



DATE: September 17, 2019

TO: Council Sustainability Committee

FROM: Director of Public Works

SUBJECT: Options for Addressing Litter in Hayward

RECOMMENDATION

That the Committee reviews and comments on this report and provides policy direction to staff.

SUMMARY

This is the latest in a series of reports that review options for dealing with litter, especially from take-out food and beverage establishments. At the direction of the Committee from the July 8, 2019 Council Sustainability Committee meeting, this report: provides a suggested timeline and phased approach for implementing a ban on single-use plastic foodware; examines possible requirements on existing take-out food establishments to reduce litter; and analyzes the costs of increasing the number of public litter cans in Hayward. These options can help ensure the City implements a multi-faceted approach to litter abatement.

BACKGROUND

One of Council's primary priorities is to keep the City clean. Therefore, the City allocates significant resources to remove litter throughout the community. Efforts include several full-time employees who spend the majority of their time removing dumped trash. Several more City employees are dedicated to street sweeping and cleaning storm drains. The City also sponsors weekend clean-up events, the annual clean-up day at Weekes Park, and the Adopt a Block Program. Altogether, the City spends more than \$2 million per year on litter collection. Furthermore, the City's Maintenance Services Department is currently in the process of filling four new full-time positions dedicated to collecting litter. During the July 8 meeting, the Committee expressed a desire to receive reports documenting the litter collected by the new employees.

To address the issue of plastic pollution in Hayward, in July of 2011, Council enacted a ban on the use of polystyrene packaging for take-out food, adopting Chapter 5, Article 11 of the Hayward Municipal Code "Polystyrene Foam Disposable Food Service Ware Prohibited;

Recyclable or Compostable Food Service Ware Required.” In 2012, Council adopted the County-wide ordinance banning single-use plastic bags. However, litter remains an issue in Hayward.

Litter reduction has been discussed by Council, the Sustainability Committee, the Keep Hayward Clean and Green Task Force, and the City Council Budget and Finance Committee. Summaries of some of those discussions held since 2015 were provided in the July 8, 2019 [Staff Report](#)¹. At the July 8, 2019, Council Sustainability Committee meeting, the Committee expressed concerns about the length of time it was taking to create a County-wide ordinance restricting single-use plastic foodware and requested staff return with a recommended timeline for Hayward to implement its own ban on single-use plastic foodware. The Committee also requested staff analyze the cost to increase the number of public litter cans in Hayward and that staff consider placing a can at every cross street of every arterial street in the City, which could be up to 1,000 new public litter cans. The Committee also wished to learn more about the current number of restaurants and take-out food establishments with conditions of approval requiring litter collection.

DISCUSSION

This report reviews three strategies for dealing with litter, especially from take-out food and beverage establishments. The options include placing new requirements on existing take-out food establishments to reduce litter, implementing a ban on food establishments offering single-use plastic foodware, and increasing the number of public litter cans in Hayward. Many other possible methods for reducing litter have been presented in earlier reports and are not discussed here in detail. This report focuses on the alternatives requested by the Committee at their July 8, 2019 meeting.

Requirements for Take-Out Food Establishments

A common method to address litter generated by certain types of businesses is to place conditions of approval upon the property when use permits are approved, or to pass ordinances requiring certain actions by property owners. Hayward often includes a condition when issuing permits to fast food restaurants requiring the operator pick up trash within 300 feet of the property perimeter.

Newer establishments have use permits on file, but older restaurants do not. A deemed-approved ordinance, such as the one adopted by Council in November 2013 for alcoholic beverage outlets, could allow for such conditions or performance standards to be applied to existing establishments that do not have use permits. A deemed-approved ordinance could also apply to establishments that have use permits and add requirements to pick up litter or place addition garbage cans on their property, where such requirements do not already exist. Section 10-1.2769 of the Zoning Ordinance includes eight performance standards that apply to all deemed approved alcoholic beverage establishments.

¹ <https://hayward.legistar.com/MeetingDetail.aspx?ID=707046&GUID=15522BD2-9DF6-496F-86A6-4C37741D990C&Options=&Search=>

Adopting a deemed-approved ordinance can increase requirements for existing food establishments, however City resources needed for enforcement of such an ordinance would need to be identified.

