute to the County's waste reduction goals;
- Appeals of an ACUP (option provided in Attachment A) are to be sent to the Planning Commission and state that the CVMAC has the right to appeal the Planning Director's decision; and
- State that applications involving an ACUP that are also within Castro Valley should be referred to the CVMAC.

Staff has prepared draft Ordinances (Attachments A and B) which include the aforementioned changes, and has also submitted a draft of the Ordinance based upon the CVMAC's recommendations for your review (Attachment C).

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. At that time, 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);
- That operators be required to provide an annual report to the County regarding its activities in unincorporated Alameda County; and
- That the Ordinance includes a tiered fee system, differentiating fee amounts for profit and non-profit and for-profit operators.

On February 11, 2013, the CVMAC revisited this matter and passed a motion reaffirming their desire to see that a CUP process be implemented and that the minimum separation between boxes be 1,000 feet. The following statement included that motion.

“Should the PC choose to go against the MAC's recommendation (previous Attachment B), in order to protect the interests of the Unincorporated Areas, the Planning Commission should refrain from advancing a donation box ordinance at all to the Board of Supervisors since Attachment A or a version thereof will have a detrimental effect on the community.”

Consultation with Collection Box Operators

On February 25 and 27, 2013, staff met with representatives from Campus California, Usagain, Discover Books and the Salvation Army to gain their feedback on the proposals before your Commission. In addition, during the period between your February 4, 2013 hearing and today, staff has been in communication with several Operators regarding the proposed Ordinance. When provided, their written comments have been attached to this report. However, their concerns may be summarized as follows:

- Permit costs;
- Property owner authorization; and
- Limitations on the number of boxes per parcel.

Permit Costs

Staff did provide an opinion regarding permit fees in its February 4, 2013 staff report. Staff stated “...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.” In addition, staff believes that the fees for an ACUP are appropriate given the use and the duration. Should the Commission disagree with staff’s analysis, a new application/permit type may be required. Furthermore, if the Commission chooses to advance a new permit type, the Commission should specify the amount of any fees/deposits to be levied against the applicant.

Property Owner Authorization

Staff has explained the County’s practice of requiring that the property owner’s signature on applications to members of the Commission and to Collection Box operators, and believes that this is no longer a matter of concern.

Limitations on Number of Boxes per Parcel

At your February 4, 2013 hearing, your Commission directed staff to prepare language to describe circumstances or conditions where two boxes might be appropriate. Staff has completed that task as request, and the language may be found in Section 17.52.1220(H).

Pending Legislation

Senate Bill 450 (Galgiani) would add Section 152.5 to the Welfare and Institutions Code, to address the removal of unattended collection boxes by a property owner. The Legislative Counsel's Digest provides the following analysis of the proposed legislation.

"[A]uthorize a city or county to provide, by ordinance or resolution, immunity from civil liability to a property owner, or his or her authorized agent, when the owner or agent removes a collection box placed on the owner's property if the ordinance or resolution includes specified provisions, including the requirement that the owner or agent send a written notice of removal to the address displayed on the collection box prior to removal. This bill would also provide that the ordinance or resolution shall include a provision providing that immunity from civil liability will not be granted to a property owner, or his or her agent, who removes the collection box when he or she has given written consent for the collection box to be placed on the property and the consent has not been rescinded, as specified, and a provision stating that a property owner, property owner's authorized agent, or person in lawful possession of private property who causes the removal of a collection box, or otherwise disposes of it, despite valid written consent from the property owner or property owner's authorized agent at the time of removal, is civilly liable to the owner or operator of the collection box for 4 times the amount of the towing and storage charges, or \$1,000, whichever is more, unless removal is necessary to comply with local zoning ordinances."

While not in its final form, the Commission may choose to add language to the Ordinance to address this concern. Staff has prepared sample text (Attachment F) that the Commission may want to incorporate into the draft that will be transmitted to the Board.

Planning Staff Recommendation

Staff recommends that the Commission adopt the Ordinance as provided in Attachment A. Please note the previous addition of noticing requirements and the requirement for referrals to individuals or groups that have requested them. These revisions, as well those suggested by the Planning Commission, taken in total 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 recommend that the Board adopt Attachment B which is both aligned with and derived from the CUP process. Finally, your Commission may choose to recommend that the Board of Supervisors adopt Attachment C as urged by the CVMAC. If Attachment C was adopted, the County would require that collection boxes be at least 1,000 feet apart and that the permitting process be based upon the CUP.

