



CITY COUNCIL AGENDA REPORT

Meeting Date: April 15, 2021

From: Adrienne Etherton, Sustainability Manager

Subject: Adopt Ordinance No. 660, Waiving Second Reading for Disposable Food Ware Ordinance

Recommendation

Adopt Ordinance No. 660, waiving second reading, repealing Chapter 8.18 of the Brisbane Municipal Code and adopting a new Chapter 8.19 regulating the use of disposable food service ware by food facilities to reduce waste.

Background

This ordinance was introduced at the regular City Council meeting held on March 18, 2021, and was passed unanimously with no requested changes.

Discussion

After the first reading, the County of San Mateo Office of Sustainability staff shared a template mailer for City staff to send to local food businesses after adoption, informing them of the ordinance. They also shared a list of food facilities, which will be cross-referenced with our business license data. Staff will prepare these letters in the coming weeks so businesses are best able to prepare for compliance by March 2022.

Attachments

1. March 18, 2021 staff report (minus attachments)
2. Final version Ordinance No. 660

Handwritten signature of Adrienne Etherton in black ink.

Prepared by: Adrienne Etherton, Sustainability Manager

Handwritten signature of Randy Breault in blue ink.

Randy Breault, Public Works Director

Handwritten signature of Clayton L. Holstine in blue ink.

Clay Holstine, City Manager



CITY COUNCIL AGENDA REPORT

Meeting Date: March 18, 2021

From: Adrienne Etherton, Sustainability Manager

Subject: Disposable Food Ware Ordinance

Community Goal/Result

Ecological Sustainability - Brisbane will be a leader in setting policies and practicing service delivery innovations that promote ecological sustainability

Purpose

To introduce an Ordinance that will ultimately allow the County of San Mateo to perform education and enforcement services on the use of disposable food service ware in the City of Brisbane.

Recommendation

1. Adopt Ordinance No. 660 "Repealing Chapter 8.18 of the Brisbane Municipal Code and Adopting a New Chapter 8.19 Regulating the Use of Disposable Food Service Ware by Food Facilities.
2. Authorize the City Manager to enter into a Memorandum of Understanding with the County of San Mateo to provide education and enforcement of the food service ware ordinance.

Background

In March 2011, the County of San Mateo Board of Supervisors adopted Ordinance No. 04542 prohibiting the use of polystyrene based disposable food service ware by food vendors ("Polystyrene Ban Ordinance"). The City of Brisbane adopted Ordinance No. 590 in November 2014 extending the polystyrene ban within city limits, with the County providing enforcement.

Since the adoption of the Polystyrene Ban Ordinance, there has been increasing concern over the impact of disposable food service ware, especially items made from plastic. Disposable food service ware is a major contributor to street litter, ocean pollution, marine and other wildlife endangerment, and climate change. Many plastic food service ware items are used for just a few minutes before becoming waste, which lasts for hundreds or even thousands of years.

Accordingly, the County of San Mateo's Office of Sustainability (OOS) and Environmental Health Services conducted extensive research and outreach to develop a Disposable Food Service Ware Ordinance (Ordinance) that would repeal and replace the Polystyrene Ban Ordinance. On February 25, 2020, the Board of Supervisors adopted San Mateo County Ordinance No. 04823, with an effective date of March 25, 2021. Because the County repealed and replaced their previous Polystyrene Ban, the City's Polystyrene ban is no longer being enforced.

City staff had followed and contributed to the County effort with the intention of bringing forward a local ordinance to extend the new provisions within Brisbane and continue to align with the County requirements to retain their role in enforcement. Unfortunately, shortly thereafter, the Coronavirus

Pandemic broke out and city staff did not feel it was an appropriate time to bring forward new regulations on struggling food businesses. However, several other cities in the County have moved forward: South San Francisco, Burlingame, Atherton, Half Moon Bay, Belmont, San Mateo, and Millbrae (first reading 2/26/21). Recently, the County adopted an amendment that pushed their enforcement date back to March 25, 2022.

Discussion

The provisions of the proposed Ordinance are summarized below.

