



September 13, 2024

Hon. Amarra A. Lee
Judge of the Superior Court
c/o Bianca Fasuescu
Hall Of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655

RESPONSE TO THE GRAND JURY REPORT: Restaurant Exteriors: The Neglected Space

Honorable Judge Lee,

Thank you for the opportunity to review and comment on the above referenced Grand Jury Report filed on July 9, 2024. The City of San Mateo's response to both the findings and recommendations are listed below.

Response to Grand Jury Findings:

F1: Sanitary conditions of the exterior of restaurant facilities fall outside the current inspections of the County Health Department. The varying unsatisfactory conditions in the waste removal areas of the facilities show something is lacking in the regulatory process.

RESPONSE: Wholly Disagree with the Finding.

The City of San Mateo conducts inspections both inside and outside of restaurants. Inside, the City primarily inspects grease traps to ensure they are properly connected and maintained. Outside, the City inspects the waste storage areas and trash enclosures at each location. These inspections focus on stormwater best management practices (BMPs) and ensuring compliance with San Mateo's Municipal Stormwater Code. This includes verifying that the waste area is well-maintained, with floors routinely swept and dumpster or cart lids closed. If litter or food waste is found outside a waste container, the restaurant may be subject to enforcement action, typically a Written Warning or a Notice of Violation, depending on the severity of the violation and/or the history of past infractions. While these inspections are not specifically targeted at sanitary conditions, maintaining a clean area inherently supports better sanitation.

Furthermore, the City conducts these stormwater inspections of outside waste storage areas to ensure compliance with Sections C.4 and C.10 of our Municipal Regional Stormwater Permit (MRP), Order No.

R2-2022-0018, NPDES Permit No. CAS612008, issued by the Regional Water Quality Control Board (RWQCB) to all municipalities in the San Francisco Bay Region. To comply with the MRP, San Mateo must inspect approximately 150 restaurants annually, ensuring that all restaurants are inspected twice during the 5-year permit term. In the past year (July 1, 2023, to June 30, 2024), Public Works Environmental Compliance Inspectors conducted inspections at 138 restaurants and food service establishments, issuing 54 enforcement actions related to violations in the waste storage areas.

F2: Sanitary conditions of parklets fall outside current inspections by the County Health Department or Vector Control.

RESPONSE: Agree with the Finding.

While the Downtown Coordinator regularly inspects parklets for issues such as trash build-up in gutters, obstructions to runoff flow, or overflowing trash containers, these inspections are not under the purview of the County Health Department. However, the City of San Mateo manages parklet compliance through an annual renewal process, which allows the City to withhold a permit if a parklet fails to meet requirements, including sanitation standards. Permittees who do not comply with these standards may ultimately be required to remove their parklet.

F3: Sanitary conditions of exterior areas used for waste storage and disposal fall outside current inspections by local jurisdictions; local jurisdictions are, by and large, only reactive to an actual complaint.

RESPONSE: Wholly Disagree with the Finding

As mentioned in the response to F1, the City conducts unannounced inspections of waste storage areas at restaurant locations throughout the City. These inspections focus on stormwater issues, which often overlap with sanitary concerns. During these inspections, conditions such as leaking dumpsters, open lids, or overfilled containers with waste at risk of spilling out are promptly addressed. For example, if plastic bags, miscellaneous debris, or food waste are found outside the dumpster, the owner is required to sweep the area and place all waste items in the appropriate container. No waste items are to be stored outside their proper container. These inspections are conducted to ensure compliance with our Stormwater MRP and are not complaint-driven.

There are approximately 350 food service establishments in San Mateo, including various mobile businesses. Food service establishments in the City are inspected approximately every 2.5 years. Additionally, many restaurants in Downtown San Mateo share trash enclosures, which are inspected annually and monitored regularly by the Downtown Coordinator.

F4: Most restaurant exterior areas are "out of sight" of the public and as a result complaints are less frequent.

RESPONSE: Partly Agree with the Finding

It is accurate that areas "out of sight" are less likely to be noticed by the public, which can lead to fewer complaints. However, this also means that if trash is not visible, inspectors might not identify it as a violation. Being "out of sight" results in both fewer complaints and less enforcement. Nevertheless, the

City actively monitors exterior spaces to ensure that waste storage areas remain in good condition, as outlined in the responses to F1 and F3.

F5. Because they lack oversight, unacceptable conditions in restaurant trash areas are likely not to be rectified.

