

File No. 091441

Committee Item No. 3
Board Item No. 31

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date: January 25, 2010

Board of Supervisors Meeting Date 2/22/10

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
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OTHER

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Completed by: Victor Young
Completed by: Victor Young

Date January 21, 2010
Date 1-25-10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

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1 [Recreation and Park Department—Animal Protections; Increasing Penalties for Park Code
2 Violations.]

3 Ordinance amending the San Francisco Park Code by amending Section 4.01 to
4 prohibit entrance into animal habitats or enclosures at the San Francisco Zoo and the
5 bison paddock; amending Section 5.07 to prohibit feeding non-domesticated animals in
6 parks; amending Section 5.08 to prohibit taunting or endangering animals at the Zoo or
7 in the bison paddock; and amending Section 10.01 to increase the penalties for
8 violation of the Park Code up to \$500 maximum for an infraction and up to \$1000 for a
9 misdemeanor.

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

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

15 Section 1. The San Francisco Park Code is hereby amended by amending Section
16 4.01, to read as follows:

17 **SEC. 4.01. DISORDERLY CONDUCT.**

18 No person shall, in any park- without permission of the Recreation and Park
19 Department:

20 (a) Throw or propel objects of a potentially dangerous nature, including, but not limited
21 to, stones, bottles, glass, cans or crockery;

22 (b) Fire or carry firearms of any size or description, or possess any instrument,
23 appliance or substance designed, made or adopted for use primarily as a weapon, including,
24 but not limited to, slingshots, clubs, swords, razors, billies, explosives, dirk knives, bowie
25 knives or similar knives, except that this subsection shall not apply to a police or other peace
officer;

1 (c) Fire or carry any firecracker, rocket, torpedo or other fireworks of any description
2 (this subsection shall not be deemed to contradict any provisions contained in Chapter VIII
3 (Police Code) of the San Francisco Municipal Code);

4 (d) Carry or use a model airplane which is powered by liquid fuel or designed to be
5 used with such fuel;

6 (e) Make, kindle, maintain or in any way use a fire except at places provided,
7 designated and maintained by the Recreation and Park Department for such use;

8 (f) Climb or lie upon any tree, shrub, monument, wall, fence, shelter, fountain, statute,
9 building, construction or structure;

10 (g) Emit, eject, or cause to be deposited any excreta of the human body, except in
11 proper receptacles designated for such purposes;

12 (h) Expose his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair
13 region or any portion of the female breast at or below the areola thereof, except that this
14 section shall not apply to children under the age of five years;

15 (i) Enter a restroom or toilet set apart for use of the opposite sex, except children
16 under the age of five years accompanied by a parent or guardian and duly authorized
17 personnel for the purpose of inspection, maintenance or repair;

18 (j) Gain or attempt admittance to facilities in any park where a charge is made, without
19 paying that charge;

20 (k) Play any percussion instrument, including drums, at any time or location prohibited
21 by resolution of the Recreation and Park Commission when a sign has been posted in the
22 area affected to give notice of this prohibition, provided that such resolution does not
23 unreasonably curtail the playing of such instruments in any area of the city;

1 (l) Enter into, or attempt to enter into, any animal enclosure or habitat at the San Francisco
2 Zoological Gardens, or at the bison paddock in Golden Gate Park, without specific authorization by
3 Zoo staff.

4 (m) Fail to follow all rules of the San Francisco Zoological Gardens, or any directions or
5 instructions given by Zoo staff.

6
7 Section 2. The San Francisco Park Code is hereby amended by amending Section
8 5.07, to read as follows:

9 **SEC. 5.07. FEEDING ANIMALS PROHIBITED.**

10 (a) It shall be unlawful for any person to feed or offer to any animal in any park any
11 substance which would be likely to be harmful to it.

12 (b) It shall be unlawful for any person to feed, or offer food or any substance to any animal in
13 any park which is wild by nature and not customarily domesticated in the City and County of San
14 Francisco.

15 (c) It shall be unlawful for any person to feed, or offer food or any substance to any animal in
16 the San Francisco Zoological Gardens without specific authorization from Zoo staff.

