



DATE: January 13, 2025
TO: Council Sustainability Committee
FROM: Director of Public Works
SUBJECT: Possible New Litter Receptacle Installation Requirements for Development Applications – Review and Comment

RECOMMENDATION

That the Council Sustainability Committee (CSC) receives this report on litter receptacle requirements for new developments in Hayward and provides comments to staff.

SUMMARY

This is the latest in a series of reports that reviews options for dealing with litter, especially from take-out food and beverage establishments. This report provides a synopsis of current efforts undertaken by the City to abate litter but focuses on the requirements to reduce litter generated by new development and reviews potentially updating the Planning Division's Permit Application Checklist.

BACKGROUND

Improperly managed disposable food service ware often becomes litter that degrades slowly, pollutes the land and water, and can harm wildlife. Hayward allocates significant resources to remove litter throughout the community. Efforts include several full-time City employees who spend the majority of their time removing illegally dumped trash from City streets and public property. Several more City employees are dedicated to street sweeping and cleaning storm drains. The City's solid waste hauler, Waste Management of Alameda County (WMAC), also collects litter located near the public litter cans they service. The City also sponsors weekend clean-up events, the annual Earth Day clean-up at Weekes Park, and the Adopt a Block Program.

In addition, two contractors currently serve Hayward by collecting litter and conducting beautification efforts: the Downtown Streets Team (DST) and the Downtown Hayward Improvement Association (DHIA). DST provides litter collection service in the Downtown area as well as along the Tennyson corridor. The DST also has provided sorting assistance to attendees at some events held within the City, such as the Downtown Street Parties. The DHIA manages their contractor, District Works, to collect litter Downtown, and also provides graffiti abatement, pressure washing, and other cleaning services in the

Downtown area. Altogether, the City spends well over \$2 million per year on litter collection, however, litter remains an issue in Hayward.

The Council Sustainability Committee, the Keep Hayward Clean and Green Task Force, and the City Council Budget and Finance Committee discuss litter often. Summaries of some of those discussions held since 2015 are provided below.

Council Sustainability Committee – On September 10, 2015, staff presented a report¹ to the Committee, titled *Options for Addressing Litter From Take Out Food & Beverage Establishments*. The report provided a range of options to reduce litter, including a litter fee on businesses, as well as an ordinance requiring non-resident property owners to designate a resident agent to clean properties.

City Council – On September 20, 2016, staff presented a report² to City Council titled, *Options for Litter Reduction Strategies*. The report provided an overview of current efforts by Hayward to reduce litter. These efforts include placement and maintenance of public litter cans, operating trash capture devices in the storm drains, and performing and supporting litter clean up events in conjunction with the Keep Hayward Clean and Green Task Force. The report also discussed the possibility of adopting a litter fee and included several alternatives to a litter fee that could be imposed on Hayward businesses. Council did not support the establishment of a litter fee.

Council Sustainability Committee – On March 11, 2018, staff presented a report³ titled *Update on City's Efforts to Reduce Litter from Disposable Food Packaging*. The report provided an update on staff's efforts to solicit feedback from Hayward business owners and managers on how to reduce litter in Hayward. The report also provided more information about the possibility of implementing a litter fee in Hayward.

Council Sustainability Committee – On November 26, 2018, staff presented a report⁴ titled *Possible Fee to Address Litter from Disposable Food Packaging*. The report provided more information about the possibility of implementing a litter fee in Hayward and reviewed including a litter fee as part of the Hayward business license fee. The Committee directed staff to bring the litter fee to the Council Budget and Finance Committee for consideration as part of the Business License Fee.

Council Budget and Finance Committee – On April 17, 2019, staff presented a report⁵ titled *Possible Fee to Address Litter from Disposable Food Packaging*. The report presented the Sustainability Committee's recommendation that the Budget and Finance Committee consider incorporating a litter fee into the business license fee. The Committee voted unanimously to not pursue the fee citing concerns about placing too much of a burden on small businesses.

¹ <https://hayward.legistar.com/MeetingDetail.aspx?ID=418386&GUID=2CDAC5BF-54BA-4BE6-943D-72F42C7F059B&Options=&Search=>

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=2838362&GUID=A2AE2601-C6B3-49DB-ABAA-C136216986F7&Options=&Search=>

³ <https://hayward.legistar.com/MeetingDetail.aspx?ID=597206&GUID=C6349ABB-E297-437D-B6F1-CF9E6C009E53&Options=info&Search=>

⁴ <https://hayward.legistar.com/MeetingDetail.aspx?ID=606473&GUID=4D4C10F7-B1D3-4DAC-AA09-C87F61315739&Options=info&Search=>

⁵ <https://hayward.legistar.com/LegislationDetail.aspx?ID=3920698&GUID=12B3C589-C5B4-42AF-BBDD-A1D640424670&Options=&Search=>

Council Sustainability Committee – On May 8, 2023, report⁶ the Committee received a report on a data-based litter assessment study performed by litter data science company, Litterati. This report identified a few hot spots for litter in the City. At the March 11, 2024, CSC meeting the Committee expressed concerns about the increasing trash on Mission Boulevard and asked staff to strategize putting more trash and recycling bins along Mission Boulevard, especially near fast food restaurants.