Regardless of whether or not a property has an approved use permit, the following three sections of Hayward's Municipal Code address litter but are not actively enforced due to limited resources.

- Hayward Municipal Code Section 11-5.22 (Reduction of Pollutants in Stormwater) addresses litter that has the potential to enter the storm drain system. The article prohibits littering and requires property owners to keep sidewalks and parking lots free of litter.
- The Zoning Ordinance (Section 10-1.1045j3b), sets minimum performance standards for drive-in establishments, including:

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.
- 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.

Enforcement of an ordinance can have significant impacts to staffing and workloads. For example, when Council adopted new regulations for tobacco retail sales establishments in 2014, the ordinance required Code Enforcement staff to conduct annual compliance checks for each of the 143 tobacco shops, which required the hiring of new staff. Any new program or ordinance, or increased enforcement of an existing ordinance will need to be carefully considered for impacts to existing staff.

Bans of, or Fees on Material Types or Products

Staff is currently working on a draft expansion of the polystyrene ordinance to include limiting the distribution of single-use plastic foodware to customers of food vendors. When Staff presented a draft single-use plastic foodware ordinance to the Council Sustainability Committee in March 2019, Staff expressed a desire to gather more input from businesses before bringing an ordinance to Council. In August 2019, Staff disseminated a survey to Hayward businesses regarding a ban on single use foodware. Results of the survey are expected by the end of 2019. At the July 11, 2019 meeting of StopWaste's Single-Use Disposable Foodware Task Force, the Task Force proposed implementing a two-phase,

County-wide disposable foodware ordinance over approximately the next 18 months. Alameda County jurisdictions would have the option to opt out of the ordinance. The task force's proposal suggested StopWaste would provide messaging and outreach materials to help implement the ordinance, but StopWaste would not provide enforcement.

Phase one of the proposed County-wide disposable foodware ordinance would prohibit all dining facilities from providing customers single-use disposable foodware except upon the specific request of the customer, or at self-serve kiosks. Phase one would likely be passed before the end of calendar year 2019.

Phase two would prohibit facilities from using disposable foodware for dine-in customers, and also require all to-go disposable foodware be as environmentally friendly as possible. The level of environmental impacts attributed to various types of foodware has yet to be determined by StopWaste. Alameda County jurisdictions could decide to take additional measures, such as charging for disposable cups, charging for to-go containers, or requiring vendors participate in reusable to-go cup programs. StopWaste would prepare an environmental impact report for phase two of the proposed County-wide ordinance. StopWaste estimates phase two would go into effect in late 2020 at the earliest.

Hayward's current ordinance banning the use of polystyrene packaging for take-out food includes language exempting single use disposable straws, utensils, and hot cup lids from the ban. These exemptions would need to be removed from the ordinance to align with a County-wide single-use foodware ban. Staff recommends preparing to adopt the County's phase one disposable foodware ordinance in December of 2019 and amending Chapter 5, Article 11 of the Hayward Municipal Code "Polystyrene Foam Disposable Food Service Ware Prohibited; Recyclable or Compostable Food Service Ware Required" such that the exemptions of certain single-use disposable foodware are removed from the ordinance. Should the County delay implementation of phase one of its disposable foodware ordinance, Staff recommends Hayward implement its own ordinance in December 2019, prohibiting all dining facilities from providing customers single-use disposable foodware except upon the specific request of the customer, or at self-serve kiosks; and also amending Hayward's polystyrene ban ordinance.

Some cities have hired contractors to help businesses manage the transition from using disposable foodware to reusable foodware. The non-profit environmental organization Clean Water Action runs a program called ReThink Disposable that specializes in offering businesses technical assistance to switch from using disposables to offering dine-in customers reusable dishware instead. Since 1990, ReThink Disposables has worked with more than 1,000 food business in the San Francisco Bay Area to help the businesses reduce waste and realize cost savings. The City of Alameda received a grant that allowed Alameda to hire ReThink Disposable to help businesses change their operations to use reusable dishes, and the businesses that switched now serve as a model that others can imitate. The City of Berkeley worked with ReThink Disposable to survey businesses before implementing Berkeley's ban on disposable foodware.

