



**DATE:** September 20, 2016

**TO:** Mayor and City Council

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

**SUBJECT**

Options for Litter Reduction Strategies

**RECOMMENDATION**

That Council reviews and comments on this report.

**SUMMARY**

Staff presents this report to introduce a range of options for dealing with litter, primarily from take-out food and beverage establishments. This is a challenging issue shared by communities throughout the Bay Area and nationwide. Adoption of a litter fee has been put forward as a potentially effective means of reducing litter generated around such establishments in Hayward. Staff has significant concerns about a litter fee, related mainly to its effectiveness to achieve desired outcomes, impacts on businesses, and required administrative oversight. Several alternatives to a fee are presented for Council's consideration. This report includes comments from the Council Sustainability Committee and the Keep Hayward Clean and Green Task Force.

**BACKGROUND**

One of Council's primary priorities is to keep the City clean. For this reason, the City allocates significant resources to public education and engagement, and to remove litter throughout the community. Several full time employees spend the majority of their time removing dumped trash, and several others are dedicated to street sweeping and cleaning storm drains. The City's Keep Hayward Clean and Green Task Force, supported by City staff, sponsors monthly weekend clean-up events, the annual clean-up day at Weekes Park, and the Adopt a Block program. In total, the City spends more than \$2 million per year on litter collection.

There is also a connection between trash and water quality in that some of the trash that remains on the streets eventually ends up in storm drain inlets and makes its way to creeks

and the shoreline. For this reason, litter control in Hayward is further regulated by the Municipal Regional Stormwater Permit (MRP) for its stormwater discharge to the San Francisco Bay, which includes a trash reduction provision. Specifically, Provision C.10, Trash Load Reduction, requires a 70% reduction in trash by 2017 and a 100% reduction by 2022.

Reducing litter in the community is supported by the following General Plan policies:

*Economic Development Policy 5.4 (Community Appearance Programs)*

The City shall maintain and implement programs that are specifically designed to address Hayward's community appearance problems (graffiti, litter, abandoned vehicles, illegal dumping, weed abatement, property maintenance, illegal signs, etc.).

*Community Safety Policy 1.15 (Blight, Litter, Graffiti, Illegal Dumping and Abandoned Vehicles)*

The City shall maintain and implement programs that address conditions that foster crime or the fear of crime, such as blight, litter, graffiti, illegal dumping, and abandoned vehicles.

*Natural Resources Policy 6.8 (NPDES Permit Compliance)*

The City shall continue to comply with the San Francisco Bay Region National Pollutant Discharge Elimination System (NPDES) Municipal Regional Stormwater Permit.

The subject of litter reduction has been discussed by both the Council Sustainability Committee and the Keep Hayward Clean and Green Task Force. Following are summaries of those discussions.

*Council Sustainability Committee* – On September 10, 2015, staff presented a report to the Committee, titled Options for Addressing Litter From Take Out Food & Beverage Establishments, which is accessible at:

(<https://hayward.legistar.com/LegislationDetail.aspx?ID=2453453&GUID=3C4CFA89-7D61-4805-AF0E-D4D253DDF198&Options=&Search=> ).

The report included a range of options for dealing with litter from fast food restaurants, convenience stores, mini-marts, liquor stores and tobacco shops. The options included the possibility of an ordinance requiring non-resident property owners to designate a resident agent to maintain vacant properties. The Committee supported the concept of such an ordinance. The Committee suggested that letters be sent to restaurants, convenience markets, tobacco shops, liquor stores and gas stations asking businesses to help keep surrounding areas clean and mentioning monthly cleanups. Staff followed up by sending 518 such letters in November 2015. In addition to providing information, the letter also asked for suggestions regarding litter reduction; however no suggestions were received. The Committee supported the idea of a litter fee, but cautioned that staff needs to work with businesses and allow either exemptions or reduced fees for businesses that do a good job controlling litter.