RESPONSE: Wholly Disagree with the Finding

When the City receives complaints, staff is typically successful in working with business or property owners to achieve compliance. Additionally, the City has enforcement authority under the stormwater municipal code, allowing it to direct owners to correct violations in trash enclosures within 10 business days or before the next rain event, whichever comes first. This oversight ensures that violations and unacceptable conditions are addressed in a timely manner.

F6. Waste water from the cleaning of trash areas and from rain flow into the storm drain systems.

RESPONSE: Wholly Disagree with the Finding

Businesses are informed that discharging wastewater from cleaning trash areas into storm drains is prohibited. The City has established Best Management Practices (BMPs) specifically for food businesses to address storm drain spills. Environmental Compliance Inspectors from Public Works conduct outreach and enforcement to promote these BMPs, which include proper handling of used oil and ensuring that waste water from equipment or floor mats is directed to the sanitary sewer system rather than storm drains. Spills are managed using absorbents, and cleaning methods that prevent discharge into storm drains are recommended. Many business owners are unaware of these BMPs, but are receptive to implementing them once they receive the information. The City continually promotes BMPs through handouts, public events, and direct interactions with residents and business owners.

FINDING:

F7. Effective inspection of parklet sanitation can be severely hampered by closed skirting and lack of under floor access. Spacing between planking and lack of solid flooring can lead to accumulation of organic debris and possible infestation by vermin.

Response: Partially Agree with Finding

As noted in F1 and F2, the code enforcement staff and Downtown Coordinator consistently monitor exterior spaces and work with businesses to ensure that waste storage areas are well-maintained.

Additionally, the City's Parklet Permit standards require well-drained flooring, proper storm drain access, and inspections before parklets can become operational, and they must meet specific conditions to retain their permits. However, it is true that unless the parklets are dismantled or removed, operators cannot effectively sanitize the spaces between or beneath them.

San Mateo's parklet standards specify that there must be 'Maintenance access – Parklet platforms must be designed to provide access underneath the platform to allow for maintenance (i.e., repairs or clearing debris). If the platform base is not a solid mass, access can be provided through access panels, removable pavers, or other means.'

This access helps manage the accumulation of debris and organic matter by ensuring prompt action when these issues are identified. Additionally, parklet standards require that 'the platforms shall be kept free of litter, refuse, and debris. The area must be scrubbed and mopped daily to remove any food or drink stains, as stipulated by the permittee.' This cleaning must comply with the City's Storm Water Management and Discharge Control Program, which prohibits the discharge of anything other than rainwater into the stormwater drainage system.

These measures are essential in deterring vermin, as the area must be regularly maintained.

Recommendations:

R4. By June 30, 2025 inspectors for all jurisdictions with restaurants should be empowered to require owners/operators to add receptacles or increase the frequency of pickups.

Response: The recommendation requires further analysis

The recommendation to empower inspectors to mandate additional waste receptacles or increased pickup frequency for restaurants requires further analysis.

Currently, the Downtown Coordinator assists businesses in evaluating and adjusting their waste pickup needs through proactive outreach, informing them of ways to optimize the size and frequency of pickups. Additionally, Recology monitors the situation and contacts businesses when trash bins overflow and spill onto sidewalks.

However, it would be challenging for City staff to determine whether a business has sufficient receptacles or adequate waste removal frequency, as each business operates under different conditions—varying hours, seasonal adjustments, and unique operational needs. Ultimately, it is the business owner's responsibility to assess and adjust their waste pickup requirements based on fluctuations in sales and operations.

And, in cases where businesses fail to manage their waste effectively, Code Enforcement steps in. When repeated citations are issued for trash accumulation outside dumpsters, it often signals a need for increased waste service. Although Code Enforcement cannot directly mandate Recology to increase pickups, these citations usually prompt businesses to make the necessary adjustments.

Building on this approach, the City has already been enforcing more frequent waste services to meet San Mateo's Municipal Regional Permit (MRP) C.10 mandate for 100% trash capture by June 30, 2025. This enforcement has been particularly effective at multi-family properties, such as Creekside Apartments and Hillside Garden Apartments, where compliance was achieved through coordinated efforts between the City, Recology, and enforcement of the Stormwater Municipal Code. A similar model could be adapted to address restaurants with insufficient waste services.

Nevertheless, outreach challenges are anticipated with the concurrent enforcement of new SB1383 initiatives, which may lead business owners to feel over-regulated, especially during a time when they

are striving for financial stability. Further analysis is needed to assess whether the benefits of this recommendation outweigh the potential financial and operational burdens on businesses and to ensure that enforcement is both effective and fair.

This response to the Grand Jury was approved at a public meeting on September 16, 2024.

Respectfully,

Lisa Diaz Nash
Mayor, City of San Mateo

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