



DATE: November 26, 2018

TO: Council Sustainability Committee

FROM: Director of Utilities & Environmental Services

SUBJECT: Possible Fee to Address Litter from Disposable Food Packaging

RECOMMENDATION

That the Committee reviews and comments on this report and makes a recommendation to the Council Budget and Finance Committee regarding the possibility of adding a litter fee to the November 2019 ballot.

SUMMARY

This report provides 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 provides more information about the possibility of implementing a litter fee in Hayward. The Hayward Business License Fee may be on the ballot in November of 2019 and a litter fee could be included for certain types of businesses. At this time, staff does not recommend pursuing a litter fee on certain businesses in the community.

BACKGROUND

One of Council's primary priorities is to keep the City clean, and the City allocates significant resources to removing litter throughout the community and to conducting public education. Several full-time employees remove dumped trash, perform street sweeping, and clean storm drains. The City's Keep Hayward Clean and Green Task Force 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 as some trash eventually enters storm drains and makes its way to creeks and the shoreline. For this reason, litter control in Hayward is 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 an 80% reduction in trash in the storm drain system by 2019, and a 100% reduction by 2022.

Council Sustainability Committee – On September 10, 2015, staff presented a [report](#)¹ 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. Following that meeting, in November of 2015, staff sent out 518 letters to restaurants, convenience stores, liquor stores, and gas stations requesting suggestions on how to reduce litter. No suggestions were received.

City Council – On September 20, 2016, staff presented a [report](#)² 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.

DISCUSSION

As noted in the September 20, 2016, report to Council, litter from fast-food restaurants, convenience stores (including mini marts at gas stations), and tobacco products is a significant issue throughout the Bay Area and the country. A 2011 study by Clean Water Action (CWA), a non-profit that advocates for clean water and environmental protection³, indicated that the largest source of litter collected from Oakland, Richmond, San Jose, and South San Francisco is fast-food, at 49%. The high percentage of litter emanating from fast-food prompted staff to focus on soliciting feedback from fast-food establishments.

Community Outreach – On August 15, 2017, staff solicited feedback from Hayward businesses by mailing letters to approximately 600 food-related businesses in Hayward, including restaurants, coffee shops, gas stations, liquor stores, and convenience stores. The letters invited businesses to participate in one of two special meetings hosted by the City on Wednesday, August 30, 2017, at City Hall to share ideas on how to reduce litter in Hayward. Three people representing two businesses attended the meetings. Two other businesses responded to the letters and shared their thoughts by way of email and a separate meeting. Comments received from the two businesses attending the August 2017 meetings at Hayward City Hall include the following:

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=>

- There are not enough public litter cans in Hayward.
- The City has mentioned possibly assessing a litter fee on businesses; is there any reward for businesses that do the right thing?
- Business owners are not the ones littering.
- Wind blows litter not generated by my business onto my property.
- We pick up litter on our property twice each day.
- The key to addressing litter is changing behavior.
- Public education is important and needs to be localized.
- Small litter is from people being lazy; large litter, like sofas, is more serious.
- Some cities offer a reward or bounty for reporting illegal dumping.
- We need more anti-littering signs.
- The homeless and illegal dumping, such as mattresses and sofas, are bigger issues.
- The City should publicize records of who has received a citation for littering.
- Charging my business an annual \$3,000 - \$4,000 litter fee would make me consider closing one of my restaurants.
- The City should recognize the shopping centers that do a good job of picking up litter.

An email received from a downtown coffee shop suggested that Hayward investigate implementing a program similar to those successfully run in Toronto, Portland, and Vancouver, BC to encourage the use of reusable coffee cups. This type of program is not something that can be easily implemented by a mid-sized city such as Hayward. However, the idea is gaining momentum nationally in that large chain coffee houses are considering similar programs.

Staff met with the owner of a downtown fast-food restaurant who recommended more City trash cans. He also suggested providing rewards or incentives for youth to pick up litter.

Requesting input from businesses by sending letters generated no responses in November 2015, and generated only five responses in August 2017. More responses may be obtained by visiting businesses. Holding brief face-to-face discussions about litter may also generate more responses.

During the 2016/2017 school-year, Hayward partnered with Cal State East Bay as part of the Pioneers for Sustainable Communities Program. Hayward received a report on Attitudes Toward Littering from the university. The report offered several examples of anti-litter campaigns and recommended streamlining the Access Hayward tool to make it easier for residents to report illegal dumping. The report also noted that successful anti-litter campaigns often try to instill pride in the community and include a mix of both positive reinforcement and constructive feedback.