*Keep Hayward Clean & Green Task Force* – On July 28, 2016, staff discussed litter reduction, including the idea of a possible litter fee, with the Keep Hayward Clean and Green Task Force.

Some members felt that proposing a litter fee could be effective in starting a needed dialogue with businesses. However, in general, the Task Force did not support the idea of a litter fee because they felt that small businesses would likely resist the idea. They further believe that if a fee were imposed, businesses would want to see a difference in the cleanliness of their neighborhood, which the City could not guarantee. The Task Force also noted that it would be unfair to impose a fee on local businesses since Hayward has a lot of through traffic that generates litter. They were also concerned that litter from one property without landscaping may tend to collect at properties with landscaping.

Other thoughts on a potential litter fee included:

- Include an exemption for businesses that actively participate in the adopt-a-block program.
- Mail notices to businesses letting them know the City is considering a fee as it might encourage a change in behavior.
- Utilize fee revenue to pay businesses to pick up litter.
- Apply a fee to tobacco shops/products.
- Utilize the fee proceeds to support educational efforts such as the Youth Enrichment Program (YEP).

In addition to their thoughts on a litter fee, the Task Force provided the following suggestions regarding litter reduction:

- Require fast food restaurants to have trash cans with an extended opening to allow a driver to deposit trash without getting out of the car.
- Note that the concentration of fast food restaurants in certain neighborhoods contributes to the problem.
- Place larger trash cans at bus shelters. They fill up very quickly.
- Increase the frequency that public litter receptacles are serviced.
- Require extra trash cans on business properties; although the City should be mindful that this requirement may result in larger garbage bills for the business if the extra cans result in more trash collected. It is also possible that additional trash cans may just encourage more large bags of trash and household garbage.
- Implement more outreach.
- Focus on education and work with schools. Schools seem to be a big source of litter.
- Target a social media campaign toward students, who are more likely to respond to high-tech outreach.
- Note that the Task Force surveyed businesses regarding participation in a “Neat to the Street” campaign (to keep the area between the store and the street clean). Not many were interested.
- Place special receptacles for cigarette butts in areas where people loiter, as some cities have done. Cigarette butts are very hard to pick up and cause more environmental harm than paper, etc.
- Implement outreach that is loud and clear. It should be similar to BART’s prohibition of food and drinks in stations and on trains.

- Work with StopWaste to incorporate anti-littering messages in their outreach.
- Promote the next Litterati contest more extensively.
- Find a way to have a redemption value on litter (similar to cans and bottles).
- Adopt very large fines for littering.
- Put up signs similar to “Nuclear Free Hayward.” (They could say: “Welcome to Hayward. Litter Free Zone. \$1,000 fine.)

Council member Mendall briefly participated in the Task Force discussion noting that:

- The City is spending \$2 million per year on picking up trash and maybe we can do something to try to reduce this spending.
- When he picks up trash around Fairway Park, he finds litter that clearly originates from Fairway Park businesses.
- If a fee were adopted, we could offer incentives. Maybe if a business has more trash cans on their property, they could pay a lower fee.

Current Ordinances – The City currently has two ordinances that directly address litter. Hayward Municipal Code (HMC) Chapter 5 (Sanitation and Health), Article 1 (Solid Waste Collection and Disposal) addresses the location and use of public litter receptacles:

SEC. 5-1.20 SOLID WASTE RECEPTACLES. PUBLIC PLACES. Except as otherwise provided herein, no Solid Waste shall be placed or kept on or in any public street, sidewalk, footpath, or any public place whatsoever. Only Solid Waste receptacles owned by the City of Hayward shall be placed or kept on or in any public street, sidewalk, footpath, or any public place for use by pedestrians or other Persons using said street or public place to deposit small articles of waste carried by them. It shall be unlawful to place or cause to be placed any Solid Waste originating within or upon any private property into said receptacles.

Chapter 11 (Public Utilities), Article 5 (Stormwater Management and Urban Runoff Control) addresses litter that has the potential to enter the storm drain system:

SEC. 11-5.22 REDUCTION OF POLLUTANTS IN STORMWATER. Any person engaged in activities which will or may result in pollutants entering the City storm sewer system shall undertake all practicable measures to reduce such pollutants. Examples of activities that might result in pollutants entering the City storm sewer system include littering and ownership or use of facilities which may be a source of pollutants such as but not limited to parking lots, gasoline stations, industrial facilities, commercial facilities, and stores fronting City streets. The following are minimal requirements applicable to such persons:

- a) Littering Prohibited. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left, or maintained, any 'refuse,' 'rubbish,' 'garbage,' or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain, inlet, catch basin, conduit, or other drainage structures, business place, or upon any public or private lot of land in the City, so that the same might be or become a pollutant. Nor shall any person throw or deposit litter in any fountain, pond, lake, stream, or any other body of water in a park or elsewhere within the City. The occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor, of any real property in the City of Hayward that

abuts a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from said sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on said real property as required for the disposal of garbage.

b) Standard of Maintenance for Parking Lots and Similar Structures. Persons owning or operating a parking lot, a gasoline station, or a similar structure or uses shall clean the property as frequently and thoroughly as practicable in a manner that does not result in discharge of pollutants to the City storm sewer system.

The above ordinances prohibit littering and require property owners to keep sidewalks clean, but they do not require occupants, tenants or property owners to keep the gutter or street free of litter.

The General Commercial zoning regulations include performance standards for drive-in uses, which include drive-through restaurants, drive-through coffee shops, gas stations, and gas stations with mini-marts.

Section 10-1.1045 I(3). The premises shall be kept clean, and the operator shall make all reasonable efforts to see that no trash or litter originating from the use is deposited on adjacent properties. For drive-in restaurants or other uses which typically generate trash or litter, adequate trash containers, as determined by the Planning Director, shall be required and employees shall be required daily to pick up trash or litter originating from the site upon the site and within 300 feet of the perimeter of the property.

When use permits for certain land uses are approved, conditions of approval are often included to require owners/managers to keep premises clean, but only three have a condition requiring the operator to pick up litter. One of the three is the McDonalds located at Jackson and Watkins, which includes the following condition:

“Employees shall daily pick up the trash originating from the site that is deposited on adjacent properties within 300 feet of the perimeter of the site.”

In order to provide Council with a range of possible strategies, staff researched actions which have been implemented by communities across the country. Clearly, litter is a problem encountered by many communities, particularly those with active commercial areas and eating establishments. In order to most effectively utilize resources, staff is seeking input and guidance from Council.

## **DISCUSSION**

As noted above, litter from fast food restaurants, convenience markets (including mini marts at gas stations), and tobacco products is a significant issue throughout the Bay Area and the country. The litter issues that arise from fast food restaurants is illustrated in a 2011 study by Clean Water Action (CWA), a nonprofit that advocates for clean water and environmental protection.<sup>1</sup> As part of this study, street litter samples were collected from Oakland,

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<sup>1</sup> <http://www.triplepundit.com/2011/06/fast-food-big-source-trash-pollution/>

Richmond, San Jose, and South San Francisco. The study indicated that the largest source of litter is fast food, at 49%. The five most significant sources were McDonalds, Burger King, Seven Eleven, Starbucks and Wendy's.

Regarding tobacco products, according to Save the Bay, 65% of all cigarette butts are littered and approximately three billion cigarette butts are littered in the Bay Area each year<sup>2</sup>. In fact, when Council adopted the Smoking Pollution Control ordinance (HMC Chapter 5, Article 6) in 2008, one of the reasons for this action was to "protect the public from smoking and tobacco-related litter and pollution." However, smoking-related littering still occurs in public places, and in addition, many cigarette butts come from moving vehicles.

While pedestrians are certainly responsible for much of the litter found throughout the community, trash from moving vehicles is a significant source of pollution. A study by Keep America Beautiful (see Attachment II) found that for litter more than four inches, 52% comes from motorists, 21% from vehicles with improperly secured loads, and 18% from pedestrians. This information suggests that the majority of trash found on major streets may not have originated from local businesses on that street in the neighborhood, or even in the City.

Litter is also often found near Hayward's bus stops and is assumed to originate from riders. The Keep America Beautiful study supports this notion, concluding that about 95% of litter at transition points is from pedestrians. Transition points are defined as places where "individuals consuming a food or tobacco product are required to discard the product before entering." Eating and smoking are not allowed on AC Transit buses.

### **Requirements for Property Owners**

Clearly, litter issues are widespread, complex and a challenge to successfully address. Staff searched for adopted ordinances requiring property owners to clean not only sidewalks, but also gutters and beyond, and found no cities in the Bay Area or the rest of the State have taken this step. In other parts of the country, the City of Charleston, South Carolina, has an ordinance requiring property owners to keep sidewalks, curbs, and gutters clean (Sec. 14-5. - Duty of owners, etc., to keep property clean)<sup>3</sup>. The ordinance also requires non-resident property owners to designate a resident agent to maintain the vacant property. Following is the applicable text.

- a) "It shall be the duty of the owner, agent, occupant or lessee to keep exterior private and public property free of litter and unsightly growth. This requirement applies not only to removal of loose litter, but to materials that already are, or become, trapped at such locations as fences and wall bases, grassy and planted areas, borders, embankments and other lodging points.
- c) Owners, agents, occupants or lessees whose properties face on a city right-of-way shall be responsible for keeping up to, and including, the curb, gutter or street line free of litter and unsightly growth.

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<sup>2</sup> [http://www.savesfbay.org/sites/default/files/news\\_release/Save%20The%20Bay%20Fact%20Sheet\\_Tobacco%20Litter.pdf](http://www.savesfbay.org/sites/default/files/news_release/Save%20The%20Bay%20Fact%20Sheet_Tobacco%20Litter.pdf)

<sup>3</sup>

[https://www.municode.com/library/#/sc/charleston/codes/code\\_of\\_ordinances?searchRequest=%7B%22searchText%22:%22litter%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentType%22:%22CODES%22%5D,%22productIds%22:%22%5B%5D%7D&nodeId=CICO\\_CH14GATRRE\\_ARTIINGE\\_S14-5DUOWETKEPRCL](https://www.municode.com/library/#/sc/charleston/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22litter%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentType%22:%22CODES%22%5D,%22productIds%22:%22%5B%5D%7D&nodeId=CICO_CH14GATRRE_ARTIINGE_S14-5DUOWETKEPRCL)

- d) It shall be unlawful to sweep or push litter from buildings, property, sidewalks and strips into streets, sidewalks and the storm drainage system. Sidewalk and strip sweepings must be picked up and put into household or commercial material containers.
- e) It shall be the duty of every non-resident owner of a vacant lot or other vacant property to appoint a resident agent who shall have responsibility for keeping that lot or other property free of litter and unsightly growth.
- f) If an owner, agent, occupant or lessee fails to remove litter or unsightly growth from any private and public property, the city sanitation division shall be authorized to serve written notice to the owner or appointed agent to correct such violation within five (5) days. Failure to comply shall constitute grounds for prosecution.
- g) It shall be unlawful for the owner of any property in the city to disobey or fail to comply with any provisions of this chapter. (Code 1975, § 26-9; Ord. No. 1982-52, § 1, 6-8-82)”

Another example comes from the City of St. Louis (Section 11.18.060)<sup>4</sup>, which requires drive-in restaurants to pick up litter at least once every twelve hours and other businesses at least once every twenty-four hours. St. Louis also requires property owners to clean to the centerline of the street, as indicated in the following language:

“All persons owning or occupying any private property, public building or premises shall keep such premises, as the case may be, including the sidewalk, parkway, gutter, street, and alley (to the centerline thereof) adjoining or abutting to the place so occupied free and clear of litter.”