StopWaste works with ReThink Disposable to offer Alameda County businesses and schools assistance switching from disposable to reusable dishes, including offering a \$500 rebate for the purchase of reusables. ReThink Disposable has created several [case studies](#)² showing the environmental and economic benefits realized by most businesses after switching from disposable to reusable foodware. Hiring a contractor like ReThink Disposable could help Hayward businesses switch from using disposable foodware to reusable foodware, and also help the City improve its outreach regarding a ban on single-use disposable foodware. Staff intends to research the appropriate scope of work and cost for a consultant to perform outreach to businesses in Hayward and can return to the Committee with a draft scope of work. If supported by the Committee, staff would then seek Council authorization to release a request for proposals to select a consultant to perform technical assistance and outreach.

Increase the Number of Public Litter Cans

The Committee requested at the July 8, 2019 Council Sustainability Committee meeting that staff analyze vastly increasing the number of public litter cans in Hayward. Currently Hayward has about 300 public litter cans dispersed throughout the City. The number of cans varies as some are damaged and removed, and others added to new areas needing service. There are three styles of can: aggregate heavy concrete cans, black metal cans, and the Big Belly dual recycling and trash cans. The aggregate cans cost about \$1,150 per can. The black metal cans cost about \$1,700 per can. The Big Belly cans cost about \$3,350 per dual recycling and trash can. The majority of the public litter cans are serviced by Waste Management of Alameda County as part of their franchise agreement with Hayward. About half of the cans are serviced every Monday through Friday, and half are serviced three days per week, Mondays, Wednesdays, and Fridays.

The cost of purchasing 1,000 new public litter cans could range from \$1.2 to \$3.4 million. The capital costs for these cans do not include annual operational expenses. Staff has asked WMAC for an estimate of those costs. There are approximately 124 miles of arterial and collector streets in Hayward. Adding two public litter cans (one on each side of the street) at the intersection of every block (about every quarter mile) of every arterial and collector street in Hayward would entail adding 992 cans. Staff is currently reviewing the effectiveness of public litter cans. In some cases, staff observes litter very close to public cans and in some cases, the cans seem to attract the dumping of household trash. Staff intends to continue to monitor selected cans and can return to the Committee with more information.

Bus shelters in Hayward usually include a small public litter can for riders to use. The shelters and cans in Hayward are maintained by a contractor hired by the AC Transit joint powers agreement (JPA). The maintenance of the shelters in Hayward has often not been satisfactory. However, the JPA is completing an RFP process to hire a new service provider, and a new contractor should be providing service in 2020.

ECONOMIC/FISCAL IMPACTS

Cleaner public spaces can create a positive economic impact. Providing clean, pleasant areas

² <http://www.rethinkdisposable.org/businesses>

for people to visit can increase the vitality of an area, and the potential of visitors patronizing local businesses. The removal of litter has the potential to benefit local businesses, especially retail, economically. Most of the options listed in this report would have a fiscal impact on the General Fund. Depending on the preferred options from the Committee, staff would develop more specific plans with associated costs.

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

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. Staff is currently disseminating a survey on disposable foodware both in person and on the City website.

NEXT STEPS

Upon direction from the Committee, staff will:

- Prepare an amendment to the Hayward polystyrene ban ordinance, Chapter 5, Article 11 of the Hayward Municipal Code “Polystyrene Foam Disposable Food Service Ware Prohibited; Recyclable or Compostable Food Service Ware Required”

and also present Council an ordinance to adopt phase one of the County's disposable foodware ordinance; and/or

- Develop a deemed-approved ordinance to initiate requirements upon older food establishments to reduce litter as well as options for enforcement of the ordinance; and/or
- Research the scope of work and cost to hire a consultant to conduct outreach and offer technical assistance to Hayward businesses to help them switch from using disposable foodware to reusable foodware.
- Research cost-effective method to place adequate number of public litter cans in areas most-affected by litter in the City.

Prepared by: Jeff Krump, Solid Waste Program Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager