

File No. 170556

Committee Item No. 3

Board Item No. 8

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Comm: Public Safety & Neighborhood Services
Board of Supervisors Meeting:

Date: Sept. 13, 2017
Date: Sept. 26, 2017

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance - Version 2 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest - Version 2 |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Rec and Parks Presentation - July 12, 2017</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI May 15, 2017</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: John Carroll
Prepared by: John Carroll

Date: Sept. 8, 2017
Date: Sept. 15, 2017

1 [Park Code - ~~Littering in Dolores Park, Using Glass Beverage Containers in Parks, and~~
2 ~~Enforcement~~]

3 Ordinance amending the Park Code to ~~authorize an administrative penalty of up to~~
4 ~~\$1,000 per violation for littering or dumping waste material in Dolores Park; to prohibit~~
5 ~~the use of glass beverage containers, with certain exceptions, in all City parks; and to~~
6 ~~authorize Park Patrol to issue citations for violations of the Park Code.~~

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

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

15 Section 1. Purpose and Findings.

16 ~~Littering in City parks is unlawful but it remains a problem, especially at Dolores Park.~~
17 ~~On April 2, 2017, for example, Recreation and Park Department employees had to spend 44~~
18 ~~hours picking up 460 bags worth of litter that the public had simply discarded at Dolores Park,~~
19 ~~despite the presence of trash receptacles along the park perimeter. This is not an isolated~~
20 ~~example but is illustrative of a general problem that has plagued Dolores Park. It is in the~~
21 ~~City's best interest to provide an administrative penalty for such misconduct at Dolores Park.~~
22 ~~An administrative penalty is reasonable and necessary to secure compliance at Dolores Park~~
23 ~~with the existing law against littering, to compensate the public for the damage caused by~~
24 ~~littering at Dolores Park, and to help offset the costs of enforcement and cleanup there.~~

25 ~~In addition to creating this administrative penalty for a problem endemic to one City~~
~~park, this ordinance also recognizes a City-wide problem. Shards from glass beverage~~

1 containers present a safety hazard at parks throughout the City, particularly with respect to
2 young children. And the clean-up necessary to remove broken glass beverages can be both
3 expensive and dangerous. Accordingly, this ordinance makes it unlawful to bring glass
4 beverage containers to open spaces or playgrounds at City parks, or use glass beverage
5 containers there, with certain exceptions.

6 Finally, ~~this ordinance expressly recognizes the authority of the Park Patrol to issue~~
7 ~~citations to enforce the Park Code.~~

8
9 Section 2. The Park Code is hereby amended by adding Section 3.22, and revising
10 Sections 4.04 and 10.01, to read as follows:

11 **SEC. 3.22. GLASS BEVERAGE CONTAINERS.**

12 No person other than duly authorized personnel shall use any glass beverage container on any
13 open space or playground on park property, or bring any glass beverage container to such areas on
14 park property, unless the container has been authorized pursuant to a permit, concession, license, or
15 lease from the Recreation and Park Department. This Section 3.22 shall not apply to glass beverage
16 containers used in the care and feeding of infant children.

17
18 **SEC. 4.04. LITTERING AND DUMPING OF WASTE MATTER PROHIBITED.**

19 (a) Attention is called to the fact that state law prohibits the littering or dumping of
20 waste matter in any public park.

21 ~~(b) Additional penalties for littering or dumping waste matter in Dolores Park. Any~~
22 ~~person who violates Section 4.04(a) by littering or dumping waste matter in Dolores Park shall~~
23 ~~be deemed guilty of a misdemeanor or infraction, pursuant to Section 10.01 of this Code, and~~
24 ~~shall also be subject to an administrative penalty in an amount to be established by the~~
25 ~~General Manager that shall not exceed \$1,000 for each violation. The General Manager shall~~

1 establish the amount of administrative penalty based on the need to protect Dolores Park from
2 littering, the economic impact of littering, the impact of littering on the community, the amount
3 of City staff time needed to investigate and address such violations, and such other factors as
4 justice may require. The procedure for the imposition, enforcement, collection, and
5 administrative review of the administrative penalty shall be governed by Administrative Code
6 Chapter 100, "Procedures Governing the Imposition of Administrative Fines," which is hereby
7 incorporated in its entirety.

8
9 **SEC. 10.01. PENALTIES; ISSUANCE OF CITATIONS.**

10 * * * *

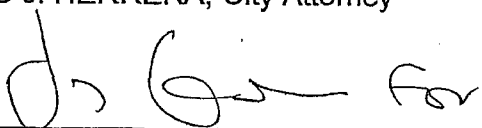
11 (e) ~~The Park Patrol may issue citations to enforce any section of this Code.~~

12
13 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

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Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

By: 
MANU PRADHAN
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee September 13, 2017)

[Park Code - Using Glass Beverage Containers in Parks]

Ordinance amending the Park Code to prohibit the use of glass beverage containers, with certain exceptions, in all City parks.

Existing Law

Littering or dumping waste material in City parks is unlawful under Park Code Section 4.04. Violations of the Park Code are punishable in court as infractions or misdemeanors. A person convicted of an infraction is subject to a fine of not more than \$100 for the first offense; a fine of not more than \$200 for the second offense within a year; and a fine of not more than \$500 for every additional offense within a year. A person convicted of a misdemeanor is subject to a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or both.

Amendments to Current Law

The ordinance would prohibit persons from using glass beverage containers in (or bringing such containers to) open spaces and playgrounds in all City parks, unless the containers are authorized under a permit, concession, license, or lease issued by the Recreation and Park Department. Containers used in the care or feeding of infants would be exempted.

Background Information

This legislative digest reflects amendments made by the Public Safety and Neighborhood Services Committee on September 13, 2017 to limit the scope of the proposed ordinance to glass beverage containers.

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Mission Dolores Park

San Francisco Recreation & Park Department

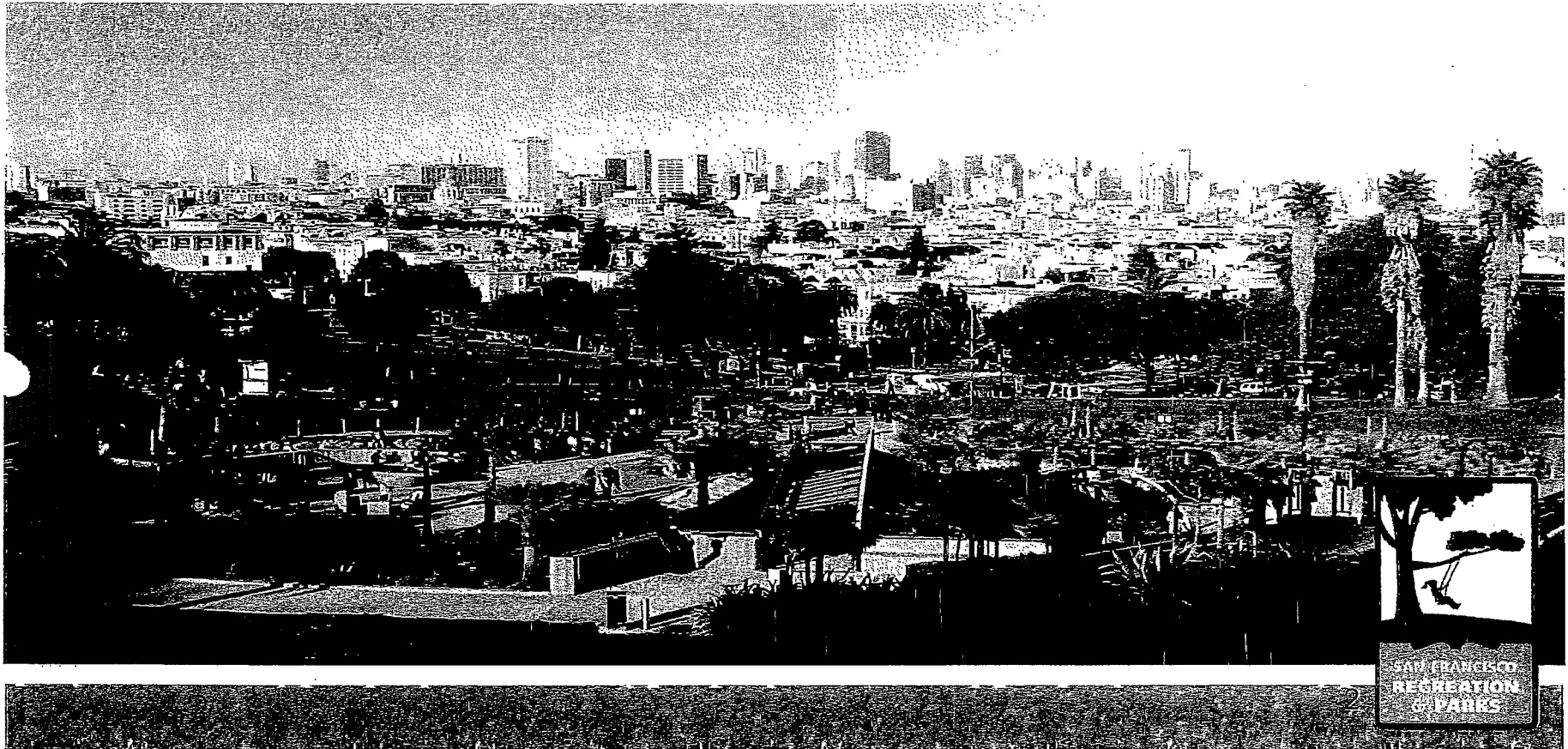
**Public Safety &
Neighborhood Services**



FY17-21 Strategic Plan

Strategy Four: Inspire Stewardship

Protect and enhance San Francisco's precious natural resources through conservation, education, and sustainable land/facility management practices



IMPACTS:

- On an average Spring weekend, Dolores Park sees around 6,000 visitors
- On an average Summer weekend, Dolores Park sees around 10,000 visitors
- **Special events, such as SF Pride, bring over 50,000 people to Dolores Park**



PRIDE

Brings around 50,000 people to the park



Love Dolores Campaign



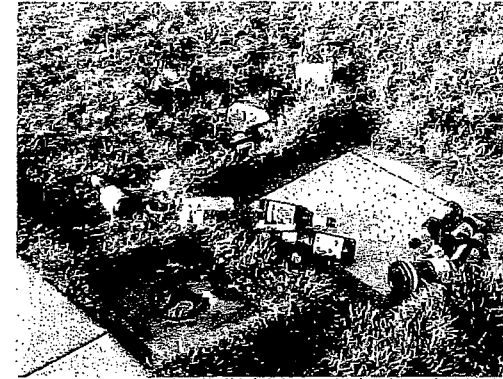
- Began 2 years ago while Dolores Park was being renovated to address the large trash problem caused by the high volume of people coming to enjoy the park.
- Working with local community groups, merchants, neighbors, city agencies, and other major stakeholders
- Public Outreach Ambassadors work onsite educating park visitors
- To change the culture norms in order to keep the park clean for everyone to enjoy



CHALLENGES:

LITTERING AND DUMPING:

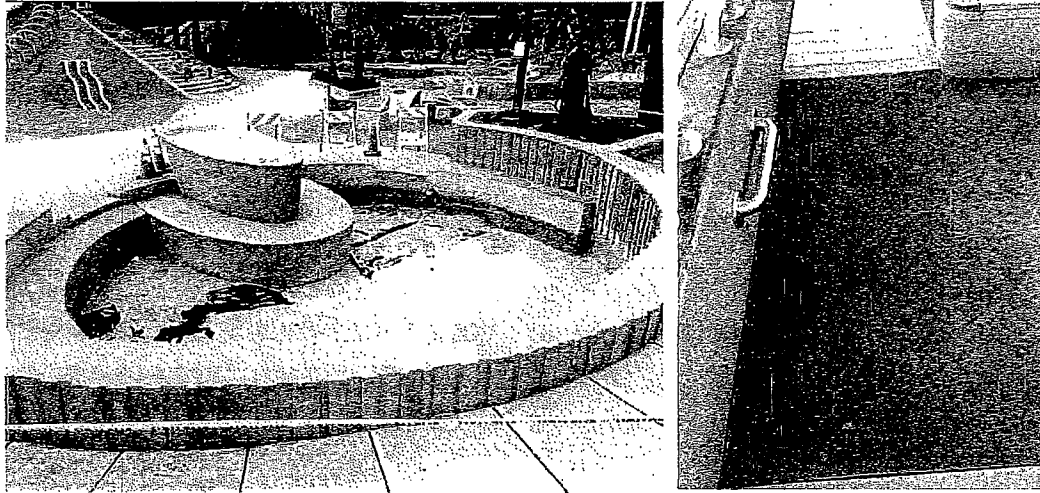
- Over a weekend in April, for example, our gardeners and park staff spent a total of 44 additional hours cleaning up the Park
- 460 trash bags full of litter were collected

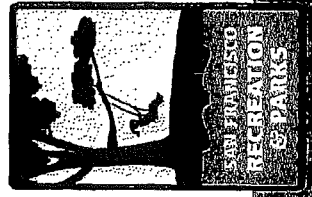


CHALLENGES:

GLASS:

- Glass breaks easily making it dangerous for anyone walking barefooted or laying on the grass, kids playing around the parks, and dogs.
- Glass is also very difficult to clean up and shards can remain behind endangering park users coming to enjoy our parks.





Carroll, John (BOS)

From: Board of Supervisors, (BOS)
Sent: Thursday, July 13, 2017 4:33 PM
To: BOS-Supervisors; Carroll, John (BOS)
Subject: FW: BOS File 170556 Dolores trash, glass bottles, park code 3.02

Categories: 2017.09.13 - PSNS, 170556

From: Tom Borden [mailto:tom@intrinsicdevices.com]
Sent: Thursday, July 13, 2017 1:45 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Commission, Recpark (REC) <recpark.commission@sfgov.org>
Cc: alex aldrich <axaldrich@gmail.com>; Sfforestleadership <sfforestleadership@googlegroups.com>
Subject: BOS File 170556 Dolores trash, glass bottles, park code 3.02

To:
Board of Supervisors
Recreation & Park Commission

Subject:
Ordinance amending the Park Code to authorize an administrative penalty of up to \$1,000 per violation for littering or dumping waste material in Dolores Park; to prohibit the use of glass beverage containers, with certain exceptions, in all City parks; and to authorize Park Patrol to issue citations for violations of the Park Code.

This proposed ordinance raises some troubling issues. See the text here:

<https://sfgov.legistar.com/View.ashx?M=F&ID=5302142&GUID=707482F4-55F9-40EC-A977-BA80982F0B8C>

- 1) Currently RPD Park Code citations are handled as Civil citations and revenue goes to the City's general fund. (See the report referenced in #4 below.) This ordinance would classify littering in Dolores Park as an administrative citation and the fine revenue would go directly to RPD. Is this a portent of things to come? Will the park patrol become another profit center for RPD? (page 2 line 24 Also see SF Admin Code Chapter 100)
- 2) Anyone littering in Dolores Park could be cited for both both a civil infraction and this administrative infraction and subject to a fine for each. (page 2 line 23)
- 3) SF Admin Code, Chapter 100 lays out limits for the penalties. Such penalties are supposed to reflect the cost to the City, they are not supposed to be punitive, are only to reflect the damage done by the person receiving the citation and efforts by the violator to correct the violation are supposed to be considered. The \$1000 ceiling set by the proposed ordinance is much higher than the standard administrative penalties of Chapter 100. Will RPD apply excessive fines?
- 4) A policy analysis report requested by Supervisor Kim shows that RPD has been issuing about 2 citations per year for littering/dumping, probably none for Dolores Park. Why are we jumping to \$1000 fines when we have not even tried \$100 fines?

