File No	130744	Committee Item No. 2
		Board Item No.

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Comm	ittee: Land Use and Economic Developm	nent_ Date
Board	of Supervisors Meeting	Date
Cmte	Board	
	Motion Resolution Ordinance Legislative Digest Budget and Legislative Analyst R Youth Commission Report Introduction Form Department/Agency Cover Letter MOU Grant Information Form Grant Budget Subcontract Budget Contract/Agreement Form 126 – Ethics Commission Award Letter Application Public Correspondence	
OTHER	(Use back side if additional spac	e is needed)
	Categorical Exemption Stamps, dtd	7/11/13 & 7/17/13
		ate July 26, 2013

environmental findings.

NOTE:

AMENDED IN COMMITTEE 7/22/2013

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or

buoyant objects to display any sign or advertising device in the airspace over the 34th

ORDINANCE NO.

[Police Code - Aerial Signs and Advertising]

2

1

3 4

5

6 7

8

9

10 11

12

13 14

15

16

18

17

19

20

21

22 23

24

25

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:

America's Cup course area City and County of San Francisco; and making

Section 1. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130744 and is incorporated herein by reference.

Section 2. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds as follows:

1. By Resolution No. 585-10 (File No. 101259), this Board of Supervisors approved the terms of a host agreement for the 34th America's Cup and related regattas (the "Event") with the America's Cup Event Authority ("Event Authority"), which was executed by the parties on December 31, 2010 as the America's Cup Host and Venue Agreement (the "Host Agreement") upon the selection of the City and County of San Francisco ("City") as host city for the Event.

- 2. In Resolution No. 585-10, this Board found that hosting the Event would generate significant public benefits for the City including: (i) the generation of significant new jobs and economic development in a very short period of time; (ii) substantially increased public access to the waterfront; (iii) new opportunities for people to view and enjoy the San Francisco Bay; and (iv) an extraordinary opportunity to showcase San Francisco and the Bay to the nation and the world.
- 3. Allowing aerial signs and advertising such as towing banners in the airspace above the Event during race activities would create visual blight and clutter that would (i) undermine the viewing experience for the thousands of spectators who are expected to attend the Event, (ii) pollute the visual landscape of the San Francisco waterfront that is being showcased by the Event, and (iii) create potentially dangerous visual distractions for the race participants. To provide a pleasant viewing experience for spectators by allowing for uninterrupted viewing of the Event activities, to protect public safety, and to safeguard the overall success of the Event, the Board wishes to protect the airspace above the Event from any and all commercial or promotional interruption during the racing events.
- 4. In addition, Section 10.3 of the Host Agreement requires the City to work with the Event Authority to develop and implement a program to protect the Event from "ambush marketing." Specifically, Section 10.3(b) requires the City to take a number of actions on behalf of the Event Authority and the Event in general, including seeking "the prohibition of use of Event Airspace during the [e]vent, and in respect of appropriately large perimeters around the airspace of the [v]enue to prevent any unauthorized aircraft or any other floating or flying device (in particular hot air/helium/other gas balloons or blimps) from being used to advertise or carry out ambush marketing activities." Ambush marketing refers to unauthorized parties taking actions to associate themselves with, and therefore capitalize on, the visibility

and intellectual property of a particular event without entering appropriate contractual relationships to do so.

- 5. By adoption of this ordinance, this Board of Supervisors intends to establish restrictions on all aerial signs and advertising in the airspace over the Event in furtherance of the City's goals of ensuring a successful Event, promoting a pleasant spectator experience, and protecting public safety, as well as the City's responsibilities under the terms of the Host Agreement.
- 1. In recent years, San Francisco voters have consistently sided with initiatives to restrict the amount of advertising allowed in the City and County of San Francisco, including the following:
- Approving Measure B in 2002 to prohibit all new general advertising signs on private property.
- Approving Measure K in 2007 and Measure E in 2009 to prohibit all new general advertising sings on street furniture and City owned buildings.
- Disapproving Measure D in 2009 which would have created a Mid-Market Special Sign District where new general advertising signs would be permitted.
- 2. Many areas of the City are saturated with general advertising signs. In these areas the general advertising signs are obtrusive, out of scale, and contribute to visual pollution and blight.
- 3. Tourism, San Francisco's largest revenue generating industry, benefits from the preservation of the City's unique character, architecture and vistas. Reducing the amount of advertising in the City will help accentuate its distinctive appearance and the character that tourists visit the City to experience.

