

# City of Brisbane

## Agenda Report

TO: Honorable Mayor and City Council

FROM: Elizabeth Macias, Chief of Police

SUBJECT: Response to the Grand Jury's Report of "Smoke-Free Multiunit Housing: NO IFS OR BUTTS."

DATE: October 4, 2018

**City Council Goals:**

To provide public service that assures the safety of property and citizens residing, working or visiting in Brisbane.

**Background:**

The 2017/18 San Mateo Civil Grand Jury filed a report on July 26, 2018 which contained findings and recommendations that pertain to Smoke-Free Multiunit Housing.

**Purpose:**

To review the Findings and Recommendations made by the San Mateo County Civil Grand Jury on their report of July 26, 2018, followed by the City of Brisbane's response to those findings and recommendations.

**Recommendation:**

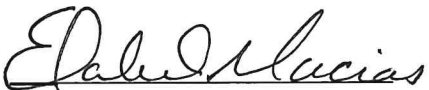
Staff recommends that the City Council approve the City of Brisbane's response to the San Mateo Civil Grand Jury's findings and recommendations.

**Fiscal Impact:**

There is no fiscal impact.

**Attachments:**

- A. Letter to Honorable V. Raymond Swope on the City of Brisbane's response to the Grand Jury's recommendations.
- B. Grand Jury Report of July 26, 2018 on "Smoke-Free Multiunit Housing: NO IFS OR BUTTS."



Elizabeth Macias, Chief of Police



Clayton Holstine, City Manager



## CITY OF BRISBANE

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October 4, 2018

Honorable V. Raymond Swope  
Judge of the Superior Court  
c/o Charlene Kresevich  
Hall of Justice  
400 Old County Road, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

### **Smoke-Free Multiunit Housing: No Ifs, Ands, or Butts**

Dear Honorable V. Raymond Swope:

This letter is in response to the 2017/2018 Grand Jury report of July 26, 2018, which contained findings that pertain to the City of Brisbane. Listed below are the Jury's findings and recommendations followed by the City of Brisbane response. The Brisbane City Council reviewed and approved the below recommendations a public meeting on October 4, 2018. The City of Brisbane responds to the Grand Jury's findings, conclusions and recommendations as follows:

#### **The San Mateo County 2017-2018 Grand Jury makes the following findings to the City Councils of the cities of San Mateo County:**

**F1:** Since 1967, exposure to secondhand smoke has killed approximately 2.5 million nonsmokers of all ages in the United States.

***RESPONSE:** The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F2:** Enforcement officers report that their primary focus when responding to MUH smoking violation complaints is to educate alleged smokers regarding the requirements of the smoking ordinances, and that most alleged smokers report being unfamiliar with the requirements of the ordinance.

***RESPONSE:** The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F3:** The Belmont, Brisbane, Daly City, Redwood City, San Bruno, and the County of San Mateo MUH smoking ordinances expressly prohibit retaliation against individuals who report a violation; however, the MUH smoking ordinances for Burlingame, Foster City, the City of San Mateo, and South San Francisco do not.

***RESPONSE:** The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F4:** Searches for "smoking" or "smoke" using the website search tool for Burlingame and Daly City do not yield any information regarding their MUH smoking ordinances, whereas the search tools for each of the other jurisdictions with MUH smoking ordinances do.





**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F5:** The websites for Burlingame, Daly City, Redwood City, the County of San Mateo, and South San Francisco do not contain summaries of their MUH smoking ordinances. The websites for each of the other jurisdictions with MUH smoking ordinances do.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F6:** The websites for Belmont, Burlingame, Daly City, Redwood City, the City of San Mateo, and South San Francisco do not provide specific information on how to make complaints regarding MUH smoking violations. The websites for each of the other jurisdictions with MUH smoking ordinances do.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F7:** The websites for the cities of Belmont, Brisbane, Foster City, Redwood City, San Bruno, San Mateo, and South San Francisco, as well as the County's Health System website (for unincorporated San Mateo County) have links on their home pages that lead to information on how to report specific types of nuisances such as barking dogs, loud parties, abandoned mattresses, and shopping carts. However, these links do not provide information on how to report MUH smoking violations. Burlingame's website links to Code Compliance from its home page.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report. However, the City of Brisbane has since added a link specific to reporting smoking violations.*

