



## CITY COUNCIL AGENDA REPORT

**Meeting Date:** June 6, 2024

**From:** Clay Holstine, Interim City Manager

**Subject:** Ordinance Amending Compliance Requirements  
for Tobacco Retailers in Brisbane

### Recommendation

In order to mirror the San Mateo County Ordinance concerning Tobacco Retailers, introduce an ordinance amending Section 8.44.180 of the Brisbane Municipal Code requiring that tobacco retailers be inspected at least twice every 12 months to ensure they are complying with the Tobacco Retailer Permit Ordinance.

### Background

The San Mateo County (County) Board of Supervisors has enacted various legislation concerning tobacco retailers, such as requiring such retailers to be inspected at least twice every 12 months to ensure they are in compliance with all laws concerning the selling of tobacco products. The County Ordinance provides the County may administer and enforce its Ordinance in the City if the City adopts without substantive change the County Ordinance into its Municipal Code and authorizes the County to administer and enforce the Ordinance on behalf of the City. Most recently, the County adopted such an ordinance in 2023. Thereafter, the City Council adopted its own Ordinance, codified in Chapter 8.44 of the Municipal Code, adopting the County Ordinance without substantive change. By so adopting Chapter 8.44, the City authorized the County to administer and enforce the Ordinance within the City.

Recently it came to the attention of City staff that there is a slight discrepancy between the County Ordinance and the City Ordinance concerning the number of times a tobacco retailer is to be inspected every 12 months to ensure the retailer is complying with the Ordinance. The County Ordinance provides that the inspection must occur at least twice every 12 months but the City Ordinance requires only an annual inspection. Moreover, the County Ordinance provides that if there has been found a violation, the tobacco retailer must be re-inspected within three months. The City Ordinance has no similar provision.

The attached Ordinance amending Section 8.44.180 of the Brisbane Municipal Code corrects these discrepancies.

### Discussion

Under the proposed Ordinance, the County will conduct inspections of the three tobacco retailers in Brisbane (Christy's Donuts, Julie's Brisbane Liquor and Deli, and Midtown Market) twice a year to ensure these retailers are in compliance with the Tobacco Retailer Permit Ordinance. To date, staff is not aware that any of these retailers have violated that Ordinance. If such a violation were to occur, the County would re-inspect within three months.

The adoption of this Ordinance will mirror the City Ordinance with the County Ordinance.

**Environmental Review**

Introduction and adoption of this Ordinance is an administrative activity of the City that will not result in a direct or indirect physical change to the environment and therefore it is not a project under the California Environmental Quality Act (CEQA). CEQA Guidelines, Section 15378 (b) (5). Accordingly, no further environmental review is required in order to introduce and adopt this Ordinance.

**Fiscal Impact**

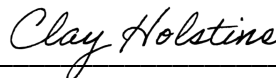
There is no direct fiscal impact to the City if this Ordinance is adopted. The County Health’s Environmental Health Services Division permit fees established by the County and paid by tobacco retailers throughout the County fund the program.

**Attachments:**

1. Ordinance amending Section 8.44.180 of the Brisbane Municipal Code



Michael Roush, Legal Counsel



Clay Holstine, Interim City Manager

**ORDINANCE NO.**

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 8.44.180 OF THE BRISBANE MUNICIPAL CODE CONCERNING COMPLIANCE REQUIREMENTS FOR TOBACCO RETAILERS

THE CITY COUNCIL OF THE CITY OF BRISBANE DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.44.180 of the Brisbane Municipal Code is amended as follows:

**“8.44.180 Compliance monitoring.**

(Subsection A, no change.)

B. Individuals designated to enforce the provisions of this chapter shall inspect each Tobacco Retailer at least two times during each twelve-month period to determine if the Tobacco Retailer is complying with all applicable laws. Compliance checks shall take place during normal business hours, with or without notice. If a violation has occurred, the Tobacco Retailer shall be inspected again within three months. All permitted premises must be open to inspection by designated persons during regular business hours.

(Subsection C, no change.)”

Section 2: CEQA Determination

Introduction and adoption of this Ordinance is not subject to further review under the California Environmental Quality Act (CEQA) because it is a continuing administrative activity of the city, namely general policy and procedure making, and therefore it is not a “project” under CEQA. CEQA Guidelines, Section 15378 (b) (2).

Section 3: Effective Date.

This Ordinance shall be in effect thirty days after its final passage and adoption.

\* \* \* \*

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 \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN

---

Mayor of the City of Brisbane

Attest:

Ingrid Padilla, City Clerk

Approved as to form:

Thomas R. McMorrow, City Attorney