



DATE: March 9, 2026

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT Proposed Updates to Requirements for Trash Enclosures and Recycling of Construction and Demolition Debris

RECOMMENDATION

That the Council Sustainability Committee (CSC) reviews this report and provides a recommendation to the City Council to adopt ordinances amending the municipal code to:

1. Establish new trash enclosure design requirements; and
2. Increase the penalty for failure to properly recycle construction and demolition debris.

SUMMARY

This report makes recommendations to update two processes that are part of the City’s Solid Waste program. First, City staff review building permits to ensure solid waste is managed properly and stormwater is protected from pollutants. The City’s building permit review process does not include a formal threshold for determining when projects should be required to construct new trash enclosures or when to upgrade existing trash enclosures. Staff recommends establishing new enclosure design requirements as outlined in this report. A codified threshold and design can make the City’s review process more predictable for builders and developers and result in more consistent application of existing solid waste management policies. A City code that specifies when a trash enclosure is required as well as the design of the enclosure can streamline building permit applications and ensure proper management of solid waste.

Secondly, City staff review permits to ensure applicants following requirements to appropriately recycle construction and demolition (C&D) debris per the City’s ordinance. The City’s current penalty for not following requirements is an administrative citation with a \$100 fine. Staff has found this penalty amount does not deter developers from ignoring the requirements. Staff recommends adjusting the fine to allow up to \$1,000 in penalties.

FISCAL IMPACT

This agenda item will have no negative impact on the General Fund or Measure C.

Depending on the number of infractions and fines issued, this item could have a positive impact on the General Fund. It should have no impact on Recycling Funds.

BACKGROUND

The City's building permit application process includes a review process for Solid Waste staff to ensure applications have plans for proper management of solid waste. Depending on the type of project, the applicant may be required to construct a trash enclosure or to upgrade an existing enclosure to hold the site's containers for trash, recycling, and organics. Trash enclosures protect the environment, increase public safety, and improve the aesthetics of a site. Trash enclosures protect the environment by minimizing litter and limiting the effects of spilled liquids. Storing solid waste containers in an enclosed area decreases the risk of material dropped outside the containers being blown by wind into surrounding properties. Trash enclosures improve safety by ensuring large bins with wheels do not roll uncontrolled around properties where they can strike vehicles or pedestrians. Enclosures also reduce the opportunity for scavengers to create litter or suffer injuries while rummaging through bins. Trash enclosures improve aesthetics by keeping containers out-of-sight. Hayward municipal codes Section 5-1.15¹ and Section 5-1.16² state that bins must be placed "out of view from the street" when not set out for service. In addition, the City's Zoning Ordinance requires trash and recycling facilities to "be adequately screened from view, utilizing a decorative wood or masonry wall or combination thereof compatible with the design of the primary building on the site".

The City currently requires trash enclosures for all new buildings. The method for determining when a trash enclosure is required for an existing building entails staff reviewing each permit on a case-by-case basis and following an informal policy based on the type of project, valuation of the project, and activity planned on the property. Solid waste and stormwater requirements are included as conditions of approval on each planning permit. Applicants who need to construct a trash enclosure must follow the City's enclosure design guidelines. These guidelines have been vetted by the City's waste haulers, but have not been significantly updated for about two decades.

Over the past 15 years, stormwater and solid waste regulations in California have become more stringent. For example, solid waste laws now require organics collection for all businesses and stormwater regulations now require jurisdictions to keep 100% of litter out of waterways. These regulations have resulted in an increase in the frequency of staff requiring existing enclosures to be upgraded to allow for more capacity and to improve an enclosure's ability to reduce litter. The combination of more stringent state and regional regulations and lack of a City ordinance threshold for enclosure requirements can result in inconsistent application of policy. The cost to construct trash enclosures can vary widely and can be up to \$50,000 or more. In certain circumstances this can equate to requiring applicants to add up to 66% of the original project valuation to the cost of their project. For example, a project with a valuation of \$75,000 and that proposes a new use on the property

¹https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH5SAHE_ART1SOWAREM_AORMAMA_COSOWAREMAORMABUIT_S5-1.15COLOFRPLRESIMIDWUN

²https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH5SAHE_ART1SOWAREM_AORMAMA_COSOWAREMAORMABUIT_S5-1.16COLOFRPLREMUMIDWPRCOPR

could be required to construct a new trash enclosure that includes installing a drain connected to the sanitary sewer. Such an enclosure can cost up to \$50,000.

