

1 [Health Code - Regulating Commercial Dog Walkers on Park Property]

2
3 **Ordinance amending the San Francisco Health Code by adding Article 39,**
4 **Sections 39.01 through 39.13, to license and regulate Commercial Dog Walkers**
5 **operating on park property.**

6 NOTE: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strike-through italics Times New Roman*~~.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strike through normal~~.

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

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

12 **ARTICLE 39: COMMERCIAL DOG WALKING**

13 **SEC. 39.01. DEFINITIONS.**

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

15 (a) "City." The City and County of San Francisco.

16 (b) "Commercial Dog Walking" or "Commercial Dog Walking Business." Doing business as a
17 permittee under this Article 39.

18 (c) "Department." The Animal Care and Control Department of the City and County of San
19 Francisco.

20 (d) "Director." The Director of the Animal Care and Control Department, or his or her
21 designee.

22 (e) "Enforcement Officer." (1) An officer or employee of the Department designated by the
23 Director to enforce this Article 39; (2) an officer or employee of the Port of San Francisco, the
24 Recreation and Park Department, or the ~~San Francisco~~ Public Utilities Commission ("SFPUC")
25 designated by the Port Director, the General Manager of the Recreation and Park Department, or the

1 General Manager of the Public Utilities Commission SFPUG, respectively, to enforce this Article 39
2 on property under the jurisdiction of the Port, Recreation and Park, or the Public Utilities
3 Commission SFPUG, respectively; or (3) any peace officer. An officer or employee of the
4 Department designated by the Director to enforce this Article may refer possible violations
5 occurring on Port, Recreation and Park, or Public Utilities property to designated enforcement
6 officers from those departments, who shall have primary responsibility for enforcement of the
7 Article on properties under their respective jurisdictions.

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

14 "Park Property" shall also include property under the jurisdiction of the Port of San Francisco
15 that the Port Commission has designated for inclusion under this Article 39, and property under the
16 jurisdiction of the Public Utilities Commission SFPUG that the General Manager of the Public
17 Utilities Commission SFPUG has designated for inclusion under this Article 39.

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

19
20 **SEC. 39.02. PERMIT REQUIRED.**

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

24
25 / / /

1 **SEC. 39.03. APPLICATIONS FOR PERMIT.**

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

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

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

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

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

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

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

15 (c) The application shall also include:

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

19 (2) Proof of completion of the training required under Section 39.06; and,

20 (3) Proof of \$1 million in general liability insurance;

21 (4) Proof of inspection and approval of dogwalking safety equipment required
22 under Section 39.07(e); and,

23 (5) If the permit applicant will be transporting dogs by car in connection with a
24 Commercial Dog Walking business, proof of the vehicle inspection and approval required
25 under Section 39.07(g).

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

3
4 **SEC. 39.04. PERMIT FEE.**

5 (a) The Director shall set the amount of the permit fee required under Section 39.03(a) by
6 regulation adopted under Section 39.09.

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

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

16
17 **SEC. 39.05. ISSUANCE OF PERMIT.**

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

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

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

1 (A) An offense involving the mistreatment of animals that amounts to a felony, or
2 if committed without the State of California would amount to a felony if committed within the State of
3 California, provided that the conviction occurred within the past ten years;

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

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

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

12 (c) No Commercial Dog Walking permit shall be transferable.

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

15
16 **SEC. 39.06. TRAINING.**

17 (a) All applicants for a new permit must first satisfy one of the following two training
18 requirements:

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

24 (2) The applicant shall complete an approved apprenticeship program consisting of at
25 least 40 hours of practical experience working with another dog walker who (A) is doing business as a

1 permittee under this Article 39, and (B) has operated a dog walking business, with a valid City
2 business registration certificate under Business and Tax Regulations Code Section 853 (or
3 equivalent license or certification from another jurisdiction, as accepted by the Director), for at
4 least three years. The person or organization providing the apprenticeship program may, but
5 is not required to, charge the applicant for the program. The apprenticeship program shall
6 cover each of the subject areas identified for training in subsection (a)(1), and the person or
7 organization providing the apprenticeship program shall provide the participant who
8 successfully completes the program with written certification that those subjects have covered
9 as part of the apprenticeship. The permit applicant shall provide the Director with a copy of
10 such certification along with his or her permit application.

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

16 (c) Notwithstanding the provisions of subsection (a), any person who, on ~~September~~ March 1,
17 2012, has held for at least the past three consecutive years a valid City business registration certificate
18 under Business and Tax Regulations Code Section 853 for a dog walking business (or equivalent
19 license or certification from another jurisdiction, as accepted by the Director), or any person
20 who as of that date has worked as a dog walker for such a business for at least the past three
21 consecutive years, shall be deemed to have satisfied the training requirement of this Section. The
22 Director may by regulation adopted under Section 39.09 determine which other equivalent
23 occupational experience, if any, provides similar training and may be substituted for dog walking
24 under this subsection (c).

1 **SEC. 39.07. RULES FOR COMMERCIAL DOG WALKING.**

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

4 (a) The permittee may not walk at one time more than ~~8~~ 7 dogs for consideration.

5 (b) Once a year, the permittee must distribute to all his or her current clients
6 informational materials to be prepared by the Department regarding how the clients may
7 license their dogs under Health Code Section 41.15 and the importance of doing so. The
8 permittee may only walk dogs currently licensed under Health Code 41.15.

9 (c) The permittee must carry a leash for each dog, and follow all applicable on-leash rules.