CONCLUSION

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

| Date | Meeting/Hearing |
|---------------|--------------------------------------------------------------------|
| March 5, 2013 | Board of Supervisors (BOS) – Transportation and Planning Committee |
| April 9, 2013 | BOS Meeting – first reading |

| | |
|-----|------------------------------|
| TBD | 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, Based upon the CUP permit
- C. Draft Unattended Collection Box Ordinance, Based upon the CVMAC Recommendations of February 11, 2013
- D. Comments from Julie Wedge of Campus California, received February 4, 2013
- E. Text of Senate Bill 450
- F. Proposed Language Intended to Address SB 450
- G. Matrix of Ordinance Options
- H. Draft Resolution

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

ATTACHMENT A – DRAFT UNATTENDED COLLECTION BOX ORDINANCE ACUP VERSION

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 (A)(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.
 - 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.

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- 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.
- L.** Permits requesting the placement of an additional Unattended Collection Box may only be approved if the Planning Director finds the following:
 - 1. That the daily collection of items from the unattended collection box fails to provide adequate overflow abatement.
 - 2. That the volume of materials collected daily, and for a period no less than thirty (30) days, would exceed the internal capacity of an Unattended Collection Box that is eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.
 - 3. That the additional Unattended Collection Box could be placed in accordance with Section 17.52.1220.

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 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 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.

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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.
 - (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. Unless a second Unattended Collection Box has been permitted by the County, No Unattended Collection Box shall be placed within ~~seven~~ four hundred (700 400) 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. If daily collection of items from this the box does not provide adequate overflow abatement, a Permittee may apply for one additional box to relieve this issue as provided in Section 17.52.1190.
- I. The Permittee shall provide information to the County regarding the quantity and type of materials collected from an Unattended Collection Box. The Permittee shall also specify the quantity and type of materials collected from the box that have been recycled, reused or discarded as waste. This information shall be provided annually and be submitted in the manner specified by the Planning Director.

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.

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17.52.1240 – Appeals.

A property owner or other aggrieved person shall have a right to appeal any decision of the Director to the Planning Commission 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. The Castro Valley Municipal Advisory Council shall also have the right to appeal the Planning 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 Planning Commission 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.

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. All permit applications for parcels located within the boundaries of the Castro Valley General Plan shall be referred to the Castro Valley Municipal Advisory Council. 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

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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.

ATTACHMENT B – DRAFT UNATTENDED COLLECTION BOX ORDINANCE CUP VERSION

Chapter 17.52 Section 1160 et seq. Unattended Collection Boxes 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 Ordinance 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 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 (A)(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. A second unattended Collection Box may be approved only if the following findings are made:

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1. The daily collection of items from the unattended collection box fails to provide adequate overflow abatement.
2. The volume of materials collected daily, and for a period no less than thirty (30) days, would exceed the internal capacity of an Unattended Collection Box that is eighty-two (82) inches high, fifty-six (56) inches wide and forty-nine (49) inches deep.
3. The additional Unattended Collection Box could be placed in accordance with Section 17.52.1220.

~~G. The term of the permit shall expire one year from the date of issuance.~~

G. 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~~ or would like to place an second 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 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

ATTACHMENT B – DRAFT UNATTENDED COLLECTION BOX ORDINANCE CUP VERSION

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 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.** Unless a second Unattended Collection Box has been permitted by the County, No Unattended Collection Box shall be placed within ~~one thousand (1,000)~~ seven hundred (700) 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. If daily collection of items from this the box does not provide adequate overflow abatement, a Permittee may apply for one additional box to relieve this issue as provided in Sections 17.52.1190 and 17.52.1210.
- I.** The Permittee shall provide information to the County regarding the quantity and type of materials collected from an Unattended Collection Box. The Permittee shall also specify the quantity and type of materials collected from the box that have been recycled, reused or discarded as waste. This information shall be provided annually and be submitted in the manner specified by the Planning Director.

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.

ATTACHMENT B – DRAFT UNATTENDED COLLECTION BOX ORDINANCE CUP VERSION

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.

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.

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

**ATTACHMENT C – DRAFT UNATTENDED COLLECTION BOX ORDINANCE
BASED UPON CVMAC RECOMMENDATIONS OF FEBRUARY 11, 2013**

Chapter 17.52 Section 1160 et seq. Unattended Collection Boxes 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 Ordinance 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 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 (A)(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.

**ATTACHMENT C – DRAFT UNATTENDED COLLECTION BOX ORDINANCE
BASED UPON CVMAC RECOMMENDATIONS OF FEBRUARY 11, 2013**

~~G. The term of the permit shall expire one year from the date of issuance.~~

G. 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 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.

**ATTACHMENT C – DRAFT UNATTENDED COLLECTION BOX ORDINANCE
BASED UPON CVMAC RECOMMENDATIONS OF FEBRUARY 11, 2013**

- 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.

**ATTACHMENT C – DRAFT UNATTENDED COLLECTION BOX ORDINANCE
BASED UPON CVMAC RECOMMENDATIONS OF FEBRUARY 11, 2013**

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.