Construction and Demolition Debris Recycling – The City’s C&D debris recycling requirements (Chapter 5, Article 10 of the Hayward Municipal Code) were originally adopted in 2001 and updated in 2017. All building permits with a valuation in excess of \$75,000 are subject to the City’s C&D recycling rules, which require developers to recycle 65% of the overall waste generated as measured by weight. At the end of the project, developers must show weight tags from the facilities to which material was taken to prove the material was recycled. The Code does not specify a fine for not following the rules, however the base fine for a City code infraction is \$100.

DISCUSSION

Hayward’s current informal policy for determining when an existing trash enclosure must be upgraded involves consideration of one or more of the following situations.

Hayward Current Thresholds for Upgrading Existing Trash Enclosures:

- The existing trash enclosure is under-sized or does not meet the City’s design guidelines
- The project valuation is \$200,000 or more
- The project includes a new building
- The project includes a change of use or a new business opens at an existing site

Applicability of Requirements for Existing Buildings

Staff regularly considers the value of a project before requiring improvements to existing trash enclosures so as to not significantly increase the overall cost of a project. Staff recommends formalizing and increasing the threshold for determining when to require upgrades to existing trash enclosures. A higher valuation threshold for requiring improvements to existing trash enclosures would reduce the likelihood of significant project costs increases. Staff recommends increasing the project valuation for requiring improvements to existing projects to \$500,000.

In addition, to provide some further protection for applicants, staff recommends including an element in the ordinance that limits the cost of compliance to 10% of the project valuation. These elements of the ordinance can reduce the chances of developers deciding to abandon their Hayward plans and site projects in other jurisdictions rather than adhere to Hayward’s solid waste and stormwater conditions of approval and associated project cost increases.

However, a simple percentage limit on the cost of meeting trash enclosure requirements may be difficult to implement. If the cost of full compliance exceeds the 10% threshold, then the enclosure may not be improved. However, partial compliance may be possible within the 10% threshold. For example, it may be that full compliance would require expanding the footprint of an enclosure as well as adding a roof. Partial compliance could include only installing the roof. Certain types of businesses generate waste that has the potential to be more problematic than other waste if not stored in an enclosure. Businesses

that generate grease, oil, or organic material should always store waste in trash enclosures. They are a high priority for needing a trash enclosure and could be excluded from the percentage-based cost limit.

New code language regarding applicability could resemble the following:

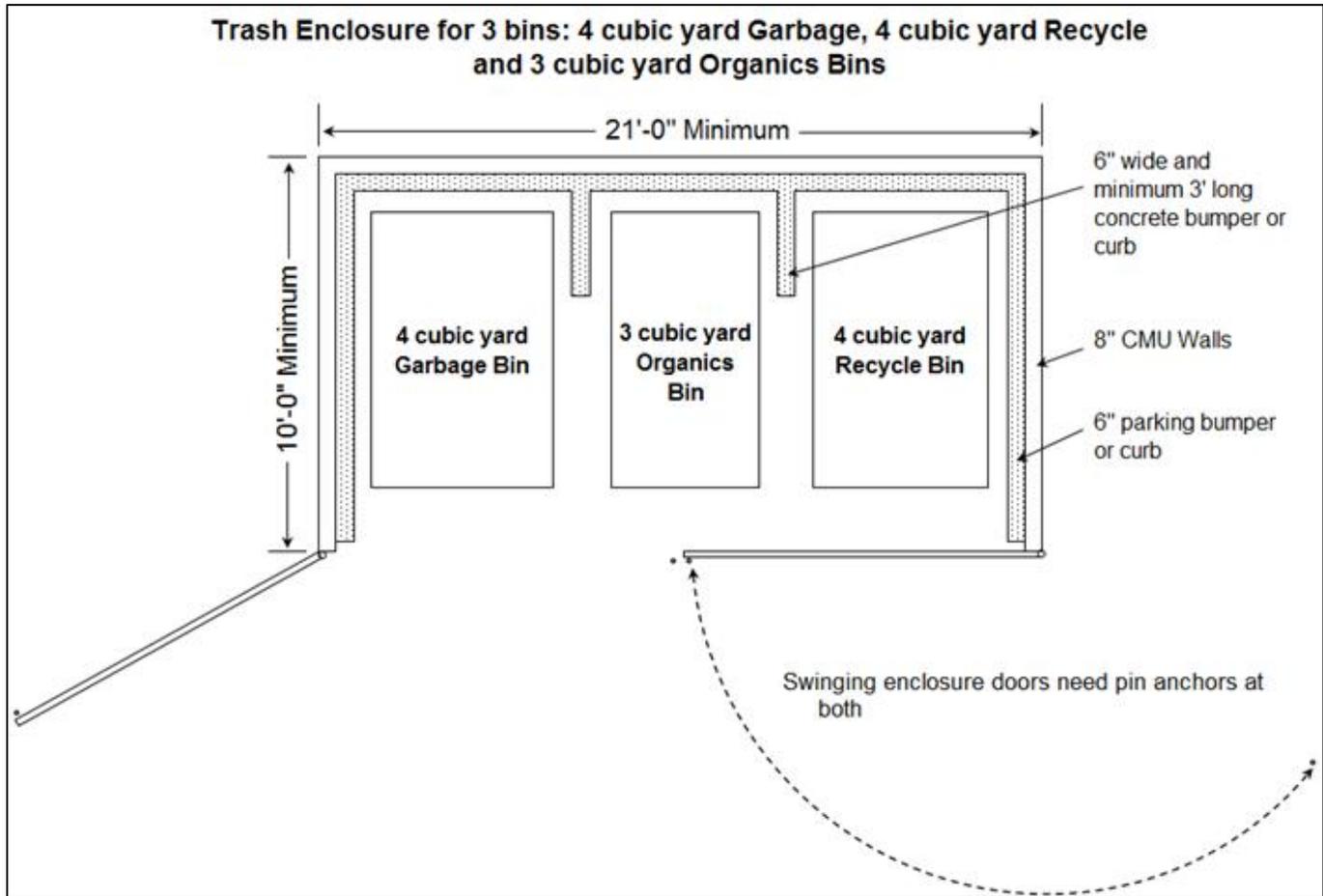
New Non-Residential Buildings: The following trash enclosure design standards shall apply to all new non-residential buildings. This would include, for example, the new Arthur Mac's Big Snack restaurant currently under construction on B Street.

Existing Non-Residential Buildings: The following trash enclosure design standards shall apply to the establishment of a new use in existing non-residential buildings and to alterations and additions to existing non-residential buildings except that new trash enclosures shall only be required when the project valuation exceeds the Project Valuation Threshold. New trash enclosures or improvements to existing trash enclosures shall be required, however, the cost of compliance shall be limited to 20 percent of the project valuation. The 20 percent limit does not apply to businesses generating large amounts of organic waste.

Types of Containers Covered

Currently the main focus of Hayward's trash enclosure guidelines entails containing bins with wheels, which are bins that are four cubic yards in volume or smaller, and include the diagram shown in Figure 1. Six and seven cubic-yard bins do not have wheels and have not always been required to be placed in enclosures. However, Waste Management has indicated it can service larger bins that are stored inside trash enclosures. Past recommendations against enclosures for larger bins were based on concerns about damaging enclosures, however, design elements and avoiding overfilling can reduce risk of enclosure damage. In addition to codifying requirements for large bin enclosures, staff is also considering requirements for roofs over roll-off containers and compactors as well as sanitary sewer drain requirements for establishments that use grease, cooking oil and organics-centric businesses such as restaurants.

