



CITY COUNCIL AGENDA REPORT

Meeting Date: September 5, 2024
From: Director of Public Works/City Engineer
Subject: Grand Jury Report, "Restaurant Exteriors: The Neglected Space"

Purpose

To give Council the opportunity to provide comments on the findings and recommendations of the Grand Jury report on restaurant exteriors.

Recommendation: Provide input on the draft comment letter prepared by staff.

Background

No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body . . . In any city and county, the mayor shall also comment on the findings and recommendations.

Fiscal Impact

There is no direct fiscal impact envisioned to the city due to providing the required response

Measure of Success

A response within the timeframe required by state law.

Attachments

1. Grand Jury Final Report - release date of July 9, 2024
2. Draft September 6, 2023 city response letter

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RESTAURANT EXTERIORS: THE NEGLECTED SPACE

ISSUE

The exterior trash areas of food service businesses are often unsightly and unsanitary. How can this issue be addressed?

SUMMARY

Restaurant garbage and food waste is not always contained in designated exterior bins, and may overflow, attracting animals and other undesirable pests. While restaurant interiors are subject to County of San Mateo Health System standards and inspections, restaurant building exteriors are subject to a variety of standards and inspection programs, because each local jurisdiction has its own regulations for sanitation and safety for exteriors. For restaurant exteriors, responsibility for enforcement of local code and for inspection schedules varies from city to city. Generally, inspections are done when complaints are received. The extent of the issues may vary based on the municipality or district, day of the week (garbage collection day), or whether the building backs are visible to the public.

Grand Jury members conducted interviews with County officials, city officials, and waste handlers and performed their own spot checks (admittedly not scientific). A written survey (Appendix B) was sent to all twenty cities and towns in the County.

The Grand Jury found a significant number of restaurant exterior waste storage areas and areas below parklets had clearly deficient, unsanitary, unsightly and odorous conditions. The investigation found that the “standards” for these areas, *i.e.*, how these conditions were monitored, and how codes and policies were enforced, to be inconsistent at best and non-existent in some instances. A quantification of the waste storage area problem proved difficult as many sites and their condition were dependent on the day of the week and their garbage pick-up days.

This Grand Jury report includes recommendations for a more proactive approach to handling the garbage and parklet sanitation problems around restaurant exteriors in San Mateo County, and suggestions for preventive maintenance.

BACKGROUND

People spent 20.7% more money at restaurants than on groceries in 2022. That figure rose to 29.5% in the first two months of 2023 according to Commerce Department data.¹ This significant increase in use of restaurants and “micro” and “mobile” food services, not surprisingly, resulted in an increase in organic (food stuff) waste, paper, glass and general garbage.

Members of the Civil Grand Jury initiated this review of the health and safety conditions surrounding the immediate areas designated for waste removal after observing an increase in rodents around parklets. Initial walkthroughs behind restaurants determined that the problem related to waste management in general as well as to the parklets. Photos contained in Appendix A depict some of the disturbing findings.

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REGULATORY FRAMEWORK

California Health & Safety Code, Chapter 7 known as the “Retail Food Code” regulates, at the State level, the protections required for public health and safety of a “Food Facility”.² The Code

¹ https://www.census.gov/retail/marts/www/marts_current.pdf

² H&S Code 113789 (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

- (1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.
- (2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.
- (b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:
 - (1) Public and private school cafeterias.
 - (2) Restricted food service facilities.
 - (3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).
 - (4) Commissaries.
 - (5) Mobile food facilities.
 - (6) Mobile support units.
 - (7) Temporary food facilities.
 - (8) Vending machines.
 - (9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.

has extensive requirements for the handling of food, preparation and service of patrons. They can best be described as affecting the “inside” of the Food Facility.

The exterior or waste disposal areas are only mentioned in Article 4, Section 114245.4. “If provided, an outdoor storage area or enclosure used for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be easily cleanable, durable and sloped to drain.”³ Refer to Appendix C for the California Health & Safety Code Article 4.

The enforcement of these State Regulations is assigned to “Enforcement Officers”⁴ of an “Enforcement Agency”⁵ which is delegated to more local organizations at the county or other local level. Section 114390⁶ gives the power to inspect facilities, take samples and prepare a written report of deficiencies.

HEALTH DEPARTMENT INSPECTIONS

The San Mateo County Health Department is primarily responsible for the inspection of restaurants and enforcement of the Health Codes related to them. The Inspection checklist (Appendix D) has 60 categories for inspection and only one (FO42) relates to waste disposal or garbage. In interviews, the Grand Jury found the Health Inspector does not generally inspect the areas behind the facility and does not inspect areas not immediately adjacent to the facility at all. The County relies on the individual cities for enforcement of their nuisance laws in these areas.

As part of its Municipal Code, each City or jurisdiction maintains provisions for enforcement actions against properties (and operators) that maintain unhealthy, noxious, or dangerous conditions under their police powers to abate public nuisances. (See Bibliography)

LAND USE / USE PERMITS

It is beyond the scope of this investigation to analyze the municipal codes of each of the twenty jurisdictions in San Mateo County which have restaurant uses. Most cities require “use permits”

(10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11) Fishermen’s markets.

³ Sections 114244 to 114245.3 inclusive speak only to the Food Facility which is defined as the interior of the facility.

⁴ **113774.** “Enforcement officer” means the director, agents, or environmental health specialists appointed by the Director of Health Services, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees.

⁵ **113773.** “Enforcement agency” means the department or the local health agency having jurisdiction over the food facility.

⁶ **114390 :**

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=2

(conditional or otherwise) for restaurants in certain locations. As part of the building permit process, cities have the ability to require and specify the type, location, and frequency of waste disposal. More importantly, all have a general requirement that these areas be maintained at the owner/operator expense in a good and sanitary manner.

WASTE HAULERS / SANITATION COMPANIES

By far the biggest recipient of waste and disposal in the County is Recology San Mateo County serving the cities of Belmont, Burlingame, East Palo Alto, Foster City, Menlo Park, Redwood City, San Carlos, and San Mateo, the town of Hillsborough, County of San Mateo, North Fair Oaks, and West Bay Sanitary District. Recology of the Coast provides service to Pacifica. GreenWaste provides service to the town of Atherton.

South San Francisco Scavenger Company (SSFSC) serves businesses and residents in South San Francisco, Millbrae, Brisbane and San Francisco International Airport. Half Moon Bay, Daly City and the unincorporated North County has an agreement with Republic Services, Inc. to provide recycling, compost and garbage collection services.

Each hauler negotiates independently on rates and pick-up policy. The Grand Jury reviewed the Franchise Agreement used by Recology. The agreement provides that the hauler shall replace or repair bins, dumpsters and other containers as needed or upon request.

DISCUSSION

SURVEY

The Grand Jury sent a survey to twenty jurisdictions (see Appendix B). Five jurisdictions relied solely on the County Health Department for enforcement of regulations related to restaurant waste facilities; two inspected and enforced only at the permit renewal stage; and nine assigned the duty to their code enforcement mechanism generally through Planning, Public Works or dedicated Code Enforcement personnel. Only three of the jurisdictions conducted inspections independent of a complaint. The majority, nine of fourteen, only inspected upon receipt of a complaint. (See Appendix B for the tabulated Survey results).

In summary, survey responses demonstrate that the Cities rely on the County Health Department for inspections of restaurant interiors and, in general, only respond to exterior conditions upon receipt of a complaint.

OBSERVATIONS

The condition at any one site is dependent on the frequency of trash removal. The site may be fine right after removal but, as the week goes on, the situation worsens. There does not appear to be any site-specific requirements (or at least any that are enforced) for residual cleaning such as power washing. Few sites inspected had any method of controlling wash down or steam cleaning waste from flowing into the storm sewers. The type of restaurant also impacts its output, *e.g.*, some generate grease, oil and animal fat, which require special containers.

The current requirements for trash enclosures by local jurisdictions are applied only to new applications, resulting in many outdated, legacies facilities and, without regular inspection, there is no monitoring of maintenance or repair. These areas are high impact areas and the enclosures and bins, dumpsters and cans are subject to heavy use. The Grand Jury found many bins, dumpsters and cans to be in damaged and filthy condition.

Economic forces impact maintenance and overflow conditions. An operator of a restaurant pays for disposal service by volume (size and number of containers) and frequency (number of pick-ups in one week). Increases in business generate higher volumes so what was working in the past may not be sufficient for the current or future situation. It is logical that operators of food facilities would see added frequency of pickups or added containers as a negative and an expense. This is a financial impact question.

IMPACTS ON THE COMMUNITY

Normal sanitation issues apply; smell, unsightliness and vermin⁷. Vector Control does not inspect trash or similar areas unless specifically requested. The Grand Jury interviews revealed instances of the presence of rats, mice and raccoons in trash areas and parklets. Insect infestation is also of concern. All this presents a health hazard to the public, the workers at these restaurants, and the trash collectors.

ENFORCEMENT OF EXISTING REQUIREMENTS

The County Health Department inspections do not include the areas outside of the building. The enforcement of the nuisance provisions by local jurisdictions is reactive and only called into play upon a complaint. Oversight of the condition of receptacles (dumpsters, bins, cans) is minimal, at best, and often non-existent.

SPECIAL CASES

Mobile Food Facilities (Food Trucks): The Permit Checklist for food trucks does not mention waste disposal. Food Truck regulation is an evolving body of regulation and should be reviewed at a later date.

https://www.smchealth.org/sites/main/files/file-attachments/20170915_mff_selfinspectionchecklist.pdf?1536778880

Farmer's Markets: Several markets were visited by Jurors. Only the Farmer's Market in San Carlos was the subject of an interview. This particular market occurs on a Sunday. It is organized

⁷ **H&S Code 113939.** "Vermin" means cockroaches, mice, rats, and similar pests that carry disease.

H&S Code 13939.1. "Vermin infestation" means the presence of vermin within the food facility as evidenced by actual live bodies, fresh droppings or vomitus, urine stains, or gnaw marks, that could result in contamination to the food, equipment, packaging, or utensils.

by a private company (a community-based organization, CBO) which recruits and manages the individual Farmers and Vendors. The company polices the area at the breakdown of the Market on Sunday afternoon. The city of San Carlos has a street sweeper go over the area on Monday morning. These actions appear to be sufficient as the area was observed to be clean and free from refuse.

Parklets: Like Food Trucks, parklet regulation is evolving and should be reviewed in more detail at a later date. There are currently no separate inspection line items for parklets in the County Health Department checklist. Parklets increased significantly as a result of the Covid-19 pandemic, which have proven efficient and desirable in many areas. At the outset, their construction was not heavily regulated and there were no specific building code requirements for inspection and cleaning under floors. As these facilities have become permanent, building permit requirements have increased. Problem areas identified in our investigation are:

1. Open floor segments can permit food and other waste falling under the floor of the parklet to the street;
2. Many have open side(s) permitting vermin to go under the parklet to feed on scraps;
3. Street drainage (from road crown and gutter flow) can exacerbate the problems of waste under the floor, including leaves and other refuse.

METHODOLOGY

The Jurors made several site visits over a period of eight months and took photographs. The Grand Jury conducted interviews with some officials of some cities and with several San Mateo County officials including the Health Department and Vector Control. A survey was sent to each city/town in San Mateo County.

FINDINGS

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

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

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.

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

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

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

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.

RECOMMENDATIONS

R1. By June 30, 2025, the County should amend its Food Facility Checklist to include the condition of trash area flooring, bins, dumpsters and enclosures, and note any needed repair, replacement or cleaning.

R2. By June 30, 2025, the County should amend its Food Facility Checklist to include the entire exterior waste storage area, retention areas and parklets, including flooring and underfloor areas.

R3. By June 30, 2025, the County should require operators/owners of restaurants to have a written diagram of their approved waste storage/retention area posted so the inspector can evaluate the condition of the facilities.

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 pick-ups.

Note: The Grand Jury is not able to recommend changes to building codes or planning criteria to cities or the County. However, in our review we did find the City of Palo Alto has a publication with clear and comprehensive regulations/recommendations for these areas.

“Comprehensive Guidelines for Commercial Trash Enclosures:

<https://www.cityofpaloalto.org/files/assets/public/v/1/planning-amp-development-services/palo-alto-trash-enclosure-area-guidelines-march-2017.pdf>”

REQUEST FOR RESPONSE

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses as follows:

From the San Mateo County Board of Supervisors, to all Findings and Recommendations.

From the councils for all 20 cities and towns in the County, to Findings 1, 2, 3, 4, 5, and 6 and Recommendation 4.

The governing bodies indicated above should be aware that the comment or response of each governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

RESPONSE REQUIREMENTS

California Penal Code Section 933.05 provides (emphasis added):

- (a) For purposes of each subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall report one of the following:
 - (1) The respondent agrees with the finding.
 - (2) The respondent disagrees wholly or partially with the finding; in which case the response shall specify the port of the finding that is disputed and shall include an explanation of the reasons, therefore.
- (b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation, therefore.

BIBLIOGRAPHY

California Health and Safety Code:

<https://leginfo.ca.gov/faces/codesTOCSelected.xhtml?tocCode=HSC&tocTitle=+Health+and+Safety+Code+-+HSC>

The following is a representative selection of Municipal Codes relevant to the investigation:

- Daly City: https://library.municode.com/ca/daly_city/codes/code_of_ordinances?nodeId=TIT8HESA
- Belmont: https://library.municode.com/ca/belmont/codes/code_of_ordinances?nodeId=CICO_CH11HESA
- Hillsborough: https://library.municode.com/ca/hillsborough/codes/code_of_ordinances?nodeId=TIT8HESA
- San Mateo (City): <https://law.cityofsanmateo.org/us/ca/cities/san-mateo/code/7>
- East Palo Alto Code Enforcement: <https://www.cityofepa.org/building/page/code-enforcement>

- San Carlos:
<https://www.codepublishing.com/CA/SanCarlos/#!/SanCarlos08/SanCarlos0827.html#8.27>
- South San Francisco:
https://library.qcode.us/lib/south_san_francisco_ca/pub/municipal_code/item/title_8-chapter_8_16 and
https://library.qcode.us/lib/south_san_francisco_ca/pub/municipal_code/item/title_8
- Burlingame: https://library.qcode.us/lib/burlingame_ca/pub/municipal_code/item/title_8
- Pacifica Food Establishments:
https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT6SAHE_CH5GACORE
- Pacifica Garbage:
https://library.municode.com/ca/pacifica/codes/code_of_ordinances?nodeId=TIT6SAHE_CH5GACORE_ART1GACO
- Redwood City: RWC has multiple segments of their code that would apply to this topic. The link to the Code in General is:
https://library.municode.com/ca/redwood_city/codes/city_code?nodeId=REDWOOD_CALIFORNIAMUCO

APPENDIX A

Photographs of exteriors



Figure 1: San Mateo, September 2023



Figure 2: Millbrae, September 2023



Figure 3: Millbrae, September 2023



Figure 4: Millbrae, September 2023



Figure 5: Millbrae, September 2023



Figure 6: Millbrae, September 2023



Figure 7: San Carlos, December 2023



Figure 8: San Carlos, November 2023



Figure 9: San Carlos, December 2023



Figure 11: San Carlos, October 2023

APPENDIX B

Survey

1. Please list your name, title or job description and the city/town you represent.

Surveys were sent to managers of the twenty cities and towns in San Mateo County. Responses were as follows:

City/Town	Response Received
Atherton	No
Belmont	Yes
Brisbane	No
Burlingame	Yes
Colma	No
Daly City	Yes
East Palo Alto	Yes
Foster City	Yes
Half Moon Bay	No
Hillsborough	Yes
Menlo Park	Yes
Millbrae	No
Pacifica	Yes
Portola Valley	No
Redwood City	Yes
San Bruno	Yes
San Carlos	Yes
San Mateo	No
South San Francisco	Yes
Woodside	Yes

2. What sanitation standards are applied to the garbage/trash areas of restaurants, bars and food services?

Respondents cited the County ordinance code and various municipal codes and standards. One entity had no response and another responded their city/town has no restaurants.

3. What standards are applied to sanitation, trash and street cleaning related to the "parklets" or other outdoor areas used for food service?

Most respondents cited state, county or municipal standards. One city noted they have specific regulations for parklets. Another city said they have no standards because parklets are the responsibility of restaurants.

4. What department(s) of the City enforce these standards?

Enforcement of standards may be done by:

- County Health
- Building/Fire/Public Works
- Planning & Building, Dept of Water & Wastewater Resources
- Planning
- Public Works
- Police, Code Enforcement
- Engineering Division
- Community & Economic Development. Department

5. Are regular inspections made or is inquiry only made upon complaint?

Most responded inspections are complaint-based. A few municipalities conduct regular, periodic inspections.

6. Upon inquiry by the City (either by inspection or complaint) what standards are applied to determination of a violation, or recommendation to an owner?

Standards listed included:

- County Health
- Parklet Standards
- Municipal Codes
- California Building Code, California Fire Code, Americans with Disabilities Act (ADA)

7. What agencies or organizations outside of the City are involved in maintaining standards, such as Recology, Republic Services or South San Francisco Scavenger?
- Recology
 - Recology of the Coast
 - Greenwaste Recovery
 - Republic
 - County Health
 - No response, but noted there is a city contract with a power washing service and that information is made available to parklet owners

APPENDIX C

California Health & Safety Code Article 4

Health and Safety Code - HSC, DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406] , PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437] , CHAPTER 7. Water, Plumbing, and Waste [114189 - 114245.7]
https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=7.&article=4

ARTICLE 4. REFUSE

114244.

- (a) Each food facility shall be provided with any facilities and equipment necessary to store or dispose of all waste material.
- (b) Waste receptacles shall be provided for use by consumers.
- (c) A receptacle shall be provided in each area of the food facility or premises where refuse is generated or commonly discarded, or where recyclables or returnables are placed.

114245

- (a) An area designated for refuse, recyclables, returnables, and a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.
- (b) Receptacles and waste handling units for refuse, recyclables, and returnables shall not be located so as to create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

114245.1

- (a) All refuse, recyclables, and returnables shall be kept in nonabsorbent, durable, cleanable, leakproof, and rodent proof containers and shall be contained so as to minimize odor and insect development by covering with close-fitting lids or placement in a disposable bag that is impervious to moisture and then sealed.
- (b) Refuse containers inside a food facility need not be covered during periods of operation.
- (c) All refuse shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a nuisance.
- (d) Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.
- (e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

114245.2. Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be

stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

114245.3. If located within the food facility, a storage area for refuse, recyclables, and returnables shall meet the requirements for floors, walls, ceilings, and vermin exclusion as specified in this part.

114245.4. If provided, an outdoor storage area or enclosure used for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be easily cleanable, durable, and sloped to drain.

114245.5. Receptacles and waste handling units for refuse and recyclables shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

114245.6.

(a) Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and wastewater shall be disposed of as specified under Section 114241.

(b) Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

114245.7.

(a) Except as specified in subdivision (b), suitable cleaning implements and supplies such as high-pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(b) If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

APPENDIX D

San Mateo County Inspection Checklist

<https://www.smchealth.org/sites/main/files/file-attachments/297097foodestab.pdf>



COUNTY OF SAN MATEO
HEALTH SYSTEM

Environmental Health
Services Food Program
2000 Alameda
de las Pulgas
Suite #100
San Mateo,
CA 94403
(650) 372-6200 FAX
(650) 627-8244
[smchealth.org/food](https://www.smchealth.org/food)

FOOD FACILITY CHECKLIST

The goal of food safety is to promote health and prevent food-borne disease through education, training and regulation. This checklist reflects areas that are evaluated during a routine inspection. Use this as a guide to improve your facility's sanitation and compliance with the requirements from the California Retail Food Code.

FOOD RECEIVING	YES	NO	N/A
Raw or frozen raw molluscan shellfish (e.g. clams, mussels, scallops, oysters) properly labeled and labels maintained on site for at least 90 days.			
Temperature of live molluscan shellfish at or below 45°F.			
Food only from approved sources.			
Potentially hazardous foods delivered at a temperature of 41°F			
Frozen foods delivered in frozen condition with no evidence of thawing or refreezing.			
Food at improper temperature or in unacceptable condition rejected.			
Foods, especially refrigerated and frozen foods, placed in proper storage locations promptly.			
FOOD STORAGE	YES	NO	N/A
Foods protected from contamination, dirt, vermin, insects, chemicals, etc.			
Prepackaged and bulk foods properly labeled.			
Food stored at least 6 inches above floor in approved locations within the facility.			
Returned and damaged goods stored separate from other items.			
Raw meat and fish inside refrigerators and freezers stored below and away from ready-to-eat foods (e.g. salads, produce, beverages).			
Foods kept covered while in storage.			
Food which becomes contaminated or adulterated is discarded.			

FOOD PREPARATION	YES	NO	N/A
Frozen foods thawed by one of the following methods: <ul style="list-style-type: none"> • Under cold running water • In a refrigerator • In a microwave • As part of the cooking process 			
Hot potentially hazardous foods cooled as quickly as possible by one or more of the following methods prior to placement in a refrigerator or freezer: <ul style="list-style-type: none"> • In an ice bath with stirring • With a rapid cool stirring device • In a blast chiller • By adding ice • In shallow heat conducting pans on ice • Separating food into smaller or thinner portions 			

	YES	NO	N/A
Food preparation sinks used only for preparation activities, and not hand washing, janitorial activities, or other uses.			
Sulfites not added to potentially hazardous foods.			
Potentially hazardous foods shall be thoroughly cooked to a minimum internal temperature of: <ul style="list-style-type: none"> • 165°F for poultry, comminuted poultry, game birds, stuffed meats, stuffed pasta, and reheated foods. • 157°F for ground beef, other comminuted meats, and foods containing comminuted meat. (Or 155°F for a minimum of 15 seconds) • 155°F for pork. • 145°F for eggs, food containing raw eggs, and other cooked potentially hazardous food. 			
FOOD SERVING	YES	NO	N/A
Prepackaged foods properly labeled with common name, list of ingredients, net weight, name and address of manufacturer, etc.			
Uneaten food returned from customer is discarded and not reused or reserved.			
Self-serve buffets, salad bars, snack counters, bulk food dispensers, and self-serve units. Provide adequate protection for food and utensils from contamination by customers (e.g. sneezing, coughing, and handling).			
Tongs, ladles, spoons, etc. used for food service rather than direct contact with hands.			

TEMPERATURE CONTROL/THERMOMETERS	YES	NO	N/A
Potentially hazardous foods kept at or below 41°F, or at or above 135°F.			
When cooling or heating potentially hazardous foods, the time spent in the DANGER ZONE (41 °F - 135°F) is kept to a minimum.			
Easily readable thermometers (accurate to $\pm 2^\circ\text{F}$) in the warmest part of each refrigeration and freezer unit.			
Metal probe-type thermometer on premise if potentially hazardous food served.			
Thermometers are sanitized before and after use, and periodically calibrated. (Employees should be able to demonstrate that they know how to calibrate a probe thermometer)			
UTENSIL WASHING/STORAGE	YES	NO	N/A
Utensils protected from contamination, dirt, vermin, insects, chemicals, etc.			
Multi-service customer utensils (e.g. plates, glasses, silverware) sanitized by mechanical dish machine as per manufacturer specifications, or if manually washed, sanitized by one of the following methods: <ul style="list-style-type: none"> • 100 ppm chlorine for 30 seconds • 25 ppm iodine for 60 seconds • 200 ppm quaternary ammonium for 60 seconds • 180°F water for 30 seconds 			
Test strips or thermometer available for measuring the method of sanitizing utensils.			

	YES	NO	N/A
Three- compartment sink with dual integral drain boards available for utensil washing (except where 2 compartment exemptions is applicable).			
Compartments are large enough to accommodate the largest utensil in use.			
Utensils are clean and in good repair.			
Kitchen and serving utensils are routinely cleaned and sanitized.			
Utensils are commercial-grade and meet applicable National Sanitation Foundation (NSF) at CAL CODE standards.			
All mechanical dishwashers are provided with dual integral drain boards.			
Proper sanitizer and chemical levels, and temperature maintained at all times during operation of dish machines.			
Single-service customer utensils used only once and disposed of in a sanitary manner.			
Serving utensils (e.g. scoops, spoons, ladles, etc.) for potentially hazardous foods, while in use are kept at or below 41°F or above 135°F, or in a dipper well continually provided with clean water.			
TOILET FACILITIES	YES	NO	N/A
Employee toilet facilities provided.			
Customer toilet facilities provided where required.			

Tight-fitting self-closing doors provided.			
Food, utensils, equipment, supplies, etc., not stored in toilet facilities.			
Toilet paper, single-use sanitary towels (or air dryer) and hand cleanser provided from approved dispensers.			
Hot and cold water, under pressure, provided from a mixing faucet (or combination faucet) at hand sink.			
Ventilation provided.			
HANDWASHING FACILITIES	YES	NO	N/A
Within or adjacent to restrooms and kitchens.			
Provided with single service sanitary towels (or air dryers) and hand cleanser from and approved dispensers.			
Hot and cold water, under pressure, provided from a mixing faucet (or combination faucet) at hand sink.			
Kept readily accessible at all times			
Facilities provided exclusively for hand washing in food prep areas that are sufficient in number and conveniently located. (construction/remodels on or after January 1, 1996)			
CHEMICALS/PESTICIDES	YES	NO	N/A
Properly labeled.			
Stored away from food and utensils. Stored in separate enclosure if stored in food preparation area.			
Pesticides specifically approved for use within food facilities.			
Chemicals, pesticides, hazardous materials properly used. MSDS data available for employees.			

JANITORIAL FACILITIES	YES	NO	N/A
Area provided for storage of cleaning supplies and equipment which is separate from food preparation, food storage, utensil cleaning, and utensil storage areas.			
Janitorial sink or basin provided with hot and cold water.			
Backflow prevention device provided for sink.			
Cleaning equipment (e.g. mops, buckets, brooms, etc.) kept away from food and utensils.			
LIGHTING	YES	NO	N/A
Minimum intensity of 20 foot-candles (ftc) in food preparation and utensil cleaning areas.			
Minimum intensity of 10ftc elsewhere but intensity of at least 20 ftc available during cleaning operations.			
Shatter-proof light covers in food preparation, food storage (except where food is in unopened, original containers), and utensil cleaning areas.			

VERMIN/INSECTS	YES	NO	N/A
Facility free of rodents and insects.			
Harborage and entrances eliminated. Droppings and dead insects cleaned up.			
Facility kept fully enclosed. Entrances protected by tight-fitting, self-closing doors or air curtains. Openable windows protected by screens.			
Pest control performed by licensed pest control operator.			
GARBAGE/REFUSE DISPOSAL	YES	NO	N/A
Facilities provided for garbage disposal and storage.			
Containers are leak proof and rodent proof with tight-fitting lids.			
Garbage placed in securely fastened plastic bags before placement in dumpster.			
Garbage removed frequently.			
WATER SUPPLY	YES	NO	N/A
Water supply from an approved source.			
Hot and cold water provided in adequate amounts.			
EMPLOYEE HABITS	YES	NO	N/A
Employees wash hands before beginning work, between working with raw food and ready-to-eat foods, after coughing or sneezing, after touching soiled equipment or utensils, after using restrooms, and after engaging in any other activity that contaminates the hands.			
Employees wear clean garments or uniforms.			
Employees do not use tobacco products where food is prepared, served, or stored, or where utensils are cleaned or stored.			
Employees do not work if ill.			
Employees have been instructed in safe food handling practices.			
Employees routinely check temperatures of potentially hazardous foods during storage, preparation and serving, and check utensil cleaning chemical levels, water temperatures, and water pressures.			

EMPLOYEE CHANGE/STORAGE FACILITIES	YES	NO	N/A
Area provided for employee changing which is separate from toilets, food storage, food preparation, utensil cleaning, and utensil storage areas.			
PLUMBING	YES	NO	N/A
All sewage and wastewater disposed of to an approved sewer or septic system.			
Indirect waste drainage via a floor sink or funnel drain provided for all equipment that discharges wastes (e.g. prep sinks, utensil sinks, steam tables, salad bars, Chinese ranges, ice machines, ice storage bins, beverage machines, steam-jacketed kettles, display cases, refrigeration/freezer units, etc.)			
Indirect waste receptacles readily accessible for cleaning and inspection, and not located inside cabinets.			

Floor drains absent from food storage areas.			
Plumbing kept clean, fully operative, and in good repair.			
Grease interceptors and septic tanks regularly cleaned out by licensed plumbers.			
EQUIPMENT	YES	NO	N/A
Equipment clean and in good repair.			
Equipment easily cleanable and meets applicable NSF and the California Retail Food Code standards.			
Unused equipment removed from premises.			
Approved ventilation/exhaust equipment provided over cooking equipment and high temperature dish machines.			
WALLS, FLOORS, CEILINGS	YES	NO	N/A
Floors are smooth, durable, non-absorbent, and easily cleanable in areas where: <ul style="list-style-type: none"> • food prepared, packaged, or stored; • where utensils are cleaned or stored; • where garbage is stored; • where janitorial facilities are located; • in toilet and hand washing facilities; • in employee change and storage areas. 			
Floor material extends up the walls and toe kicks at least 4 inches with a minimum of 3/8 inch radius at the wall/floor and wall/toe-kick junctures in all areas mentioned above except where exempted (e.g. where foods are stored in their unopened original containers.			
Walls and ceilings smooth must be durable, non-absorbent, and easily cleanable in all areas except where exempted (e.g. dining areas, closed food storage areas, and certain portions of bar areas).			
Walls and ceiling finishes light colored in food preparation, utensil cleaning areas, and inside walk-in refrigeration units.			
SIGNS	YES	NO	N/A
Official Food Placard must be posted and clearly visible at the entrance of facility.			
Valid health permit posted in a conspicuous location.			
<i>No Smoking</i> signs posted in food preparation, food storage, utensil cleaning, and utensil storage areas.			

	YES	NO	N/A
Hand washing signs posted in toilet rooms.			
If facility has sit-down dining, <i>Choking First Aid</i> poster placed where it is readily accessible to employees.			

ADDITIONAL INFORMATION	YES	NO	N/A
Any construction, remodeling, alterations, and the installation of new equipment must be approved by the Health Department before commencing work.			
Applicable building and fire codes are met.			
Manager certification/ Food handler certifications are available on site.			
Tobacco permit available if applicable			
COMMENTS/OBSERVATIONS:			



CITY OF BRISBANE
Department of Public Works - 50 Park Place
Brisbane Police Department – 147 Valley Drive
Brisbane, CA 94005-1310

September 6, 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

Subject: Response to 2023-2024 Grand Jury 7/9/24 report, “Restaurant Exteriors: The Neglected Space”

Dear Judge Lee,

Thank you for the opportunity to review and comment on the findings of the Grand Jury. This letter serves as the City of Brisbane’s response to the findings and recommendations found therein. Please note this report was approved by the Brisbane City Council at its September 5, 2024 meeting.

FINDINGS

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

City Response to F1:

The city agrees with the finding that exterior sanitary conditions of restaurants fall outside current inspections of the County Health Department. The city has not independently conducted the same level of research as the Grand Jury and we are therefore unable to comment on the finding relative to “varying unsatisfactory conditions”.

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

City Response to F2:

The city agrees with the finding.

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.

City Response to F3:

The city disagrees wholly with the finding. As required by Provision C.4 “Industrial and Commercial Site Controls” of the Municipal Regional Stormwater Permit issued to the city by the San Francisco Bay Regional Water Quality Control Board, the city is required to implement a site control program to prevent stormwater pollution. The city conducts regular scheduled inspections of all business that fall under the C.4 definitions (which includes restaurants) and thus, our inspections are primarily proactive.

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

City Response to F4:

The city agrees with the finding.

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

City Response to F5:

The city disagrees wholly with the finding. Please refer to our response to F4 above.

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

City Response to F6:

The city agrees with the 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.

City Response to F7:

The city has no restaurants with parklets, nor have we independently conducted the same level of research as the Grand Jury. Based on the Grand Jury’s report, we agree with the finding.

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 pick-ups.

City Response to R4:

The recommendation was implemented prior to the issuance of this Grand Jury Report. Brisbane Municipal Code §8.25.040 reads as follows:

8.25.040 Requirements for commercial businesses.

Generators that are commercial businesses, including multi-family residential dwellings, shall:

- A. Subscribe to city's three-container collection services and comply with requirements of those services as described in subsection B below, except commercial businesses that meet the self-hauler requirements in Section 8.25.090 of this chapter. City and its designee shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, commercial businesses shall adjust their service level for their collection services as requested by the city or its designee.

(highlighting added for emphasis)

Please call me at (415) 508-2131 if there are any questions regarding this matter.

Very truly yours,

Randy L. Breault, P.E.
Director of Public Works/City Engineer

Cc: Grand Jury website (sent via email to grandjury@sanmateocourt.org)
Brisbane City Clerk