10 (d) The permittee must clean up after any dogs he or she is walking, as required by Health
11 Code Section 40 and all applicable Recreation and Park Department rules and regulations.

12 (e) The permittee must have dog walking safety equipment, ~~approved by the Director,~~ either
13 upon his or her person or at a nearby location, including in a vehicle, that is readily accessible. The
14 Director shall adopt regulations addressing what constitutes appropriate dog walking safety
15 equipment.

16 (f) The permittee must have sufficient drinking water for the dogs either upon his or her person
17 or at a nearby location, including in a vehicle, that is readily accessible.

18 (g) If the permittee transports dogs to or from Park Property, the permittee must do so in a safe
19 and appropriate manner, including properly restraining the dogs while in open vehicles. The Director
20 shall adopt regulations addressing what constitutes safe and appropriate transportation of
21 dogs, and in a vehicle inspected and approved for this purpose by the Director; provided,
22 however, that in any disciplinary or enforcement action based on the inspection and approval
23 requirement, if the Director finds good cause, he or she may grant the permittee up to 30 days
24 to qualify a replacement vehicle.

1 **SEC. 39.08. ADMINISTRATIVE INSPECTIONS.**

2 (a) Every permittee shall, while walking ~~four~~ ~~two~~ or more dogs at any one time for
3 consideration on Park Property, ~~carry~~ ~~wear~~ his or her permit upon his or her person and produce
4 the permit for inspection upon request by so that it is readily visible to any enforcement officer.

5 (b) If an enforcement officer has an objectively reasonable basis for suspecting that a permittee
6 is transporting dogs by car in connection with a Commercial Dog Walking business in an unsafe or
7 inappropriate manner and that the vehicle the permittee is using for that purpose has not been
8 inspected and approved by the Director under Section 39.07(g), the enforcement officer may
9 request the permittee to allow the officer to inspect the permittee's provide a copy of his or her
10 vehicle inspection and approval from the Director and the permittee shall comply with the officer's
11 request.

12 (c) If an enforcement officer has an objectively reasonable basis for suspecting that a permittee
13 does not have ready access to dogwalking safety equipment while walking ~~four~~ ~~two~~ or more dogs at
14 any one time for consideration on Park Property, and/or that the equipment has not been
15 approved by the Director under Section 39.07(e), the enforcement officer may request the
16 permittee to produce the equipment for inspection and provide a copy of his or her approval from
17 the Director and the permittee shall comply with the officer's request.

18
19 **SEC. 39.09. DIRECTOR'S REGULATIONS.**

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

23 **SEC. 39.10. LICENSE FEES.**

24 (a) Every person who has received a permit to operate a Commercial Dog Walking Business
25 shall, on March 31 of each year, pay to the Tax Collector an annual license fee payable in advance.

1 The license fee for new licenses issued during the calendar year shall be prorated with regard to the
2 calendar year on a monthly basis.

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

7 (c) The Director shall set the amount of the annual license fee by regulation adopted under
8 Section 39.09. The Director shall base the amount of the fee upon the actual costs to the Department of
9 administering and enforcing this Article 39, but shall not set the amount at greater than one hundred
10 dollars (\$100).

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

17
18 **SEC. 39.11. SUSPENSION AND REVOCATION OF PERMIT.**

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

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

23 (2) Violation of provisions of this Article (other than Section 39.07(b)), the San
24 Francisco Municipal Code, or any regulations adopted by the Director under Section 39.09, or of any
25 of the laws of the State of California regulating the treatment of animals;

1 (3) Serious physical mistreatment by the permittee of any animals under his or her
2 control or custody; or,

3 (4) For any other good cause shown.

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

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

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

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

19 (1) Up to \$50 for the first violation;

20 (2) Up to \$100 for a second violation within a twelve-month period; and,

21 (3) Up to \$500 for a third and subsequent violations within a twelve-month period.

22 (c) Except as provided in subsection (b), setting forth the amount of administrative fines,
23 Administrative Code Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as
24 may be amended from time to time, is hereby incorporated in its entirety and shall govern the

1 imposition, enforcement, collection, and review of administrative citations issued by the Director to
2 enforce this Article or any administrative regulation adopted under this Article.

3 (d) The Department shall maintain on its website a list of all persons who have violated any
4 provision of this Article or of any regulation adopted under this Article three or more times in
5 the past 12 months been punished under this Section during the last three years.

6
7 **SEC. 39.13. OPERATIVE DATE; PUBLIC EDUCATION.**

8 The provisions of this Article 39 shall become operative and enforceable on January 1, 2013
9 April 1, 2012. The Director may postpone the operative date, not beyond July 1, 2013, by
10 posting a notice on the Department's website, if the Director determines that the City needs
11 additional time to successfully implement the provisions of this Article. During the period
12 between the effective date of the ordinance adopting these provisions and the operative date April 1,
13 2012, the Director and the Department shall conduct a public outreach and education campaign to
14 alert dog walkers and the public about the requirements of this Article.

15
16 Section 2. Effective Date. This ordinance shall become effective 30 days from the
17 date of passage.

18
19 / / /
20 / / /
21 / / /
22 / / /
23 / / /
24 / / /
25 / / /

1 Section 3. This section is uncodified. In enacting this Ordinance, the Board intends to
2 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
3 punctuation, charts, diagrams, or any other constituent part of the Health Code that are
4 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
5 Board amendment deletions in accordance with the "Note" that appears under the official title
6 of the legislation.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10
11 By: _____
12 THOMAS J. OWEN
13 Deputy City Attorney