Figure 1. Hayward's Current Trash Enclosure Specifications



Incorporating Requirements for Trash Enclosures into the Municipal Code

In response to California's housing crisis, the State legislature passed several laws intended to remove barriers for residential development and expedite permit processing. These laws include Senate Bill 9, Senate Bill 35, and Senate Bill 330. Under these State laws, residential development must be approved if a project meets all objective development and design standards and is consistent with the City's Zoning Ordinance and General Plan. Objective standards are defined as standards that "involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available to and knowable by both the development applicant or proponent and the public official before submittal." In response, the City Council adopted residential design standards as amendments to Hayward Municipal Code on December 12, 2023.³ Incorporating trash enclosure requirements into the municipal code will allow staff to require proper handling of solid waste in all new development, including residential and mixed-use projects. It will also increase transparency and predictability for developers of non-residential projects.

³ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6448357&GUID=233D8BD0-E91A-46BE-B922-FBFC7C1BE84A&Options=&Search=>

C&D Recycling Rules and Penalties

Some builders/developers do not provide weight tags at the conclusion of a project to document proper recycling of C&D debris. Current penalty options available to staff for enforcement after non-compliance with the City's C&D recycling requirements most often prove ineffective. Staff has the option of either fining a permit holder \$100 for not recycling or delaying final occupancy of the project. The fine is often too weak to encourage proper behavior and withholding final sign-off of a permit is too severe. Although the \$100 fine can escalate up to \$500 for second and third offenses in a year, often an applicant does not undertake another project in a calendar year. Holding up the final sign-off for a project can cause severe financial hardship for the applicant and also harm the City if a delayed business opening reduces tax revenue expected by the City.

Other jurisdictions use a variety of methods to enforce C&D recycling rules. The City of San Leandro fines non-compliant applicants \$212 for each infraction. The City of Alameda applies a fine of \$116 per ton of material not recycled. The City of San Francisco only authorizes certain C&D haulers to operate in the city and if a hauler takes recyclable material directly to a landfill they can get fined up to \$1,000 per day. Staff recommends adopting an ordinance similar to the San Mateo County C&D ordinance, which allows fines of up to \$1,000. The San Mateo ordinance states that failure to turn in copies of receipts or equivalent documentation or submitting an inaccurate final waste management plan may result in a stop order being issued on the job, final approval being delayed, and in some cases, applicants may be fined up to \$1,000.

ECONOMIC IMPACT

Creating a threshold for requiring when to construct or upgrade a trash enclosure, as well as updating the specifications for trash enclosure construction should have no significant economic impact on the developers building in Hayward. Most applicants plan for constructing a trash enclosure as part of their overall project. An increase in the cost of a project due to new enclosure requirements is expected to affect very few projects. Increasing the fine that can be assessed on building permit holders who refuse to recycle C&D debris properly should also have little impact on builders. Staff intends to educate applicants about the potential fine so that it may serve as an incentive to comply. The vast majority of applicants follow the rules and the proposed fine is not out of proportion with fines administered by other Bay Area jurisdictions.

STRATEGIC ROADMAP

This agenda item does not directly relate to any of the projects listed in the Council's Strategic Roadmap, however, the recycling and litter prevention programs support the priorities to *Support Quality of Life* and *Confront the Climate Crisis & Champion Environmental Justice*.

SUSTAINABILITY FEATURES

Solid waste management involves the safe and responsible management of discarded material from generation through processing to disposal. Reducing waste landfilled by

maximizing the reuse, recycling, and composting of materials increases diversion, conserves natural resources, and plays an important role in making a community sustainable. Proper stormwater management protects Hayward's waterways.

PUBLIC CONTACT

There has been no public contact performed regarding the proposed new municipal codes.

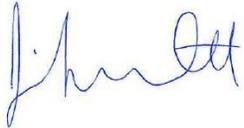
NEXT STEPS

Upon direction from the CSC, staff will refine the trash enclosure design requirements as well as the C&D recycling penalty language and present the ordinances at an upcoming City Council meeting.

Prepared by: Jeff Krump, Solid Waste Program Manager
Erik Pearson, Environmental Services Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in blue ink, appearing to read "Jennifer Ott".

Jennifer Ott, City Manager