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

Rec'd

2-4-13

Proposed Amendments to Unattended Collection Box Ordinance

Item 1 for Amendment:

Page 1 of Staff Analysis shows both Sunol CAC and Castro Valley MAC have requested the fees for deposit and per box fees associated be mindful of non-profit entities. A deposit of \$500 per box along with even the lowest suggested price of \$100 per box (by Sunol) would be out of the range of feasibility for our non-profit organization. As such we will remove our boxes and the County will be left in the same situation San Pablo finds itself in today after enacting their ordinance. They went from 85,000 pounds in 2012, reportable to the State under AB341 from Campus California alone, to a projection of 0 pounds for 2013. This seems counter intuitive to what Alameda County is trying to accomplish, therefore we propose the following change for consideration:

17.52.1190 Permits.

C. Each applicant shall be subject to a \$500 deposit annually. This deposit shall be in addition to a \$100 per box application fee imposed by the County.

17.52.1210 Modification of Permits

A. If during the term of the permit, a Permittee decides to change the operator of the Unattended Collection Box the fees will be the same as a new applicant in Section 17.52.1190 Section C. If the applicant requests a relocation due to overflow or other public nuisance issues, a request for modification of permit may be made by submission of application to the County and an additional deposit not to exceed the original per box permit cost will be applied.

Item 2 for Amendment:

It is current California law that real property owners have final right of refusal and there is a notification obligation in place. By suggesting the Property Owner is the only person to permit the use of the box takes some courtesies away from the Business Owner or Property Owner's agent. Example: Campus California has a great relationship with a Property Owner that has 5 parcels and has given permission to place on all 5. Three of the Business Owners have an issue with the box. There is now no recourse for the Business Owner to have the box removed as the Property Owner has permitted the use.

AB 1978 that was vetoed by the Governor in 2012 began with a Property Owner requirement and when this example was pointed out, the language was changed.

Suggested Amendment:

Replace all reference to Property Owner with Property Owner or their Agent.

→ The exclusivity of definition opens to Agency issues.

Item 3 for Amendment:

The language on this may be tougher but to properly address the overflow issues the community expressed, the one box per parcel needs to have some language to include the following:

17.52.1220 Requirements and Maintenance

H. No more than one box shall be placed on each parcel of real property. If daily collection of items from this parcel does not provide adequate overflow abatement one additional box from the same applicant shall be permitted to relieve the issue.

Item 4 for Amendment:

Campus California would like to see a waste reduction reporting requirement added to this ordinance. AB 341 was implemented as of July 1, 2012 and Cities and Counties are required to report waste reduction numbers to the State. We feel a requirement would add an additional layer of accountability to the community and a transparent and concrete number toward a Zero Waste Alameda County. We hope the Commission considers addition of such a requirement to the current proposed ordinance.

(under AB939)

Introduced by Senator Galgiani
(Coauthor: Assembly Member Olsen)

February 21, 2013

An act to add Section 152.5 to the Welfare and Institutions Code, relating to personal property.

LEGISLATIVE COUNSEL'S DIGEST

SB 450, as introduced, Galgiani. Unattended collection boxes.

Existing law regulates the placement of unattended collection boxes and requires specified information, including the name, address, and telephone number of the collection box owner and operator, to be displayed on the front of each collection box. Existing law also requires a person or public or private entity that finds and takes possession of any personal property of another to inform the owner, if known, and return it.

This bill would authorize a city or county to provide, by ordinance or resolution, immunity from civil liability to a property owner, or his or her authorized agent, when the owner or agent removes a collection box placed on the owner's property if the ordinance or resolution includes specified provisions, including the requirement that the owner or agent send a written notice of removal to the address displayed on the collection box prior to removal. This bill would also provide that the ordinance or resolution shall include a provision providing that immunity from civil liability will not be granted to a property owner, or his or her agent, who removes the collection box when he or she has given written consent for the collection box to be placed on the property and the consent has not been rescinded, as specified, and a provision stating that a property owner, property owner's authorized agent, or person in lawful possession of private property who causes the removal of a collection box, or otherwise disposes of it, despite valid written consent from the property owner or property owner's authorized agent at the time of removal, is civilly liable to the owner or operator of the collection box for 4 times the amount of the towing and storage charges, or \$1,000, whichever is more, unless removal is necessary to comply with local zoning ordinances.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- P2 1 SECTION 1.
2 Section 152.5 is added to the *Welfare and*
3 *Institutions Code*, to read:
4 152.5.
5 Notwithstanding Section 2080 of the Civil Code, a city,
6 county, or city and county may, by ordinance or resolution, provide
7 immunity from civil liability to a private property owner, or his
8 or her authorized agent, who removes a collection box placed on
9 an owner's private property if the ordinance or resolution includes
10 all of the following provisions:
11 (a) A private property owner, or his or her agent, who causes
the removal of a collection box shall send a written notice of
removal to the address that is conspicuously displayed on the front

12 of every collection box pursuant to Section 151. That notice shall
13 be mailed within five days of removal and include the current
14 location of the box. This subdivision shall not apply if no address
15 appears on the front of the collection box.