These are typically larger cities, with more enforcement resources, operating under laws and regulations different from those of California. These ordinances may not be easily replicable or effective in the Bay Area.

### **Ordinance and Enforcement**

As Council is well aware, widespread education and outreach, along with consistent enforcement are keys to the effectiveness of any regulation or ordinance. Upon staff’s investigation of the Charleston and St. Louis ordinances discussed previously, staff learned that the ordinances are rarely, if ever, enforced. This is hardly a surprise. Enforcement of an anti-litter ordinance can be very difficult and requires ongoing diligence and community presence.

Enforcement can also result in some people being unfairly cited. For example, a business may or may not do a good job of cleaning the area around their business, but depending on its location and landscaping, trash from other locations may be blown in and be beyond control of the responsible party. Businesses could argue that it is virtually impossible to comply with the regulations because of circumstances over which they have no control.

Enforcement of an ordinance can also have significant impacts to staffing and workloads. As an example, when Council adopted new regulations for tobacco retail sales establishments in 2014, the ordinance required Code Enforcement staff to conduct annual compliance checks

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<sup>4</sup> <http://www.slpl.lib.mo.us/cco/code/data/t1118.htm>

for each of the 143 tobacco shops, which required the hiring of new staff. Any new program or ordinance will need to be carefully considered for impacts to existing staff.

In Hayward, police officers enforce littering, and issued eighteen tickets between June 2014 and July 2015. There may be potential for training other employees, particularly inspectors and field staff, to cite individuals for littering. This would require discussions with employee groups on impacts both on employees and on their core workloads.

Examples of other potential code enforcement strategies include:

*Toll-Free Hotline* – San Francisco increased publicity of a litter hotline that generated thousands of calls each month. Washington State set up a hotline in 2002 and began sending vehicle owners letters stating that they were observed littering.

*Fines* – San Francisco’s maximum fine is \$1,000. In 2005, the City and County of San Francisco announced it would train 400 City employees from forty-three different classifications and give them the authority to issue litter citations.

### **Public Agency and Community-Based Activities**

*Public Litter Containers* – Hayward currently maintains approximately 280 public litter containers located on or adjacent to public sidewalks. One option for Hayward may be to require certain businesses to locate additional business-maintained trash cans adjacent to the public sidewalk. This strategy would require an amendment to HMC Section 5-1.20 to allow private trash cans on public sidewalks in the Downtown area and elsewhere. This option may warrant further discussions with business and property owners in these key target areas. If the Council is interested in exploring this option, staff would recommend a robust outreach plan and some experiments or pilot programs in areas most impacted.

*Stormwater Trash Capture Devices* – The installation of trash capture devices or filtration equipment in the storm drain system does not reduce litter deposited on streets and sidewalks, but they do limit the trash that enters the creeks and the San Francisco Bay. Hayward currently has one very large trash capture device and seventy-nine smaller such devices installed in inlets in the public right-of-way at the City’s expense. As a permittee under the Municipal Regional Stormwater Permit, the City along with other municipalities in the Bay Area, is required to reduce trash in its stormwater discharge to the Bay by 70% by July 1, 2007, 80% by July 1, 2009, and 100% by July 1, 2022.

The Cities of Dublin and Union City typically require developers to install trash capture devices in on-site storm drain inlets as a condition of approval. This requirement could be adopted in the City. In Hayward, the latest designs being used for stormwater treatment often capture trash in addition to other pollutants.

*Anti-Littering Campaigns* – Some cities have focused on outreach and education as a strategy for reducing litter. Oakland participates in *Keep Oakland Beautiful*, which is an affiliate of *Keep America Beautiful* and coordinates clean up events. The Bay Area Stormwater



Management Agencies Association created the *Be the Street*<sup>5</sup> campaign, which included a mobile app game. Other examples come from cities beyond the Bay Area.

