

File No. 130146

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development Date March 11, 2013

Board of Supervisors Meeting

Date _____

Cmte Board

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|-------------------------------------|--------------------------|--|
| ☐ | ☐ | Motion |
| ☐ | ☐ | Resolution |
| ☒ | ☐ | Ordinance |
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OTHER (Use back side if additional space is needed)

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Completed by: Alisa Miller Date March 8, 2013

Completed by: _____ Date _____

[Health Code - Commercial Dog Walking Regulations]

Ordinance amending the Health Code to correct numbering and clarify provisions of the Commercial Dog Walking Ordinance.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Health Code is hereby amended by amending Article 39, Sections 39.01 through 39.13, to read as follows:

SEC. 3901 ~~39.01~~. DEFINITIONS.

For the purpose of this Article 39, the following words and phrases shall mean and include:

- (a) "City." The City and County of San Francisco.
- (b) "Commercial Dog Walking" or "Commercial Dog Walking Business." Doing business as a permittee under this Article 39.
- (c) "Department." The Animal Care and Control Department of the City and County of San Francisco.
- (d) "Director." The Director of the Animal Care and Control Department, or his or her designee.
- (e) "Enforcement Officer."
 - (1) An officer or employee of the Department designated by the Director to enforce this Article 39;

1 (2) an officer or employee of the Port of San Francisco, the Recreation and
2 Park Department, or the Public Utilities Commission designated by the Port Director, the
3 General Manager of the Recreation and Park Department, or the General Manager of the
4 Public Utilities Commission, respectively, to enforce this Article 39 on property under the
5 jurisdiction of the Port, Recreation and Park Commission, or the Public Utilities Commission,
6 respectively; or

7 (3) any person who is a peace officer under California Penal Code Section 830.1(a).

8 An officer or employee of the Department designated by the Director to enforce this
9 Article may refer possible violations occurring on Port, Recreation and Park, or Public Utilities
10 property to designated enforcement officers from those departments, who shall have primary
11 responsibility for enforcement of the Article on properties under their respective jurisdictions.

12 (f) "Park Property." All grounds, roadways, avenues, squares, recreation facilities, and
13 other property placed under the control, management and direction of the Recreation and
14 Park Commission by the Charter of the City and County of San Francisco, and the open
15 space on the blocks bounded by Market, Folsom, Third and Fourth Streets which is under the
16 control, management and direction of the Successor Agency to the Redevelopment Agency of
17 the City and County of San Francisco, otherwise known as the "Yerba Buena Gardens."

18 "Park Property" shall also include property under the jurisdiction of the Port of San
19 Francisco that the Port Commission has designated for inclusion under this Article 39, and
20 property under the jurisdiction of the Public Utilities Commission that the General Manager of
21 the Public Utilities Commission has designated for inclusion under this Article 39.

22 (g) "Tax Collector." The Tax Collector of the City and County of San Francisco.

23
24 / / /

25 / / /

1 **SEC. 3902 ~~39.02~~. PERMIT REQUIRED.**

2 It shall be unlawful for any person to walk four or more dogs at any one time for
3 consideration on Park Property without first having obtained a permit under this Article from
4 the Director of the Animal Care and Control Department.

5
6 **SEC. 3903 ~~39.03~~. APPLICATIONS FOR PERMIT.**

7 (a) Every person desiring a permit under this Article 39 shall file an application with the
8 Director upon a form provided by the Department and pay a non-refundable permit fee.

9 (b) An application for a permit shall specify:

10 (1) The name and proposed business address of the applicant;

11 (2) Whether or not the applicant has ever been convicted of any crime involving
12 the mistreatment of animals and if so convicted, the place and court in which the conviction
13 was had, the specific charge under which the conviction was obtained, and the sentence
14 imposed as the result of said conviction;

15 (3) Such information pertinent to the operation of the proposed business as the
16 Director may require of an applicant in addition to the other requirements of this Section;

17 (4) The address to which notice, when required, is to be sent or mailed, and the
18 name and address of a person authorized to accept service of process, if not otherwise set
19 forth in the permit application herein; and,

20 (5) Whether the application is for a new permit or for the renewal of an existing
21 permit.

22 (c) The application shall also include:

23 (1) A copy of a current valid City business registration certificate under
24 Business and Tax Regulations Code Section 853 for the proposed Commercial Dog Walking
25 business in the name of the proposed permittee or the permittee's proposed employer;

1 (2) Proof of completion of the training required under Section 3906 ~~39.06~~; and,

2 (3) Proof of \$1 million in general liability insurance, which the permittee must
3 maintain for the full term of the permit.