The use of aircraft to display signs and advertising in the airspace over the City and County of San Francisco ("City") creates aesthetic blight that undermines the scenic beauty of

the City's unique visual landscape and vistas. The display of aerial signage through aircraft also generates air pollution and creates visual distraction that can pose traffic safety hazards for motorists and pedestrians in the City. By their nature, aerial signs are intended to distract, and aim to capture and hold the attention of members of the public including drivers.

pedestrians, bicyclists, and others. For these reasons, the Board of Supervisors finds that the use of aircraft displaying signs and advertising in the airspace over the City creates visual blight and creates potential and actual traffic, health and safety hazards. The purposes of this Article are (1) to protect the distinctive appearance and physical beauty of the City's visual landscape and vistas and prevent visual blight. (2) to promote the public health, safety and welfare of motorists, pedestrians, bicyclists, and others using the City's streets by eliminating traffic and safety hazards caused by the display of aerial signs in the airspace over the City: (3) to aid in the attraction of tourists and other visitors who are so important to the economy of the City and who are drawn to the City for its aesthetic beauty; and (4) to reduce exhaust emissions by eliminating as an emissions source aircraft displaying signs or advertising.

Section 3. The San Francisco Police Code is hereby amended by adding Article 49, to read as follows:

ARTICLE 49. AERIAL SIGNS.

SEC. 4900. DEFINITIONS.

"Director" shall mean the Executive Director of the Port of San Francisco or his or her designee.

"Event Airspace" shall mean the airspace located above an area extending one-half mile laterally in each direction from the Primary Regulated Area established for the 2013 34th

13

14

12

151617

18 19

20 21

22 23

2425

America's Cup regattas by the United States Coast Guard under 33 U.S.C. 1233 § 100.T11 0551B.

SEC. 49004. GENERAL PROHIBITION.

Except as allowed under Section 49012, no person shall use any type of aircraft or other self-propelled or buoyant airborne object to display in any manner or for any purpose any sign or advertising device within the event Aairspace of the City and County of San Francisco. For the purpose of this section, a "sign or advertising device" includes, but is not limited to, a poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, or symbol. A "sign or advertising device" does not include a sign or advertising device when placed on or attached to any ground, building, or structure. Such a sign or advertising device shall be permitted, prohibited, or otherwise regulated as provided under any applicable law.

SEC. 49012. EXCEPTIONS.

- (a) Section 490<u>0</u>4 shall not prohibit the display of an identifying mark, trade name, trade insignia, or trademark on the exterior of an aircraft or self-propelled or buoyant airborne object if the displayed item is under the ownership or registration of the aircraft's or airborne object's owner.
- (b) Section 49004 shall not prohibit the display of a sign or advertising device placed wholly and visible only within the interior of an aircraft or self-propelled or buoyant airborne object.

SEC. 49023. CRIMINAL AND CIVIL PENALTIES.

(a) Criminal Penalty. Any person who violates any provision of this Article shall be deemed guilty of an infraction. Any person who violates this Article more than once prior to its expiration shall be guilty of an infraction or a misdemeanor, at the discretion of the prosecutor. A first violation of this Article is an infraction is punishable by a fine of not more than \$100. A second violation prior to the

expiration of this Article is an infraction punishable by a fine of not more than \$200 or a misdemeanor punishable by a fine of not to exceed \$1,000 or by imprisonment in the County Jail for a period not to exceed six months, or by both such fine and imprisonment, at the discretion of the prosecutor. A third or subsequent violation prior to the expiration of this Article is an infraction punishable by a fine of not more than \$500 or a misdemeanor punishable by a fine of not to exceed \$1,000 or by imprisonment in the County Jail for a period not to exceed six months, or by both such fine and imprisonment, at the discretion of the prosecutor. Each day a person engages in conduct in violation of this Article shall constitute a separate violation.

(b) Administrative Penalty. The Director City Administrator may issue administrative citations for the violation of any provision of this Article. San Francisco Administrative Code Chapter 100.

"Procedures Governing the Imposition of Administrative Fines," is hereby incorporated in its entirety and shall govern the amount of fees and the procedure for imposition, enforcement, collection, and administrative review of administrative citations issued under this Article.

SEC. 49034. CONFLICT WITH FEDERAL OR STATE LAW.

Nothing in this Article shall authorize the City to impose any duties or obligations in conflict with limitations on municipal authority imposed by federal or State law. This Article shall be construed so as not to conflict with applicable federal or State law. In engaging in enforcement actions pursuant to Section 4902, the City is authorized to implement this Article so as to avoid a conflict, if any, with applicable federal or State law.

SEC. 4905. SUNSET CLAUSE.

This Article shall expire on September 30, 2013 or upon the date of receipt of written certification from the City Attorney to the Clerk of the Board of Supervisors that the Federal Aviation Administration has issued a temporary flight restriction for the Event Airspace under

14 CFR Sec. 145 that prohibits the use of this airspace by aircraft not authorized or accredited by the event, whichever occurs sooner. Upon expiration of this Article, the City Attorney shall cause this Article to be removed from the Police Code.

Section 4. Effective Date. This ordinance shall become effective 30 days from the date of passage.

Section 5. In enacting this Ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation, charts, diagrams, or any other constituent part of the Police Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

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

By:

FRANCESCA GESSNER Deputy City Attorney

n:\legana\as2013\1300497\00854996.doc

REVISED LEGISLATIVE DIGEST

(7/22/2013, Amended in Committee)

[Police Code - Aerial Signs and Advertising]

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in the airspace over the City and County of San Francisco; and making environmental findings.

Existing Law

Existing City law does not address the use of aircraft or other airborne objects to display signs or advertising devices in the airspace over the City and County of San Francisco.

Amendments to Current Law

The proposed ordinance would add a new Article 49 to the Police Code that would prohibit the use of any type of aircraft or other self-propelled or buoyant airborne object to display in any manner or for any purpose any sign or advertising device in the airspace over the City and County of San Francisco. (Sec. 4901). The prohibition would not apply to (1) the display of an identifying mark, trade name, trade insignia, or trademark on the exterior of an aircraft or airborne object if the displayed item is under the ownership or registration of the aircraft's or airborne object's owner, or (2) the display of a sign or advertising device placed wholly and visible only within the interior of an aircraft or airborne object. (Sec. 4902).

Persons who violate Article 49 would be subject to criminal and civil penalties. (Sec. 4903). The City Administrator would be authorized to issue administrative citations for violations of Article 49.

Background Information

This legislation would establish restrictions on all aerial signs and advertising in the airspace over the City and County of San Francisco in furtherance of the City's goals of protecting the scenic beauty of San Francisco, reducing visual pollution and noise pollution, and minimizing traffic safety hazards for motorists and pedestrians.



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

July 17, 2013

File No. 130744

Sarah Jones Environmental Review Officer Planning Department 1650 Mission Street, 4th Floor San Francisco, CA 94103

Dear Ms. Jones:

On July 15, 2013, the Land Use and Economic Development Committee **duplicated** File No. 130661 (which you've already provided a Categorical Exemption stamp for) and amended it further resulting in the following proposed legislation:

File No. 130744

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in airspace over the City and County of San Francisco; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk

Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning Joy Navarrete, Environmental Planning NOW-PHYSICAL EXEMPTION (CX2)

7/17/1:

Jey Novappete

2013. 1073E



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

July 11, 2013

File No. 130661

Sarah Jones Environmental Review Officer Planning Department 1650 Mission Street, 4th Floor San Francisco, CA 94103

Dear Ms. Jones:

On July 9, 2013, the Department of Economic and Workforce Development introduced the following proposed legislation:

File No. 130661

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in the airspace over the 34th America's Cup course area; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk

Land Use & Economic Development Committee

Attachment

 Monica Pereira, Environmental Planning Joy Navarrete, Environmental Planning Non-physical exemption
CERN Jection 15060 (C)(2)

JOY NOW PETE



City and County of San Francisco :: Edwin M. Lee, Mayor Economic and Workforce Development :: Todd Rufo, Director

TO:

Angela Calvillo, Clerk of the Board of Supervisors

FROM:

Michael Martin, Project Director, 34th America's Cup

DATE:

June 18, 2013

SUBJECT:

Police Code - Ordinance

Ordinance Title:

Aerial Signs and Advertising

BOARD OF SUPERVISOR
SAN FRAHEIGEC
2013 JUN 19 AN 9: 21

Attached for introduction is the ordinance amending the San Francisco Police Code to prohibit the use of aircraft or other self-propelled or buoyant airborne objects to display any sign or advertising device in the airspace over the 34th America's Cup course area; and making environmental findings.

I request a waiver of the 30-day hold and further request a calendar date of July $15^{\rm th}$ at Land Use and Economic Development Committee.

Departmental representative to receive a copy of the adopted Ordinance:

Name: Michael Martin

Phone: 554-6937

Interoffice Mail Address: City Hall, Room 448 Certified copy required: No.



Miller, Alisa

From:

Board of Supervisors

Miller, Alisa

Sent:

Monday, July 22, 2013 11:10 AM

To:

Subject:

File 130744: Item 7. Please support legislation to eliminate small planes with advertising flying over SF

From: Kathy Howard [mailto:kathyhoward@earthlink.net]

Sent: Monday, July 22, 2013 10:21 AM

To: Avalos, John; Chiu, David; Campos, David; Mar, Eric (BOS); Board of Supervisors; Farrell, Mark; Kim, Jane; Cohen,

Malia; Wiener, Scott; Yee, Norman (BOS); London.Breed@sfgov.o

Subject: Item 7. Please support legislation to eliminate small planes with advertising flying over SF

Supervisors,

As a resident of the western part of San Francisco and living near Golden Gate Park and Ocean Beach, I support this legislation. During all of the major concerts and many of the minor runs, gatherings, etc., we experience the constant flyovers by small planes with advertising. These planes are flying over for hours at a time, detracting from the parkland and making it difficult to enjoy our homes.

There are two issues here -- one is the noise that they spread all over the park, the beach, and the neighborhoods; the second is that often there are 2 or 3 planes -- there is always the possibility of a crash over a concert with hundreds of thousands of attendees on the ground.

Please support this legislation.

Thank you. Katherine Howard Sunset District 710-2402

Miller, Alisa

From:

Board of Supervisors

Sent:

Monday, July 22, 2013 11:10 AM

To:

Miller, Alisa

Subject:

File 130744: Item 7. Please eliminate small planes with advertising flying over SF

From: Gregory Miller [mailto:howmiller@earthlink.net]

Sent: Monday, July 22, 2013 10:51 AM

To: Avalos, John; Chiu, David; Campos, David; Mar, Eric (BOS); Board of Supervisors; Farrell, Mark; Kim, Jane; Cohen,

Malia; Wiener, Scott; Yee, Norman (BOS); Breed, London

Subject: Item 7. Please eliminate small planes with advertising flying over SF

Supervisors,

I want to let you know that I support eliminating these flights -- they are noisy and intrusive for both our home and for visitors to Golden Gate Park or Ocean Beach. Sometimes, during large city events, the planes fly over the area for hours at a time -- and there will be more than one plane.

The City controls noise from the concerts, so let's do that for the planes also.

Thank you.