At the State level, California coordinates the “Don’t Trash California” campaign, which is most active during Caltrans’ litter pick up event on Earth Day each year. Caltrans also operates the Adopt-A-Highway program and the State of California organizes the annual Coastal Cleanup Day.

Not-For-Profit organizations have also organized campaigns. For example, Save the Bay has “Zero Trash, Zero Excuse” and their website includes an anti-littering pledge as well as volunteer opportunities. Save the Bay also promotes the adoption of ordinances that prohibit single-use plastic bags, Styrofoam containers, and outdoor smoking (to limit cigarette butt litter).

As part of the EPA youth-based trash reduction grant, Hayward is partnering with Litterati to run a trash clean up contest. Litterati is a social media platform that encourages people to photograph litter and then pick it up. The photos are posted in a manner similar to Instagram. All photos are geocoded and time stamped, and categorized by type of litter, creating a map and a “Digital Landfill.” The first contest was held in the spring of 2016 with limited success. Staff intends to do much more significant and more strategic outreach for the 2017 contest.

Elsewhere in the country, in Savannah, Georgia<sup>6</sup>, residents are encouraged to take pictures and video of people caught littering and post them online, using the hashtag #LitterCrew. The idea behind this approach is that embarrassment will help change their ways. Staff is not in support of this approach at this time. In Jersey City, New Jersey<sup>7</sup>, the *Stop the Drop* campaign has been very successful through its hiring of teens during the summer months to pick up litter.

For the 2016/2017 school year, the City is partnering with CSU East Bay to run the Sustainable City Year Program, which will pair City projects with relevant classes. As part of the Sustainable City Year Program, staff will be working with CSUEB students to develop additional strategies related to anti-littering education and outreach. During the fall quarter, an Environmental Ethics class will be gathering community attitudes around littering. In the winter and spring quarters, additional classes will conduct outreach and measure the effectiveness of the outreach.

### **Litter Fee on Businesses**

Staff researched the imposition of litter fees on businesses and learned that they are not common. In fact, the City of Oakland is the only city in the Bay Area, and possibly in the State, with such a fee. Oakland<sup>8</sup> adopted an Excess Litter Fee on Fast Food Businesses,

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<sup>5</sup> <http://www.bethestreet.org/>

<sup>6</sup> <http://savannahnow.com/news/2015-04-22/city-sponsors-launch-savannah-anti-litter-campaign>

<sup>7</sup> <http://www.cityofjerseycity.com/mayor.aspx?id=13354>

<sup>8</sup> <http://www.oaklandnet.com/government/fwawebsite/revenue/pdf/WEBPAGEELF92206.pdf>

Convenience Markets, Gasoline Station Markets and Liquor Stores in 2006 to fund collection and disposal of trash. Affected establishments are required to pay annual fees based on annual gross receipts, according to the schedule below. Gross receipts do not include the sale of alcohol, gasoline or automotive services or products:

- Large business with annual gross receipts of \$1,000,000 or more pay \$3,815.
- Medium business with annual gross receipts between \$500,000 and \$999,999 pay \$910.
- Small business with annual gross receipts between \$5,000 and \$499,999 pay \$230.
- Annual gross receipts between \$0 and \$4,999 are exempt from the fee.

The fee, collected as part of business license renewal process, is currently imposed on approximately 900 businesses including a \$230 annual fee on qualified businesses with annual revenue of as little as \$5,000. In fiscal year 2013/2014, Oakland collected approximately \$340,000 from businesses paying the fee. Fee revenues are used for litter pickup. In 2009, Oakland awarded a contract to Civicorps Schools and in the first six months, eighteen to twenty-four-year-olds collected 3,906 bags of litter. For the last several years, Oakland has hired Block by Block for approximately \$400,000 per year to pick up litter and do other cleaning services in the downtown business improvement district.

Based on a fee structure similar to Oakland, staff has estimated that a comparable litter fee on Hayward business with similar revenues would generate approximately \$120,000. This relatively small amount of revenue may be barely enough for one full time employee with a vehicle and related equipment. It is unlikely that the addition of one employee would be enough to make a visible difference in litter reduction to the businesses paying the fee. Further, resolution of administrative issues related to potential challenges from businesses could require significant staff time.