4 (d) Every application for a permit under this Article shall be verified as provided in the
5 California Code of Civil Procedure for the verification of pleadings.

6
7 **SEC. 3904 ~~39.04~~. PERMIT FEE.**

8 (a) The Director shall set the amount of the permit fee required under Section 3903(a)
9 ~~39.03(a)~~ by regulation adopted under Section 3909 ~~39.09~~.

10 (b) The Director shall base the amount of the fee upon the actual costs to the
11 Department of processing the application and of administering and enforcing this Article 39,
12 but shall not set the amount at greater than two hundred and fifty dollars (\$250).

13 (c) Beginning with Fiscal Year 2016-2017, and every fifth year after that, the Controller
14 shall adjust the cap on the permit fee set in subsection (b) without further action by the Board
15 of Supervisors, to reflect intervening changes in the relevant Consumer Price Index, as
16 determined by the Controller. No later than May 15th of each such year, the Controller shall
17 file a report with the Board of Supervisors reporting the new fee cap and certifying that the
18 amount of the cap does not exceed the costs of providing the services for which the fee is
19 assessed.

20
21 **SEC. 3905 ~~39.05~~. ISSUANCE OF PERMIT.**

22 (a) The Director may issue a permit within 21 days following the filing of a complete
23 application as provided in Section 3903 ~~39.03~~ if he or she finds, based upon the contents of the
24 application and his or her own investigation:

1 (1) That the operation, as proposed by the applicant, if permitted, would comply
2 with all applicable laws, including but not limited to, the City's Municipal Code.

3 (2) That the applicant and any other person who will be directly engaged in the
4 management and operation of a Commercial Dog Walking business has not been convicted in
5 a court of competent jurisdiction, by final judgment of:

6 (A) An offense involving the mistreatment of animals that amounts to a
7 felony, or if committed outside ~~without~~ the State of California would amount to a felony if
8 committed within the State of California, provided that the conviction occurred within the past
9 ten years;

10 (B) An offense involving the mistreatment of animals that amounts to a
11 misdemeanor or infraction, or if committed outside of the State of California would amount to a
12 misdemeanor or infraction if committed within the State of California, provided that such
13 person committed three separate offenses within the past five years.

14 (3) That the applicant has not knowingly made any false, misleading, or
15 fraudulent statement of facts in the permit application or any other document required by the
16 Director in connection with the application.

17 (b) Only one Commercial Dog Walking permit shall be issued to any one ~~anyone~~ person.

18 (c) No Commercial Dog Walking permit shall be assignable or otherwise transferable.

19 (d) The permit shall be delivered to the applicant by the Tax Collector upon the
20 payment to the Tax Collector of the license fee required under Section 3910 ~~39.10~~.

21
22 **SEC. 3906 ~~39.06~~. TRAINING.**

23 (a) All applicants for a new permit must first satisfy one of the following two training
24 requirements:
25

1 (1) The applicant shall complete ~~a an approved~~ training course approved by the
2 Director consisting of at least 20 hours of classroom and hands-on training. The training course
3 must cover each of ~~in~~ the following subject areas: canine behavior, pack management, dog park
4 etiquette, safety and fight protocols, local laws and regulations, canine first aid, and any other
5 subject or subjects that the Director may determine is or are relevant to the health and safety
6 of animals and the public in the conduct of a Commercial Dog Walking business; or,

7 (2) The applicant shall complete an ~~approved~~ apprenticeship program approved
8 by the Director consisting of at least 40 hours of practical experience working ~~with~~ under the
9 direct supervision of another dog walker who (A) is doing business as a permittee under this
10 Article 39, and (B) has operated a dog walking business, with a valid City business
11 registration certificate under Business and Tax Regulations Code Section 853 (or equivalent
12 license or certification from another jurisdiction, as accepted by the Director), for at least three
13 years. The person or organization providing the apprenticeship program may, but is not
14 required to, charge the applicant for the program. The apprenticeship program shall cover
15 each of the subject areas identified for training in subsection (a)(1), and the person or
16 organization providing the apprenticeship program shall provide the participant who
17 successfully completes the program with written certification stating that those subjects have
18 been covered as part of the apprenticeship. The permit applicant shall provide the Director with
19 a copy of such certification along with his or her permit application.

20 (b) ~~Within 120 days of the effective date of this ordinance, the~~ The Director shall adopt
21 regulations setting forth the required content of a course under subsection (a)(1) or the criteria
22 for an approved apprenticeship program under subsection (a)(2). After adoption of such
23 regulations, the Director shall approve or disapprove, within 30 days of submission, any
24 entity's proposal to offer the required Commercial Dog Walking training under
25 subsection (a)(1) or (2).