Gregory Miller

District 4



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

July 17, 2013

File No. 130744

Sarah Jones Environmental Review Officer Planning Department 1650 Mission Street, 4th Floor San Francisco, CA 94103

Dear Ms. Jones:

On July 15, 2013, the Land Use and Economic Development Committee **duplicated** File No. 130661 (which you've already provided a Categorical Exemption stamp for) and amended it further resulting in the following proposed legislation:

File No. 130744

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in airspace over the City and County of San Francisco; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk

Land Use & Economic Development Committee

Attachment

c: Monica Pereira, Environmental Planning Joy Navarrete, Environmental Planning



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:

Monique Moyer, Executive Director, Port

Chief Greg Suhr, Police Department Naomi Kelly, City Administrator

FROM:

Alisa Miller, Clerk, Land Use and Economic Development Committee

Board of Supervisors

DATE:

July 17, 2013

SUBJECT:

LEGISLATION DUPLICATED AND AMENDED

On July 15, 2013, the Board of Supervisors' Land Use and Economic Development Committee **duplicated** File No. 130661 (which was previously referred to you for information) and amended it further resulting in the following proposed legislation:

File No. 130744

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in airspace over the City and County of San Francisco; and making environmental findings.

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: Elaine Forbes, Port Christine Fountain, Police Department



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

July 11, 2013

File No. 130661

Sarah Jones Environmental Review Officer Planning Department 1650 Mission Street, 4th Floor San Francisco, CA 94103

Dear Ms. Jones:

On July 9, 2013, the Department of Economic and Workforce Development introduced the following proposed legislation:

File No. 130661

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in the airspace over the 34th America's Cup course area; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: Alisa Miller, Committee Clerk

Land Use & Economic Development Committee

Attachment

 Monica Pereira, Environmental Planning Joy Navarrete, Environmental Planning



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:

Monique Moyer, Executive Director, Port

Chief Greg Suhr, Police Department

FROM:

Alisa Miller, Clerk, Land Use and Economic Development Committee

Board of Supervisors

DATE:

July 11, 2013

SUBJECT:

LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Economic Development Committee has received the following proposed legislation, introduced by the Department of Economic and Workforce Development on July 9, 2013:

File No. 130661

Ordinance amending the Police Code to prohibit the use of aircraft, self-propelled, or buoyant objects to display any sign or advertising device in the airspace over the 34th America's Cup course area; and making environmental findings.

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: Elaine Forbes, Port Christine Fountain, Police Department

GISLATION RECEIVED CHECKL

Date 6/18/13 File Number (if app	olicable)
 Legislation for Introduction (NEW) Legislation Pending in Committee (AMENDED) Legislation for Board Agenda (AMENDED) 	►►► Legislation Clerk ►►► Committee Clerk ►►► Dep Clerk, Legislative Div
Supervisor, Mayor, and Departr Grant Ordinance [] Legislation: Original and 2 hard copies and 1 e [] Signature: Department Head, Mayor or the M [] Back-up materials: 2 full sets (see below) and [] Cover letter [] Grant budget/application [] Grant information form, including disability ch [] Letter of Intent or grant award letter from func [] Contract, Leases/Agreements (if applicable) [] Ethics Form 126 (if applicable)*Word format [] E-Copy of legislation/back-up materials: Sen	electronic copy in word format layor's designee, plus the Controller 1 electronic copy in pdf format* lecklist ding agency
Ordinance ['] Legislation: Original and 2 copies and 1 electron ['] Signature: City Attorney (For Settlement of Late Head, Controller, Commission Section [] Back-up materials: 2 full sets (see below) and [] Cover letter [] Settlement Report/Agreement (for settlements [] Other (Explain) ['] E-Copy of legislation/back-up materials: Sent	awsuits - City Attorney, Department cretary) 1 electronic copy in pdf format s)
Grant Resolution [] Legislation: Original and 2 copies and 1 electro	enic copy in word format ayor's designee, plus the Controller 1 electronic copy in pdf format* ecklist ling agency
Resolution [] Legislation: Original and 2 copies and 1 electro	nic copy in word format Claims - City Attorney, Department cretary) I electronic copy in pdf format
2	Fice of Economic & Workforce Vevelop

Clerk's Office/Forms/Legislation Received Checklist (1/2013)

130661