Litter Fees – The City of Oakland, in February of 2006, adopted an ordinance to assess an annual Excess Litter Fee on certain types of businesses known to generate large amounts of disposable material that ends up as trash and litter on the streets. Oakland is the only City in the Bay Area to adopt a litter fee. In general, the types of businesses included in Oakland's ordinance are:

- Fast food businesses
- Convenience stores
- Gasoline station markets
- Liquor stores

Funds collected through the Oakland ordinance are used to pay for a contractor to provide three full-time and one part-time worker to remove trash and litter from near businesses that pay into the fee. These contract workers clear litter from about 35-50 locations each day, and try to service each location every 30 days. From May 2016 to May 2017, the contractor collected 2,958 bags of litter.

Oakland's fee is charged based on the annual gross receipts of the business and varies from \$230 to \$3,815 per year depending on the amount of a business' revenues. Businesses making less than \$4,999 per year are exempt. Oakland collects about \$400,000 annually through the fee.

Table 1, Oakland Litter Fee Annual Payment Amounts

Annual Gross Receipts	Business Size	Litter Fee
\$1 million or more	Large	\$3,815
\$500,000 to \$999,999	Medium	\$910
\$5,000 to \$499,999	Small	\$230
Less than \$4,999	Very Small	Exempt

Oakland passed its Excess Litter Fee in 2006, before Proposition 26 was approved by California voters in 2010. In order to reduce the potential for legal challenges, Hayward needs to carefully review the issues and proceed based on legal analysis and advice.

The Hayward City Attorney's Office has advised that adoption of a new fee upon specific business types as described above, would likely be subject to the Constitutional limitations upon taxes, fees, charges and assessments created by Propositions 218 and 26. The fee would be subject to the voter approval requirements of Article XIII C, section 2, of the California Constitution.

In 2016, the City of Richmond, California, investigated taking a measure to the ballot to impose a litter tax similar to Oakland's Excess Litter Fee. A June 2016 Richmond staff report estimated that by using Oakland's method of collecting funds, Richmond would generate \$30,255 annually. Richmond did not place the item on the ballot.

Hayward staff recently conducted an estimate of the annual litter fees Hayward might collect based on a fee structure similar to Oakland's. Oakland's litter fee ordinance determines the amount to charge a business based on its annual revenue from food-related sales. The gross receipts from the sale of alcohol, gasoline, and automotive services and products are not

counted toward the litter fee calculation. Therefore, the annual revenue for a gas station does not include revenue from selling gas, or from automotive products or repairs and annual revenue from a liquor store does not include alcohol sales. Currently, the business license and revenue data available to staff does not provide enough detail to accurately calculate how much revenue a business receives from certain sales. However, based on the populations of Hayward and Oakland, staff developed a rough estimate of Hayward gas station, liquor store, fast food, and convenience store revenue from only food-related and food-product-related sales. According to the California Department of Finance Oakland's 2017 population is approximately 427,000 and Hayward's is about 161,000. This equates to Hayward's population being about 38% of Oakland's population. Assuming Hayward's business community consists of the same percentage of establishments subject to the litter ordinance as Oakland, and applying the percent difference in population, staff estimates Hayward would receive approximately \$150,000 per year from a litter fee. Considering that Hayward currently spends about \$2 million annually in staff time and other resources to remove illegal dumping and litter, as reported in the September 20, 2016 staff report, staff does not believe another \$150,000 will make a significant impact in reducing litter in Hayward.

In conclusion, staff feels that the litter abatement services the City could provide with litter fee revenue would not significantly decrease the amount of litter in Hayward. In addition, the City would also risk souring its relationship with many businesses if it adopted a litter fee as most businesses have expressed a displeasure in the idea of the fee. As an alternative, staff recommends exploring an expansion of the City's current relationship with the Downtown Streets Team to collect litter, which may be accommodated with existing Solid Waste Program funds.

ECONOMIC IMPACT

A litter fee would impact large and small businesses that offer take-out food and beverages. If implemented, costs to the affected businesses might be passed along to consumers.

FISCAL IMPACT

The City could generate about \$150,000 per year, however, some of the revenue would be offset by the staff resources that would be needed to administer the fee.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following goal and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 2: Foster a sense of place and support neighborhood pride.

Objective 3: Increase collaboration with businesses, non-profits and neighborhood groups on placemaking projects.

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

As noted above, staff has mailed letters soliciting feedback from food-related businesses in 2017 and in 2015. Staff also met with two businesses in 2017 and received an email from another business.

NEXT STEPS

Upon direction from the Committee, staff may prepare a report to the City Council Budget and Finance Committee.

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Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:



Kelly McAdoo, City Manager