1 (c) Notwithstanding the provisions of subsection (a), any person who, on September 1,
2 2012, has held for at least the past three consecutive years a valid City business registration
3 certificate under Business and Tax Regulations Code Section 853 for a dog walking business
4 (or equivalent license or certification from another jurisdiction, as accepted by the Director), or
5 any person who as of that date has worked as a dog walker for such a business for at least
6 the past three consecutive years, shall be deemed to have satisfied the training requirement
7 of this Section. The Director may by regulation adopted under Section ~~3909~~ ~~39.09~~ determine
8 which other equivalent occupational experience, if any, provides similar training and may be
9 substituted for dog walking under this subsection (c).

10
11 **SEC. ~~3907~~ ~~39.07~~. RULES FOR COMMERCIAL DOG WALKING.**

12 The following restrictions shall apply to a permittee while walking four or more dogs at
13 any one time for consideration on Park Property:

14 (a) The permittee may not walk at one time more than 8 dogs.

15 (b) Once a year, the permittee must distribute to all his or her current clients written
16 informational materials to be prepared by the Department regarding how the clients may
17 license their dogs under Health Code Section 41.15 and the importance of doing so. The
18 permittee may distribute the informational materials in printed form, or by facsimile, email or other
19 electronic transmission. The Department shall maintain a current copy of the materials on its website.

20 At the same time the permittee distributes the informational materials on licensing, the
21 permittee must ask all of her or his clients for the license numbers for any of their dogs that
22 have been licensed under Health Code Section 41.15, and the permittee shall keep a record
23 of those numbers, provided, however, that the permittee shall not be liable or penalized for failing to
24 record any license number if the client refuses to provide such information to the permittee or if the
25 client has not licensed his or her dogs.

1 (c) The permittee must carry a leash not more than 8 feet in length for each dog, and
2 follow all applicable on-leash rules.

3 (d) The permittee must clean up after any dogs he or she is walking and properly
4 dispose of any canine waste, as required by Health Code Section 40 and all applicable
5 Recreation and Park Department rules and regulations.

6 (e) The permittee must have appropriate dog walking safety equipment, either upon his
7 or her person or at a nearby location, including in a vehicle, that is readily accessible. The
8 Director shall adopt regulations addressing what constitutes appropriate dog walking safety
9 equipment.

10 (f) The permittee must have sufficient drinking water as is necessary for the proper health
11 and well-being of ~~for~~ the dogs. The permittee must have the drinking water either upon his or her
12 person or at a nearby location, including in a vehicle, that is readily accessible.

13 (g) If the permittee transports dogs to or from Park Property, the permittee must do so
14 in a safe and appropriate manner, including properly restraining the dogs while in open and
15 moving vehicles in accordance with California Vehicle Code Section 23117. The Director shall
16 adopt regulations addressing what constitutes safe and appropriate transportation of dogs.

17
18 **SEC. 3908 ~~39.08~~. ADMINISTRATIVE INSPECTIONS.**

19 (a) Every permittee shall, while walking four or more dogs at any one time for
20 consideration on Park Property, carry his or her permit upon his or her person and produce
21 the permit for inspection upon request by any Enforcement Officer ~~enforcement officer~~.

22 (b) If an Enforcement Officer ~~enforcement officer~~ has an objectively reasonable basis for
23 suspecting that a permittee is transporting dogs by car in connection with a Commercial Dog
24 Walking business in an unsafe or inappropriate manner, the Enforcement Officer ~~enforcement~~
25

1 ~~officer~~ may request the permittee to allow the officer to inspect the permittee's vehicle and the
2 permittee shall comply with the Officer's ~~officer's~~ request.

3 (c) If an Enforcement Officer ~~enforcement officer~~ has an objectively reasonable basis for
4 suspecting that a permittee does not have ready access to dog walking ~~dogwalking~~ safety
5 equipment while walking four or more dogs at any one time for consideration on Park
6 Property, the Enforcement Officer ~~enforcement officer~~ may request the permittee to produce the
7 equipment for inspection and the permittee shall comply with the Officer's ~~officer's~~ request.

8
9 **SEC. 3909 ~~39.09~~. DIRECTOR'S REGULATIONS.**

10 The Director may, after a noticed public hearing, adopt administrative regulations
11 supplemental to this Article 39 and not in conflict therewith. Except in cases of emergency,
12 the regulations shall become effective no sooner than 10 days after adoption by the Director.