Aside from the perception of imposing a new fee on business, some with relatively little revenue, a potential drawback of a litter fee is that it could increase expectations that the public areas around businesses would be kept litter-free as a result of this payment. As explained above, the generated revenue would not support sufficient staff to effectively provide this service. While not as likely, it is also possible that a few business owners would feel that the fee entitles them and their customers to the right to litter.

## **Options**

Control of litter originating from take-out food and beverage establishments is very challenging, with no easy solutions. Options for addressing litter may include drawing upon one or more of the above examples. The following possible strategies are listed generally in order of 'easiest to implement' to 'most difficult to implement' and include:

1. Install anti-littering signs, such as the examples below, although visual clutter may be a concern and would need to be carefully monitored.
2. Conduct a campaign to educate people about the environmental impacts of litter.

3. Consider more effective placement of trash and recycling receptacles in the street, so that they are readily available on corners and other locations where pedestrians tend to congregate.
4. Require signage inside fast food, convenience markets, liquor stores encouraging patrons to use litter containers.
5. Expand the adopt-a-block program through additional promotion and/or incentives.
6. Require certain businesses to locate trash cans on their properties through an ordinance and condition of approval, as appropriate.
7. Amend the Stormwater Ordinance (Chapter 11, Article 5) to require property owners to clean sidewalks and gutters in front their properties.
8. Amend the Stormwater Ordinance (Chapter 11, Article 5) further to require absentee owners to designate a local person to maintain vacant properties.
9. Train City staff in addition to Police so that inspectors and other field staff can cite people for littering. This may impact existing services unless additional staff positions can be funded.

For reasons discussed above, imposing a litter fee, or requiring City staff to remove more loose trash from public right-of-ways, do not seem to be an effective or efficient way of dealing with littering at this stage.



## Legal Issues

If Council were to consider adoption of a new fee to fund collection of litter, the Constitutional limitations upon taxes, fees, charges and assessments created by Proposition 218 and Proposition 26 must be considered. Regulatory fees, such as a fee upon specific business types that generate large amounts of litter (such as fast food establishments), comply with Prop. 218 and Prop. 26 as long as the amount of the fees do not exceed the reasonable costs of cleaning up the litter related to the establishments. Upon direction from Council, the City Attorney's Office would conduct further research regarding the legal issues related to imposition of fees in this specific context.

## ECONOMIC IMPACT

If a litter fee were adopted, it could have significant impacts on some businesses – especially small businesses with low gross revenues. The alternatives listed above would have some financial impact on businesses, but may also more effectively reduce the amount of litter on the ground.

## **FISCAL IMPACT**

Most of the options listed above would have a fiscal impact on the General Fund. Outreach programs and increased enforcement would require additional resources. Depending on the preferred options identified by Council, staff would develop more specific plans with associated costs.

## **SUSTAINABILITY FEATURES**

Litter reduction can have the following sustainability features or benefits:

Water: Efficiency and conservation.

Reducing litter will not minimize the use of water, but will result cleaner water flowing to creeks and the Bay.

Solid Waste: Waste reduction and diversion

Reducing litter will not directly minimize the volume of material sent to a landfill.

## **PUBLIC CONTACT**

Staff met with the Executive Director of the Hayward Chamber of Commerce and discussed the idea of addressing litter and possible imposing new requirements on fast food businesses and convenience markets. There are very few such establishments represented by the Chamber.

## **NEXT STEPS**

Upon direction from the Council, staff may conduct additional research, collect input from business groups and the Keep Hayward Clean and Green Task Force, and return to the Council Sustainability Committee and/or Council with more information.

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*Recommended by:* Alex Ameri, Director of Utilities and Environmental Services  
Todd Rullman, Director of Maintenance Services

Approved by:



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Kelly McAdoo, City Manager