17
18 Section 3. The San Francisco Park Code is hereby amended by amending Section
19 5.08, to read as follows:

20 **SEC. 5.08. DISTURBING ANIMALS, BIRDS, FISH PROHIBITED, EXCEPTIONS.**

21 Except as provided in Article 7, Chapter VIII (Police Code) of the San Francisco
22 Municipal Code, it shall be unlawful for any person, including City and County of San
23 Francisco, its officers, employees or agents, to hunt, chase, shoot, trap, discharge or throw
24 missiles at, molest, disturb, taunt, endanger, capture, injure, or destroy any animal in any park,
25 including the bison paddock, and the San Francisco Zoological Gardens, or to permit any animal in

1 such person's custody or control to do so; provided, however, that any mole or any gopher,
2 mouse, rat or other rodent which is determined by the Superintendent of Parks to be a
3 nuisance may be destroyed by said Superintendent or a designated representative; and
4 provided, further, that any animal other than a mole or a gopher, mouse, rat or other rodent
5 which is determined by said Superintendent to be a nuisance or a hazard to persons using
6 said areas or to be a hazard to plants or other horticulture, may, in a humane manner, be live
7 trapped by said Superintendent and delivered to the Animal Control Officer for disposition
8 pursuant to the provisions of Sections 41.7 through 41.9, inclusive, of Article 1, Chapter V
9 (Health Code) of the San Francisco Municipal Code. The provisions of this Section are
10 intended to prohibit fishing in any park other than fishing in Lake Merced pursuant to a license
11 obtained pursuant to Article 8 of this Code or in any other area designated by Commission
12 resolution as a fishing area.

13 The provisions of this Section shall not be applicable to the destruction of any animal in
14 any park where such animal poses an immediate and serious threat to persons or property or
15 is suffering excessively.

16
17 Section 4. The San Francisco Park Code is hereby amended by amending Section
18 10.01, to read as follows:

19 **SEC. 10.01. PENALTIES.**

20 Unless otherwise specified in this Code, any person violating any section of this Code
21 shall be deemed guilty of a misdemeanor or an infraction. The complaint charging such
22 violation shall specify whether the violation is a misdemeanor or infraction, which decision
23 shall be that of the District Attorney; provided, however, that whenever a person has been
24 arrested and incarcerated based solely on the violation or violations of this Code, he or she
25 shall retain the right at the time of arraignment or plea to object to the offense being made an

1 infraction, in which event the complaint shall be amended to charge the misdemeanor and the
2 case shall proceed on the misdemeanor complaint.

3 Upon conviction of a violation charged as an infraction, the person so convicted shall
4 be punished for the first offense by a fine of not ~~less than \$10 nor~~ more than ~~\$50~~\$100, and for a
5 second ~~and each additional~~ offense within one year by a fine of not ~~less than \$20 nor~~ more than
6 ~~\$100~~\$200, and for each additional offense within one year by a fine of not more than \$500.

7 Upon conviction of a violation charged as a misdemeanor, the person so convicted
8 shall be punished by a fine of not more than ~~\$500~~ \$1000 or by imprisonment in the County Jail
9 for a period of not more than six months, or by both such fine and imprisonment.

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

12 By: 
13 VIRGINIA DARIO ELIZONDO
14 Deputy City Attorney

LEGISLATIVE DIGEST

[Recreation and Park Department—Animal Protections; Increasing Penalties for Park Code Violations.]

Ordinance amending the San Francisco Park Code by amending Section 4.01 to prohibit entrance into animal habitats or enclosures at the San Francisco Zoo and the bison paddock; amending Section 5.07 to prohibit feeding non-domesticated animals in parks; amending Section 5.08 to prohibit taunting or endangering animals at the Zoo or in the bison paddock; and amending Section 10.01 to increase the penalties for violation of the Park Code up to \$500 maximum for an infraction and up to \$1000 for a misdemeanor.

Existing Law

Currently, the Park Code generally defines disorderly conduct on park property, prohibits feeding or offering substances that are harmful to animals in parks and disturbing animals, birds and fish on park property. Fines are set at \$50.00 to \$100.00 for infractions, and \$500.00 for misdemeanors.

Amendments to Current Law

- 1) Prohibits the following behavior:
 - Entering into, or attempt to enter into, any animal enclosure or habitat at the San Francisco Zoological Gardens, or at the bison paddock in Golden Gate Park, without specific authorization by Zoo staff;
 - Failing to follow all rules of the San Francisco Zoological Gardens, or any directions or instructions given by Zoo staff.
 - Feeding, or offering food or any substance to any animal in any park which is wild by nature and not customarily domesticated in the City and County of San Francisco.
 - Feeding, or offering food or any substance to any animal in the San Francisco Zoological Gardens without specific authorization from Zoo staff.
 - Taunting, endangering any animal in any park, including the bison paddock, and the San Francisco Zoological Gardens.
- 2) Increases the fines for violation of the Park Code to the maximum allowed by state law:
 - (a) Infractions
 - from \$50.00 for the first offense to \$100.00
 - from \$100.00 for the second offense to \$200.00
 - for each additional offense within one year by a fine of not more than \$500.00
 - eliminates minimum fines
 - (b) Misdemeanors
 - from \$500.00 to \$1000.00