1. Accessories such as straws, stirrers, cup spill plugs, condiment packets, utensils, napkins, etc. shall be provided only: (1) when requested by the consumer, (2) upon acceptance by the consumer after being offered by the food facility, or (3) at a self-serve area and/or a dispenser. Accessories will be distributed unbundled as separate individual units. Take-out food delivery services that utilize digital ordering platforms shall provide clear options for customers to affirmatively request accessories.
2. Polystyrene (#6 plastics, Styrofoam) disposable food service ware is prohibited. (This is a provision that will be carried over from the Polystyrene Ban Ordinance.)
3. Food facilities shall use disposable straws, stirrers, utensils, and cocktail/ toothpicks (and the packaging that these individual items are wrapped in, if any) made from non-plastic, compostable materials. Non-plastic, compostable is defined as, but not limited to, natural fiber-based materials such as paper, sugarcane, wheat stalk/stem, bamboo, wood, etc. Traditional plastics (petroleum-based) and compostable plastics (a.k.a. bioplastics or polylactic acid [PLA]) shall not be allowed for the abovementioned items.
4. Food facilities shall use non-plastic, compostable plates, bowls, cups, food trays, clamshells, boxes, deli containers, and other containers. These items may be lined with, but not made entirely of compostable plastic. Additionally, these items shall be certified by the Biodegradable Products Institute (BPI) or by another 3rd party approved by the OOS to ensure that the items breakdown in an industrial composting facility and are free of or have minimal traces of harmful fluorinated chemicals.
5. Some notable exemptions that will be allowed are summarized below.
 - a. Disposable food service ware made from aluminum.
 - b. Disposable plastic straws may be provided only upon request to consumers with medical needs.
 - c. Healthcare facilities may distribute disposable plastic straws without a request from the patient.
 - d. Drive-through areas of food facilities may distribute straws and cup sleeves without a request from the consumer.
 - e. If no reasonably feasible disposable food service ware alternative exists.
6. The San Mateo County Office of Sustainability (OOS) will maintain and have available a list of approved disposable food service ware sources and/or references to organizations that maintain regularly updated lists of products that meet the Ordinance requirements.

OOS is developing a “Sustainability Ambassadors” program for summer 2021 which will provide materials and training to volunteers to encourage food businesses to immediately begin providing accessories only upon request, which would save businesses money by minimizing the distribution of disposable utensils, napkins, condiments and other accessories. The pandemic has led to an increase in take-out, often brought to a home environment not in need of these accessories, which are then thrown away or stashed in ever-growing piles in our homes. Eliminating these unnecessary items can help offset potentially higher costs for other compostable food ware items and save considerable waste. Staff intends to promote this volunteer opportunity and run related articles through city communications channels.

In February, County staff presented their ordinance to the Open Space and Ecology Committee, who expressed concern about the impact on the local restaurants and discussed various methods of support. City staff reported that outreach to all impacted businesses in summer 2019 indicated many Brisbane eateries are already using compliant items. OSEC recommended adoption of the ordinance paired with a program to provide up to 6 months of compostable containers and education encouraging restaurants not to provide accessories unnecessarily.

Enacting the support proposed by OSEC would impose a significant burden on staff and an unknown but potentially considerable cost. The City Council has recently made a commitment of \$50,000 to help local small businesses, in addition to the grants available from County, State, and Federal sources. With local businesses already reporting to be largely in compliance in 2019, and a one-year lead time to use any non-compliant items stocked, staff believes the impact will be minimal. In addition, the requirements will be imposed uniformly on food businesses, preventing any competitive disadvantage between local establishments.

Fiscal Impact

There is no direct fiscal impact to the City upon adoption of this ordinance because the County of San Mateo will be responsible for outreach and enforcement. Should Brisbane not adopt this ordinance, the existing Polystyrene Ban would require city enforcement at our own expense. Provision of material support to businesses would be an additional cost.

Measure of Success

An overwhelming transition to non-disposable food service ware by Brisbane food service businesses.

Attachments

1. Brisbane Disposable Food Service Ware Ordinance No. 660
2. Disposable Food Service Ware Ordinance MOU



Prepared by: Adrienne Etherton, Sustainability Manager



Randy Breault, Public Works Director



Clay Holstine, City Manager

ORDINANCE NO. 660

**AN ORDINANCE OF THE CITY OF BRISBANE
REPEALING CHAPTER 8.18 OF THE BRISBANE MUNICIPAL CODE AND
ADOPTING A NEW CHAPTER 8.19 REGULATING THE USE OF DISPOSABLE
FOOD SERVICE WARE BY FOOD FACILITIES**

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1. Findings.