13
14 **SEC. 3910 ~~39.10~~. LICENSE FEES.**

15 (a) Every person who has received a permit to operate a Commercial Dog Walking
16 Business shall, on March 31 of each year, pay to the Tax Collector an annual license fee
17 payable in advance. The license fee for new licenses issued during the calendar year shall be
18 prorated with regard to the calendar year on a monthly basis.

19 (b) The Tax Collector shall issue the license upon payment of the license fee required
20 under subsection (a) and submission by the permittee of a verified statement, in a form
21 provided by the Department, that the permittee is in compliance with all provisions of this
22 Article 39 and any administrative regulations adopted under this Article.

23 (c) The Director shall set the amount of the annual license fee by regulation adopted
24 under Section 3909 ~~39.09~~. The Director shall base the amount of the fee upon the actual costs

1 to the Department of administering and enforcing this Article 39, but shall not set the amount
2 at greater than one hundred dollars (\$100).

3 (d) Beginning with Fiscal Year 2016-2017, and every fifth year after that, the Controller
4 shall adjust the cap on the license fee set in subsection (c) without further action by the Board
5 of Supervisors, to reflect intervening changes in the relevant Consumer Price Index, as
6 determined by the Controller. No later than May 15th of each such year, the Controller shall
7 file a report with the Board of Supervisors reporting the new fee cap and certifying that the
8 amount of the cap does not exceed the costs of providing the services for which the fee is
9 assessed.

10
11 **SEC. ~~3911~~ 39.11. SUSPENSION AND REVOCATION OF PERMIT.**

12 (a) The Director may suspend or revoke any permit issued under this Article 39 if he or
13 she finds, after a noticed administrative public hearing, that any of the following conditions
14 exist:

15 (1) Fraud, misrepresentation, or false statement contained in the application or
16 permit, or any documents required in connection with them;

17 (2) Violation of provisions of this Article (other than Section 3907(b) ~~39.07(b)~~),
18 the San Francisco Municipal Code, or any regulations adopted by the Director under
19 Section 3909 ~~39.09~~, or of any of the laws of the State of California regulating the treatment of
20 animals;

21 (3) Serious physical mistreatment or neglect by the permittee of any animals
22 under his or her control or custody, under circumstances that cause or are likely to cause death or
23 serious physical harm or illness to the animals, whether the permittee's act or omission is intentional
24 and malicious, or shows reckless indifference to the foreseeable consequences of that conduct; or,
25

1 (4) For any other good cause shown, including non-compliance with permit
2 conditions or violation of applicable rules and regulations governing the permittee's use of Park
3 Property in connection with the operation of a Commercial Dog Walking Business.

4 (b) On revocation of the permit no part of the annual license fee shall be returned and
5 the said license fee shall be forfeited to the City.

6
7 **SEC. 3912 ~~39.12~~. ENFORCEMENT AND PENALTIES.**

8 (a) Any person who violates any provision of this Article 39 (other than
9 Section 3907(b) ~~39.07(b)~~) or of an administrative regulation adopted under this Article shall be
10 deemed guilty of an infraction and upon conviction thereof such person shall be punished by a
11 fine not to exceed one hundred dollars (\$100) for a first violation, and not to exceed two
12 hundred dollars (\$200) for a second violation of the same provision or regulation within a
13 twelve-month period. Upon the third or subsequent conviction within a twelve-month period,
14 such person shall be deemed guilty of a misdemeanor and shall be punished by a fine not to
15 exceed \$1,000 or by imprisonment in the County Jail for a period not to exceed one year or by
16 both such fine and imprisonment.

17 (b) Any person who violates any provision of this Article 39 (other than
18 Section 3907(b) ~~39.07(b)~~) or of an administrative regulation adopted under this Article may be
19 punished by administrative fines imposed by the Director in the amount of:

- 20 (1) Up to \$50 for the first violation;
21 (2) Up to \$100 for a second violation within a twelve-month period; and,
22 (3) Up to \$500 for a third and subsequent violations within a twelve-month
23 period.

24 (c) Except as provided in subsection (b), setting forth the amount of administrative
25 fines, Administrative Code Chapter 100, "Procedures Governing the Imposition of

1 Administrative Fines," as may be amended from time to time, is hereby incorporated in its
2 entirety and shall govern the imposition, enforcement, collection, and review of administrative
3 citations issued by the Director to enforce this Article or any administrative regulation adopted
4 under this Article.

5 (d) The Department shall maintain on its website a list of all persons who have violated
6 any provision of this Article or of any regulation adopted under this Article three or more times
7 in the past 12 months.