Council Sustainability Committee – On September 16, 2024, staff presented the Committee with a report⁷ titled *Expanding Litter Collection Efforts in Hayward – Discussion and Direction to Staff*. The CSC directed staff to focus efforts on specific areas outside of Downtown to conduct litter collection in the request for proposals (RFP) for enhanced litter collection in Hayward.

DISCUSSION

While the City maintains more than 300 public litter receptacles throughout Hayward, most of the City's efforts to reduce litter involve picking up debris after it has become litter. In an attempt to further reduce the generation of litter, the Committee asked staff to investigate implementing requirements for the types of developments known to generate litter, especially drive-through restaurants, and particularly to investigate a requirement to include litter cans with chutes that enable the driver of a vehicle to more easily dispose of trash.

Drive-through establishments sometimes install chute-style litter cans along the drive-through lane so that customers can conveniently throw away trash already inside their vehicle. For example, customers can dispose of an empty cup from their vehicle and free space in their cupholder for their new drink without leaving the vehicle. Customers leaving their vehicles to access a trash can could cause traffic to back up and can also create a safety issue due to people walking in the drive-through lane.

Placing conditions of approval upon permit applications is a common method of addressing issues related to certain land use types. Specifically, jurisdictions frequently place conditions regarding litter upon take-out food establishments. Union City requires that the site operator makes reasonable efforts to have no litter originate from their property, provide adequate trash containers, and also have their employees pick up litter daily within 300 feet of the property.

Alameda County also requires the property owner/operator keep the property in a litter-free condition, provide adequate trash containers and pick up litter daily within 1,000 feet of the perimeter of the property.

Hayward staff typically include similar conditions when issuing permits to fast food restaurants, requiring the operator pick up trash within 300 feet of the property perimeter, and providing adequate containers, which aligns with the requirements for Drive-In Establishments, found in Hayward's Zoning Ordinance.

⁶ <https://hayward.legistar.com/LegislationDetail.aspx?ID=6197739&GUID=5BDCCA63-0F7A-46A8-9600-A65B634FEB21&Options=&Search=>

⁷ [CITY OF HAYWARD - Meeting of Council Sustainability Committee on 9/16/2024 at 5:00 PM](#)

1. Hayward's newest fast-food restaurants, Raising Cane's and In-N-Out Burger, are part of the newly redeveloped shopping center at the corner of Harder Road and Mission Blvd. This center also includes a Sprouts Market and a Ross Dress for Less store. The solid waste management conditions of approval for the center are listed below. The premises shall be kept clean and the operator shall be responsible for any trash or litter originating from the premises which is deposited on adjacent properties or ends in the public right of way. Trash containers shall be operable at all times and shall be emptied on a regular daily basis or more often, if necessary. The applicant and/or property owner shall be responsible to clearly post the contact information for the property management company of the project site on the primary commercial building and pad buildings as well as on the commercial center's website to allow residents and customers to report trash and debris nuisances on the property.
2. Pad 1 and Pad 2 employees shall be required daily to inspect and pick up trash or litter upon the site and within 300 feet of the perimeter of the property.
3. At Majors 1-3 and Suites 1-6, the owner or property manager shall be responsible for litter free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to ensure that the property and its street frontage remain clear of any abandoned debris or trash per Municipal Code Sec.11-5.22.

While the conditions include trash and litter management requirements, they do not specify the number of types of trash receptacles to be used.

The current method of planning for litter management has been to require a litter-free site, and let the applicant determine the adequate number of cans needed to manage litter on their property. This center installed several three-stream-sorting cans in front of Sprouts and Ross Dress for Less. Most applicants make a good effort to install an adequate number of litter cans, however, this method of leaving it up to applicants to choose the amount and placement of cans leaves the City responsible for returning after the development is complete and addressing issues created by bad players that do not install enough cans.