16 (b) Except as provided in subdivision (c), a private property
17 owner, or his or her agent, shall not have immunity from civil
18 liability if he or she has given written consent for the collection
19 box to be placed on the private property.

20 (c) An owner of private property, or his or her agent, who has
21 given written consent for the placement of a collection box on the
22 owner's private property, may rescind his or her consent by
23 providing written notice of the rescission to the collection box
24 owner or operator. For purposes of this subdivision, consent shall
25 be deemed rescinded 10 calendar days after the owner of private
26 property deposits a written notice of rescission in the United States
27 mail, postage prepaid, addressed to the address displayed on the
28 collection box pursuant to Section 151.

P3 1 (d) (1) A property owner, his or her agent, or a person in lawful
2 possession of private property who causes the removal of a
3 collection box to a storage facility, or otherwise disposes of a
4 collection box, despite valid written consent from the property
5 owner at the time of removal, shall be civilly liable to the owner
6 or operator of the collection box for four times the amount of the
7 towing and storage charges, or one thousand dollars (\$1,000),
8 whichever is higher.

9 (2) Paragraph (1) shall not apply to make a person liable for
10 removal of a collection box where removal is necessary to comply
11 with enforcement of applicable permitting, zoning, or other local
12 ordinances.

17.52.1250 – Removal of an Unattended Collection Boxes by the Property Owner.

A. A Property Owner who causes the removal of an Unattended Collection Box shall send a written notice of removal to the address that is conspicuously displayed on the front of every Unattended Collection Box pursuant to Section 17.52.1190. That notice shall be mailed within five (5) days of removal and include the current location of the box. This paragraph shall not apply if no address appears on the front of the Unattended Collection Box.

B. Except as provided in paragraph C, a Property Owner shall not have immunity from civil liability if he or she has given written consent for the Unattended Collection Box to be placed on the private property.

C. An owner of property who has given written consent for the placement of an Unattended Collection Box on their property may rescind his or her consent by providing written notice of the rescission to the collection box owner or operator. For purposes of this subdivision, consent shall be deemed rescinded ten (10) calendar days after the owner of private property deposits a written notice of rescission in the United States mail, postage prepaid, addressed to the address displayed on the Unattended Collection Box pursuant to Section 17.52.1190.

E. A property owner who causes the removal of an Unattended Collection Box to a storage facility, or otherwise disposes of an Unattended Collection Box, despite valid written consent from the Property Owner at the time of removal, shall be civilly liable to the owner or operator of the Unattended Collection Box for four times the amount of the towing and storage charges, or one thousand dollars (\$1,000), whichever is higher.

F. Paragraph F shall not apply to make a person liable for removal of an Unattended Collection Box where removal is necessary to comply with enforcement of applicable permitting, zoning, or other local ordinances.

ATTACHMENT G - MATRIX OF ORDINANCE OPTIONS

| | Attachment A | Attachment B | Attachment C |
|---------------------------------------------------------------|------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|-----------------------------------------------|
| <i>Permit Process Applied</i> | ACUP | CUP | CUP |
| <i>Separation of Boxes (feet)</i> | 700 | 700 | 1000 |
| <i>Second Box Possible?</i> | Yes, under specific circumstances. See Section 1752.1190 (L) and Section 17.52.1220 (H). | Yes, under specific circumstances. See Section 1752.1190 (F) and Section 17.52.1220 (H). | No |
| <i>Duration of Permit</i> | One year (17.52.1190 (I)) | As determined by the BZA. (Section 17.54.170) | As determined by the BZA. (Section 17.54.170) |
| <i>Waste Reduction Reporting Requirement?</i> | Yes, see Section 17.52.1220 (I). | Yes, see Section 17.52.1220 (I). | No |
| <i>Referral to Interested Party(ies) /Boards/Commissions?</i> | Yes (Section 17.52.1260) | Yes, per existing policy. | Yes, per existing policy. |
| <i>Appeals Body</i> | Planning Commission (Section 17.52.1240) | Board of Supervisors (Section 17.54.670) | Board of Supervisors (Section 17.54.670) |
| <i>Cost</i> | \$500 fee | \$1,500 deposit | \$1,500 deposit |
| <i>SB 450 Language?</i> | Yes | Yes | No |
| <i>Public Hearing Required?</i> | No | Yes (Section 17.54.110) | Yes (Section 17.54.110) |

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

RESOLUTION NO. ## - AT MEETING HELD MARCH 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, the fifth day of November, the fourth day of February, and the fourth day of March 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