8
9 **SEC. 3913 ~~39.13~~. OPERATIVE DATE; PUBLIC EDUCATION.**

10 The provisions of this Article 39 shall become operative and enforceable on January 1,
11 2013. The Director may postpone the operative date, not beyond July 1, 2013, by posting a
12 notice on the Department's website, if the Director determines that the City needs additional
13 time to successfully implement the provisions of this Article. During the period between the
14 effective date of the ordinance adopting these provisions and the operative date, the Director
15 and the Department shall conduct a public outreach and education campaign to alert dog
16 walkers and the public about the requirements of this Article.

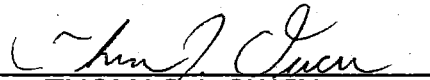
17
18 Section 2. Effective Date. This ordinance shall become effective 30 days from the
19 date of passage.

20
21 Section 3. Scope of Ordinance. In enacting this Ordinance, the Board intends to
22 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
23 punctuation marks, charts, diagrams, or any other constituent part of the Health Code that are
24 explicitly shown in this Ordinance as additions, deletions, Board amendment additions, and
25

1 Board amendment deletions in accordance with the "Note" that appears under the official title
2 of the Ordinance.

3
4 APPROVED AS TO FORM:
5 DENNIS J. HERRERA, City Attorney

6
7 By:


8 THOMAS J. OWEN
9 Deputy City Attorney

10
11
12 n:\govern\as2013\1300284\00823671.doc

LEGISLATIVE DIGEST

[Health Code - Commercial Dog Walking Regulations]

Ordinance amending the Health Code to correct numbering and clarify provisions of the Commercial Dog Walking Ordinance.

Existing Law

Article 39 of the Health Code establishes a permitting scheme for commercial dog walkers and sets a number of regulatory and operating requirements for such businesses.

Amendments to Current Law

The proposal is an ordinance that would amend Article 39 to make the numbering scheme for the Code sections in the Article conform to the numbering scheme for other Articles of the Health Code.

The proposal would also make other non-substantive changes to the Article to clarify various provisions.

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Rebecca Katz, Director, Animal Care and Control Department
Monique Moyer, Director, Port
Phil Ginsburg, General Manager, Recreation and Park Department
Harlan Kelly, Jr., General Manager, Public Utilities Commission

FROM: Alisa Miller, Clerk, Land Use and Economic Development Committee
Board of Supervisors

DATE: February 20, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed ordinance, introduced by Supervisor Wiener on February 12, 2013:

File No. 130146

Ordinance amending the Health Code to correct numbering and clarify provisions of the Commercial Dog Walking Ordinance.

This matter is being forwarded to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Trisha Prashad, Port
Juliet Ellis, Public Utilities Commission

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

THOMAS J. OWEN
Deputy City Attorney

Direct Dial: (415) 554-4679
Email: thomas.owen@sfgov.org

MEMORANDUM

TO: Hon. Scott Wiener
Member, Board of Supervisors

FROM: Thomas J. Owen
Deputy City Attorney

DATE: February 12, 2013

RE: Commercial Dog Walking Regulations
(Our File No. 1300284)

Enclosed are a signed original and four copies, dated February 12, 2013, of the proposed legislation correcting the section numbering for the Commercial Dog Walking Ordinance and making other clarifying amendments, as well as a legislative digest.

I will also send electronic copies to you this morning.

Encl.

cc: Jon Givner
Adam Taylor (by e-mail)
Kat Brown (by e-mail)

Introduction Form

By a Member of the Board of Supervisors or the Mayor

copy

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- ☒ 1. For reference to Committee: Land Use & Economic Development
An ordinance, resolution, motion, or charter amendment.
- ☐ 2. Request for next printed agenda without reference to Committee.
- ☐ 3. Request for hearing on a subject matter at Committee:
- ☐ 4. Request for letter beginning "Supervisor inquires"
- ☐ 5. City Attorney request.
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget Analyst request (attach written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Request for Closed Session (attach written motion).
- ☐ 10. Board to Sit as A Committee of the Whole.
- ☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

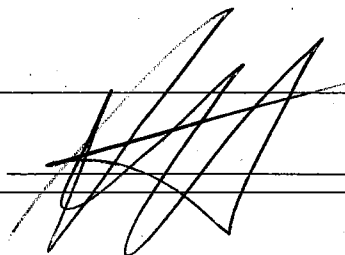
Supervisor Wiener

Subject:

Health Code - Commercial Dog Walking Regulations

The text is listed below or attached:

Ordinance amending the Health Code to correct numbering and clarify provisions of the Commercial Dog Walking Ordinance.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

RV LD ✓
130146