Since opening in the summer of 2024 there have been no litter complaints received by Code Enforcement or Maintenance Services Division regarding this shopping center. Staff visited the shopping center on December 6, 2024, and noted that the property was very clean. The Litter Assessment of Hayward conducted by Litterati in 2002, did not specifically call out shopping centers with drive-through establishments as problematic areas. The study, however, mentioned Costco and medium to high-density residential areas as litter hot spots in Hayward.

Hayward Municipal Code

Whether or not a property has conditions placed upon it for litter abatement, the property can be required to address litter issues through three sections of the Hayward Municipal Code. Hayward's Water Pollution Source Control Inspectors enforce stormwater regulations by conducting over 300 inspections annually. Each inspection can result in a warning or

citation to address litter problems. The three code sections are listed below. However, despite the code and daily efforts by Hayward's stormwater team, litter problems still exist.

1. The Zoning Ordinance includes the following requirement applicable to Drive-In Establishment⁸ for most zoning districts:
 - 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.
2. Chapter 11 (Public Utilities), Article 5 (Stormwater Management and Urban Runoff Control) addresses litter that has the potential to enter the storm drain system. The article prohibits littering and requires property owners to keep properties clean.
3. Hayward Municipal Code Section 5-7.20 (Public Nuisance) requires property owners to avoid the existence of any of the following conditions on the property: accumulation of garbage, litter, bins, boxes, construction debris, bags, dirt, used motor oil, or other debris. Should one of these conditions exist, the property constitutes a public nuisance.

Application Requirements for New Development

While Hayward's Development Application Checklist for new developments requires applicants to show where trash enclosures would be located and to show the path of travel of trash vehicles, it does not currently ask applicants to show the location of planned public litter cans. However, the Checklist does ask applicants to show details regarding several other elements of the proposed development, including the location and number of trees, streetlights, and outdoor signs. Some other Alameda County jurisdictions include more detailed requirements regarding litter cans as part their development process.

For example, the City of Dublin in Alameda County has a municipal code section (Section 7.98.120)⁹ that lists litter can requirements for new commercial developments. The Dublin litter can requirements include location parameters, aspects to ensure compliance with SB1383, as well as the need to consider aesthetics, but their requirements do not dictate a specific style of can. Dublin specifies the number and locations of containers with the following requirements:

- Install public litter containers within ten (10) feet of any food-generating or food-selling store planned for the property.
- Include containers along internal, on-site walkways at intervals of three hundred (300) to three hundred fifty (350) feet.
- Locate containers at entrance and exit of property.

⁸ "Drive-In Establishments" include drive-through restaurants, drive-through coffee shops, car washes, gas stations, mini-marts with gas, automobile lubrication facilities, etc.

⁹ [Chapter 7.98 SOLID WASTE AND RECYCLING ENCLOSURE STANDARDS](#)

Staff will explore adding an item to Hayward's Development Application Checklist to require more detailed information regarding the number and location of public litter cans be shown on the plans for new development applications.

Regarding the CSC's request to explore the use of chute-style litter cans, staff has found no evidence that this style of can is more effective than other styles of cans at reducing litter. Staff is concerned that chute-style cans may be prone to clogging and may create more work for restaurant staff. Staff recommends not specifying the style of cans to be used by applicants, but staff can encourage the use of cans with chutes for some drive-in establishments. Should a property experience litter issues after the permitting process, the City can enforce the municipal code and require the business take action to address the issue, such as by adding more cans or by requiring manual litter cleanup.

ECONOMIC IMPACTS

Cleaner public spaces can create a positive economic impact. Providing clean, pleasant areas for people to visit can increase the vitality of an area and increase the potential of visitors patronizing local businesses. The removal of litter has the potential to benefit local businesses, especially retail, economically.

FISCAL IMPACTS

This item has no fiscal impact on the General Fund. If additional litter receptacles are required for new development, this work could be accommodated by existing staff.

STRATEGIC ROADMAP

This agenda item does not directly relate to any of the projects listed in the Council's Strategic Roadmap, however, litter prevention programs support the priority to *Enhance Community Safety and Support Quality of Life*.

SUSTAINABILITY FEATURES

When trash is littered on the ground instead of being properly disposed of, it often ends up in storm drains, streams, and the Bay, which can affect water quality, endangers plants and animals, and pollutes the outdoors spaces that we depend on for recreation. By completing a litter assessment, staff can use the information reported to address litter hot-spots and create programs and policies to reduce the amount of litter in Hayward and associated harm.

PUBLIC CONTACT

There has been no public contact for this agenda item.

NEXT STEPS

Upon direction from the Committee, Staff will investigate means to increase the number of litter cans required for new development and may also explore providing information on

certain types of litter cans to drive-through establishment permit applicants as an option to meet the City's litter abatement requirements.

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