The City Council finds and determines that:

- A. The production, management, and consumption associated with disposable food service ware, typically used for only a few minutes before being discarded, have significant environmental impacts, including environmental contamination; consumption of precious resources such as energy and water; emissions of greenhouse gases; air and water pollution; litter on streets; and plastic pollution in waterways and oceans.
- B. Disposable food service ware constitutes a substantial portion of the litter found within the City of Brisbane, San Mateo County and the rest of the Bay Area. These types of food service ware are commonly littered or blown out of trash receptacles and migrate through the storm drain system where they eventually end up in the ocean and the county's beaches and creeks.
- C. Polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors. Polystyrene, often referred to by the trademark, Styrofoam, has also become a problematic environmental pollutant given its non-compostable and nearly non-reusable nature.
- D. The most effective ways to reduce the negative environmental impacts of disposable food service ware include, in order of priority, using reusable food service ware; using natural-fiber based compostable materials, many made from renewable resources such as bamboo, wheat stalk/stem, and sugarcane that do not contain toxic chemicals; and recycling food service ware. When products are reused and recycled, natural resources are spared, less energy is used for the production of new products, and premium landfill space is preserved. When compostable products are turned into compost, they can reduce water use and lessen the need for fertilizer at the site where the compost is applied (e.g., gardens, yards, farm land, etc.), which can also lead to cost savings since less/no fertilizers need to be purchased.
- E. Compostable food service ware such as cups, plates, clamshell containers, and utensils are now made from paper, sugarcane stalk, bamboo, wheat stalk/straw, and other blends of natural plant fibers. As these products degrade, they pose less of a danger to the environment.

- F. Even with the emergence of compostable plastics, which are derived from renewable biomass sources such as plants and microorganisms, there are limited certified types of compostable plastic that biodegrade in a marine environment.
- G. Certain disposable food service ware, including compostable paperboard containers, may contain fluorinated chemicals, also known as per- and polyfluorinated alkyl substances (PFAS), which are synthetic chemicals commonly used in disposable food service ware to repel water and grease. Fluorinated chemicals pose a public health risk as they have been linked to serious health effects including kidney and testicular cancer, thyroid disruption, delayed puberty, and obesity.
- H. Plastics in waterways and oceans break down into smaller pieces, called microplastics, that do not biodegrade and are present in most of the world's oceans. Microplastics consumed by marine organisms make their way into animals' tissues and are beginning to show up in the fish that humans consume. Plastic debris also attracts and concentrates ambient pollutants in seawater and freshwater, which can transfer to fish and other seafood that is eventually sold for human consumption.
- I. Reduction of disposable food service ware in the environment will advance compliance with federal, state, and local clean water mandates, including the Municipal Regional Stormwater Permit requirement, by helping to reduce trash and litter in stormwater discharges.
- J. Understanding the importance of and need for reducing plastic litter, the City adopted a plastic bag ban ordinance in 2013. Adopting this Ordinance will help further reduce the amount of litter entering the city's storm drains, creeks, the bay, and the ocean.
- K. On February 25, 2020, the San Mateo County Board of Supervisors adopted San Mateo County Ordinance No. 04823 repealing Chapters 4.106 and 4.107 and adopting a new Chapter 4.107 entitled "Regulating the Use of Disposable Food Service Ware by Food Facilities".
- L. The City of Brisbane should restrict the use by food facilities of polystyrene-based disposable food service ware and require the replacement of non-compostable or non-recyclable disposable food service ware with compostable alternatives that are non-plastic, natural fiber-based, and free of all intentionally added fluorinated chemicals, when and where possible.

SECTION 2. Chapter 8.18 of the Brisbane Municipal Code is hereby repealed and replaced in its entirety by a new Chapter 8.19 to be numbered and entitled and to read as follows:

CHAPTER 8.19 REGULATING THE USE OF DISPOSABLE FOOD SERVICE WARE

§8.19.010 – Application of Chapter.

This section intentionally left blank.

§8.19.020 – Definitions.

For purposes of this Chapter, the following terms have the following meanings:

- A. “Aluminum Foil-based” means any Disposable Food Service Ware composed entirely of aluminum, including but not limited to aluminum tray liners, aluminum foil, and aluminum foil baskets.
- B. “Biodegradable Products Institute (BPI)” refers to a certification program that ensures that products and packaging displaying the BPI logo have been independently tested and verified accordingly to scientifically based standards to successfully break down in professionally managed industrial composting facilities. BPI-certified products meet the standards of the American Society for Testing Materials (ASTM) D6400 or D6868 for compostability. Starting on January 1, 2020, all BPI-certified products will also be required to have (1) a limit of 100 parts per million (ppm) total Fluorinated Chemicals as the upper threshold for acceptance and (2) no intentionally added Fluorinated Chemicals.
- C. “Compostable” means that an item or material (1) will break down, or otherwise become part of usable compost in a safe and timely manner and (2) is Natural Fiber-based or made from other materials approved by the County Manager or designee. Compostable items may include those that are made entirely of Natural Fiber or Natural Fiber-based items that are coated or lined with biologically based polymer, such as corn or other plant sources (e.g., compostable plastics), if certified by BPI or by another independent third party approved by the County Manager or designee.
- D. “Disposable” means designed to be discarded after a single or limited number of uses and not designed or manufactured for long-term multiple reuse.
- E. “Food Service Ware” means food contact products used for serving, distributing, holding, packaging, and/or transporting Prepared Food including, but not limited to plates, cups, bowls, trays, clamshell containers, boxes, utensils, straws, lids, and food contact paper (e.g., wraps, bags, tray liners, etc.). The term "Food Service Ware" includes Food Service Ware Accessories.
- F. “Food Service Ware Accessories” include Food Service Ware such as straws, stirrers, cup spill plugs, cup sleeves, condiment packets, utensils (including chopsticks), cocktail sticks/picks, toothpicks, napkins, and other similar accessory or accompanying Food Service Ware used as part of food or beverage service or packaging. Detachable lids for beverage cups and food containers are not considered a Food Service Ware Accessory.
- G. “Fluorinated Chemicals” means perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals) or fluorinated chemicals, which are a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

- H. “Food Facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food to the public for human consumption, as defined by the California Health and Safety Code Section 113789 or successor. It includes both permanent and temporary food facilities. Public schools are exempt from the provisions of this Chapter.
- I. “Food Scrap Composting Method” means (1) self-hauling of food scraps to a permitted composting facility or a transfer station that accepts food scraps that will be transferred to a permitted composting facility for on-site compost processing, (2) food scrap compost collection service provided by a curbside hauler, or (3) on-site food scrap composting.
- J. “Healthcare Facilities” mean places that provide healthcare to the public. Healthcare Facilities includes, but is not limited to hospitals, clinics, outpatient care centers, nursing homes, psychiatric care centers, medical offices, hospice homes, mental health and addiction treatment centers, orthopedic and other rehabilitation centers, urgent care, birth centers, etc.
- K. “Natural Fiber/Natural Fiber-based” means a plant or animal-based, non-synthetic fiber, including but not limited to products made from paper, sugarcane, bamboo, wheat stems/stalk, hay, wood, etc.
- L. “Non-Compostable” means not meeting the definition of Compostable set forth in this Chapter.
- M. “Polystyrene-based” means and includes expanded polystyrene, which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term "polystyrene" also includes polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam (expanded polystyrene [EPS]) and clear or solid polystyrene known as oriented polystyrene.
- N. “Prepackaged Food” means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer and prepared at an approved source.
- O. “Prepared Food” means food or beverages that undergo a cooking or food preparation technique on the Food Facility’s premises for consumption by the public. Cooking or food preparation technique includes, but is not limited to the following:
 1. Cooking methods, utilizing the application of heat, such as steaming, microwaving, simmering, boiling, broiling, grilling, frying, or roasting.
 2. Beverage preparation, such as blending, brewing, steeping, juicing, diluting, or pouring.
 3. Food preparation techniques, such as defrosting, rinsing, washing, diluting, cutting, portioning, mixing, blending, assembling, coating, dipping, garnishing, decorating, or icing.

4. Prepared Food does not include raw eggs or raw, butchered meats, fish, and/or poultry sold from a butcher case, a refrigerator case, or similar retail appliance.

P. "Takeout Food" means Prepared Food requiring no further preparation, which is purchased to be consumed off a Prepared Food Facility's premises. Takeout Food includes Prepared Food delivered by a Food Facility or by a third-party Takeout Food Delivery Service.

Q. "Takeout Food Delivery Service" is a service that delivers Takeout Food from a Food Facility to a customer for consumption off the premises. This service can be provided directly by the Food Facility or by a third-party.

§8.19.030 – Distribution of Disposable Food Service Ware Accessories.

A. No Food Facility shall provide any Disposable Food Service Ware Accessories except (1) upon request by the consumer, (2) upon acceptance by the consumer after being offered by the Food Facility, or (3) at a self-serve area and/or a dispenser.

B. Food Facilities shall only distribute Disposable Food Service Ware Accessories unbundled, as separate individual units.

C. Takeout Food Delivery Services that utilize digital ordering/point of sale platforms, including but not limited to the internet and smart-phone, shall only offer Disposable Food Service Ware Accessories by providing clear options for customers to affirmatively request these items separate from orders for food and beverages. The default option on the digital ordering/point of sale platforms shall be that no Disposable Food Service Ware Accessories are requested. Each individual Disposable Food Service Ware Accessory (e.g., each fork, knife, condiment packet, napkin, etc.) provided with Prepared Food must be specifically requested by the customer in order for a Food Facility to provide it.

§8.19.040 – Standards and Required Use of Disposable Food Service Ware.

A. No Food Facility shall use Polystyrene-based Disposable Food Service Ware when providing Prepared Food.

B. Food Facilities shall only provide Disposable straws, stirrers, utensils, and cocktail/toothpicks (and the packaging that these individual items are wrapped in, if any) that are Compostable.

C. Nothing in this Chapter shall conflict or be construed to conflict with the Americans with Disabilities Act or any other applicable law concerning the rights of individuals with disabilities. In particular, nothing in this Chapter shall restrict, or be construed to restrict, the provision by Food Facilities of Disposable Non-Compostable straws to individuals who may request the use of Disposable Non-Compostable straws to accommodate medical needs or disabilities. Healthcare Facilities may distribute Disposable Non-Compostable straws with or

without request by a patient at the discretion of the Healthcare Facility staff based on the physical or medical needs of the patient.

- D. Food Facilities shall use Compostable items for the below Disposable Food Service Ware:
 - 1. Plates
 - 2. Bowls (of all sizes including, but not limited to soup and salad bowls and accessory bowls for condiments)
 - 3. Cups (of all sizes including, but not limited to beverage cups)
 - 4. Food trays
 - 5. Clamshells, boxes, deli containers, and other containers used for the sale and/or distribution of Prepared Food (e.g., Takeout Food, leftover “doggie containers”, etc.)
- E. Compostable items for the Disposable Food Service Ware listed in Subsection D used by Food Facilities must have been tested to breakdown into compost in an industrial composting facility in a timely manner and shall be free of all intentionally added Fluorinated Chemicals. To verify, these items shall be certified by Biodegradable Products Institute (BPI) or another independent third party approved by the County Manager or designee, in collaboration with local waste processors and haulers.
- F. For all other Disposable Food Service Ware not listed in Subsections B and D, Food Facilities shall use only Disposable Food Service Ware that can be composted by the Food Scrap Composting method utilized by the Food Facility and/or accepted for recycling by the Food Facility’s recycling collection service.
- G. The County shall maintain a list of approved Disposable Food Service Ware sources and/or references to organizations that maintain regularly updated lists of products that meet the requirements detailed in Subsections A, B, D, and E of this Section. This information shall be made available on the Office of Sustainability website and in the Office. If a product is not included on the approved lists, the Food Facility wishing to use a product as Disposable Food Service Ware shall establish to the County Manager or designee’s satisfaction that the product complies with the requirements detailed in Subsections A, B, D, and E.

§8.19.050 – Recordkeeping and Inspection.

- A. Food Facilities shall keep complete and accurate record or documents of the below items.
 - 1. Commencing on the effective date of this Ordinance and ending 365 days from the Ordinance effective date, the purchase of all Disposable Food Service Ware, including Non-Compostable and Compostable items.
 - 2. The purchase of the acceptable Disposable Food Service Ware evidencing compliance with this Chapter for a minimum period of three years from the date of purchase.

- B. The record shall be made available for inspection at no cost to the County during regular business hours by County employee or County-designated staff authorized to enforce this Chapter. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be made available at the Food Facility address.
- C. The provision of false or incomplete information, records, or documents to the County shall be a violation of this Chapter.

§8.19.060 – Automatic Exemptions.

- A. Prepackaged Food is exempt from the provisions of this Chapter.
- B. Polystyrene coolers and ice chests intended for reuse are exempt from the provisions of this Chapter.
- C. Disposable Food Service Ware that is entirely Aluminum Foil-based is exempt from the provisions of this Chapter.
- D. If the County determines that a reasonably feasible Disposable Food Service Ware that complies with Section 8.19.040 A, B, D, and E of this Chapter does not exist, these items will be exempt from the abovementioned provisions of this Chapter until the County determines that a reasonably feasible alternative is available on the market for purchase. The County will have a current list of these exempted Disposable Food Service Ware posted on the Office of Sustainability website with hard copies available in the Office.
- E. Certain Disposable Food Service Ware Accessories for beverage orders, specifically, straws and cup sleeves, shall be exempt from Section 8.19.030 A and may be distributed for safety reasons without the need for a request by the consumer or an offer by the Food Facility, specifically at drive-through areas of Food Facilities. Detachable lids are not considered a Disposable Food Service Ware Accessory, so Section 8.19.030 A does not apply to detachable lids.
- F. Temporary exemptions due to an emergency are automatic without the submission of a request for an exemption. An emergency is defined as a sudden, unexpected occurrence posing a clear and imminent danger that requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Examples of an emergency include, but are not limited to natural disasters, emergencies due to the release of hazardous materials, emergencies associated with loss of power and/or water, or emergency medical response.

§8.19.070 – Case-by-Case Consideration of Requests for Hardship Exemption.

- A. Grounds for an exemption.

An exemption from any of the provisions of this Chapter may be granted by the County Manager or designee upon demonstration by a Food Facility to the satisfaction of the County that strict application of the requirements would cause undue hardship. An “undue hardship” includes, but is not limited to the following:

1. A situation unique to the Food Facility where a suitable alternative that conforms with the requirements detailed in Section 8.19.040 A, B, D, and E does not exist for a specific application.
 2. Imposing the provisions of this Chapter would cause significant economic hardship. “Significant economic hardship” may be based on, but not limited to, demonstrating that suitable Disposable Food Service Ware is not available at a commercially reasonable price and the additional cost associated with providing the Disposable Food Service Ware is particularly burdensome to the Food Facility based on the type of operation(s) affected, the overall size of the business/operation, the number, type and location of its facilities, the impact on the overall financial resources of the Food Facility, and other factors. Reasonable added cost for a suitable item as compared to a similar item that the Food Facility can no longer use shall not by itself constitute adequate grounds to support an exemption for such item. In determining whether a significant economic hardship has been established, the County Manager or designee shall consider the following information: ability of the Food Facility to recover the additional expense by increasing its prices; the availability of tax credits and deductions; outside funding; and other options.
- B. Request for an exemption. A request for an exemption from the requirements of this Chapter shall include all information deemed necessary by the County to render a decision, including but not limited to documentation showing the factual support for the requested exemption. A request for an exemption may be approved by the County Manager or designee, in whole or in part, with or without conditions. The duration of the exemption, if granted, shall also be determined by the County Manager or designee. Information about the application process for requesting an exemption will be available on the Office of Sustainability’s website and in the Office.

§8.19.080 – Enforcement.

- A. The County of San Mateo's County Manager or designee is hereby authorized to enforce, on behalf of the City of Brisbane, this chapter and any amendments thereto, within the jurisdictional boundaries of the city of Brisbane as set forth in Section 4.107.080 of the County of San Mateo Ordinance Code. Such enforcement authority includes, but is not limited to, the authority to hold hearings, issue citation, and assess administrative fines for violations of this chapter within the geographical limits of the City of Brisbane.

- B. A violation of this Chapter is an infraction and is also punishable by administrative fines as set forth in San Mateo County Code of Ordinances [Chapter 1.40](#).
- C. Violation of this Chapter is a public nuisance subject to all applicable civil, administrative, and criminal remedies and penalties according to the provisions and procedures contained in this ordinance code and state law including, but not limited to, an action for abatement or injunctive relief.
- D. This Section shall not be interpreted to limit any otherwise available civil or administrative remedies under law.

SECTION 3. This Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15061 (b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that the provisions contained herein may have a significant effect on the environment. Further, the Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15307 and 15308 of Title 14 of the California Code of Regulations as actions taken by regulatory agencies to assure the maintenance, restoration, enhancement of natural resources, or protection of the environment.

SECTION 4. If any provision, section, subsection, sentence, clause, phrase, or word of this Chapter 8.19, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each provision, section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this Chapter or application thereof would be subsequently declared invalid or unconstitutional.

SECTION 5. This Ordinance shall be effective thirty (30) days after adoption. However, the mandatory provisions of this Ordinance, except for Section 8.19.050 (A)(1), shall only become operative and subject to enforcement on March 25, 2022.

Karen Cunningham, Mayor

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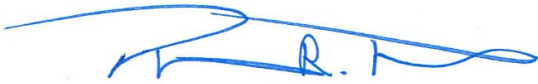
The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Ingrid Padilla, City Clerk

APPROVED AS TO FORM:



Thomas C. McMorrow, City Attorney