**F8:** The websites for Brisbane, San Bruno, and the County of San Mateo (on the County Health System website) provide information about the TPP or TEC or how to contact them regarding an MUH smoking issue. The websites for the other MUH jurisdictions do not.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F9:** In all MUH jurisdictions, the issuance of citations for violations of MUH smoking ordinances is limited by the need to (1) observe the violation in progress, (2) see other compelling evidence that a violation had occurred, or (3) have the alleged violator admit to law or code enforcement that he or she had been smoking in violation of the MUH smoking ordinance.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F10:** The towns/cities of Colma, East Palo Alto, Half Moon Bay, Menlo Park, Millbrae, Pacifica, Portola Valley, and San Carlos do not have smoking ordinances that restrict smoking in their multiunit residences, except in some common areas. Atherton, Hillsborough, and Woodside have no multiunit housing.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*



**F11:** The MUH smoking ordinances for the cities of Brisbane, Burlingame, Daly City, and the County of San Mateo for its unincorporated areas do not prohibit smoking medical marijuana in multiunit housing.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**F12.** The TPP web pages do not include the following information: (a) a summary of residents' rights and obligations under the MUH smoking ordinances in their jurisdictions, (b) links to each jurisdiction's MUH smoking ordinance, and (c) information on how residents of multiunit housing can report violations of MUH smoking ordinances in their specific jurisdictions.

**RESPONSE:** *The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Grand Jury's report.*

**The San Mateo County 2017-2018 Grand Jury made a number of recommendations to the City Councils of the cities of San Mateo County. The Grand Jury requested responses from the City of Brisbane regarding R3, R4, R5 and R6.**

**R3:** The cities of Brisbane, Burlingame, Daly City, and the County of San Mateo for its unincorporated areas should amend their MUH smoking ordinances, by no later than December 31, 2018, to prohibit smoking medical marijuana in multiunit housing.

**RESPONSE:** *The City of Brisbane understands what is represented in the Grand Jury Report. However, after careful consideration, the Brisbane City Council has concluded that it will not implement the recommendation to amend the ordinance to prohibit medical marijuana in multiunit housing. The city council has determined that the need for patients to have access to their medication outweighs the potential negative impact to other residents.*

**R4:** Each jurisdiction with an MUH smoking ordinance (Belmont, Brisbane, Burlingame, Daly City, Foster City, Redwood City, San Bruno, City of San Mateo, South San Francisco, and the County of San Mateo for its unincorporated areas) should, by June 30, 2019, evaluate ways to improve its collection and retrieval of complaints of MUH smoking violations so that:

- Information regarding each complaint of an MUH smoking ordinance violation, and the response to it (complaints data) is recorded in a searchable electronic database
- The jurisdiction can evaluate trends in the complaints data and the efficacy of the MUH smoking ordinance

**RESPONSE:** *The recommendation has been implemented. Complaints regarding Brisbane's smoking ordinance are entered into our records management system.*

**R5:** Each jurisdiction with an MUH smoking ordinance should, by December 31, 2018, make their complaints data (with names of alleged violators deleted) available to the TPP and TEC on at least an annual basis.

**RESPONSE:** *The recommendation has been implemented. The information is available upon request.*

**R6:** Each jurisdiction with a MUH smoking ordinance should, by December 31, 2018, conduct a review of current methods used by the public to report MUH smoking violations and possible improvements (including online reporting on their websites and use of mobile phone apps) to ensure ease of reporting.

**RESPONSE:** *The recommendation has been implemented. A review has been conducted and the City of Brisbane is using the best methods available. We have concluded that no improvements are needed at this time.*

On behalf of the City of Brisbane, I would like to thank the members of the Grand Jury for their efforts.

Sincerely,

W. Clarke Conway  
Mayor, City of Brisbane

CC: San Mateo County Grand Jury  
Brisbane City Clerk