<http://sfbos.org/sites/default/files/FileCenter/Documents/55154-Budget%20and%20Legislative%20Analyst%20Policy%20Report.%20Municipal%20Fines.%20February%202016.pdf>

- 5) The park Patrol currently has no formal authority to issue citations for any Park Code violations and citations issued to date are invalid. (page 3 line 10)
- 6) Getting Glass containers out of our parks seems like a good idea. However, while regular folks face the restriction, corporate groups and others paying for exclusive use of park facilities face no such prohibition. Vendors with a concession from RPD can distribute glass containers as well. Why does providing a revenue stream to RPD make it ok to use glass beverage containers in our parks? This seems like more RPD Pay-To-Play. (page 2 line 14)
- 7) In 2015 RPD installed signs in Dolores prohibiting glass bottles. The intent was reasonable. However, there was no public process for this change. The regulation was created by virtue of park code 3.02:

§ 3.02. SIGNS TO BE OBEYED

No person shall willfully disobey the notices, prohibitions or directions on any sign posted by the Recreation and Park Commission or the Recreation and Park Department.

Via this code, RPD can create any regulation they choose, simply by putting up a sign. This involves no public process and there is no requirement to document the decision. Are 3.02 prohibitions valid? Can they stand up in court? Homeless advocates challenged 3.02 signage with a lawsuit that led to a Grand Jury investigation. The 2013 Grand Jury report included this,

"Park Code Sec. 3.02, cited on these closure signs, mandates that "posted signs must be obeyed." One S.F. employee stated that many signs are "non-enforceable" because closure times are posted even though they are not formally approved by Rec. & Park resolution. This employee said that the department is aware of the questionable legality of the signs and intends to remove them."

Ultimately, this lawsuit led to the removal of the signs and the 2013 Scott Wiener park hours ordinance.

Yet, RPD continues to wield 3.02 to create sweeping changes to our parks. The public does not know the coercive signage would probably not stand up in court. Examples of uncodified "regulations" that exist only by virtue of 3.02 are:

- people are not allowed to bring bicycles into Natural Areas
- public access in Natural Areas is limited to on-trail only
- alcoholic beverages are not allowed in McLaren Park
- glass bottles are not allowed in McLaren Park

The process for the Dolores ordinance is the way our parks should be governed, in public, with real debate and documentation. Park Code 3.02 should be abolished.

Best Regards,

Tom Borden

BOARD of SUPERVISORS



City Hall
1 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: Phil Ginsburg, General Manager, Recreation and Parks Department
Margaret McArthur, Commission Secretary, Recreation and Parks
Commission

FROM: Erica Major, Assistant Clerk, Public Safety and Neighborhood Services
Committee, Board of Supervisors

DATE: May 15, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Sheehy on May 9, 2017:

File No. 170556

Ordinance amending the Park Code to authorize an administrative penalty of up to \$1,000 per violation for littering or dumping waste material in Dolores Park; to prohibit the use of glass beverage containers, with certain exceptions, in all City parks; and to authorize Park Patrol to issue citations for violations of the Park Code.

If you have any additional 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: Sarah Madland, Recreation and Parks Department

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

MAY -9 PM 4:1

Time stamp
or meeting date

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

- 1. For reference to Committee. (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. Reactivate File No. []
- 10. 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 Imperative Form.

Sponsor(s):

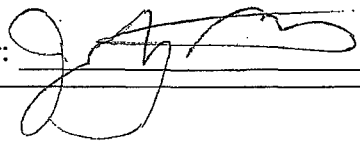
Sheehy

Subject:

Park Code - Littering in Dolores Park, Using Glass Beverage Containers in Parks, and Enforcement

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

