

File No. 150191

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Public Safety & Neighborhood Services Date April 2, 2015

Board of Supervisors Meeting Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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Completed by: Derek Evans Date 3/27/15

Completed by: _____ Date _____

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

1 [Health Code - Wild or Exotic Animals for Public Entertainment or Amusement]

2
3 **Ordinance amending the Health Code to prohibit the performance of wild or exotic**
4 **animals for public entertainment or amusement.**

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

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

13 Section 1. Environmental Findings. The Planning Department has determined that the
14 actions contemplated in this ordinance comply with the California Environmental Quality Act
15 (California Public Resources Code Section 21000 et seq.). Said determination is on file with
16 the Clerk of the Board of Supervisors in File No. _____ and available on the Board's
17 website and is incorporated herein by reference. The Board affirms this determination.

18 Section 2. The Health Code is hereby amended by adding Article 1B, consisting of
19 Sections 1B.1-1B.9, to read as follows:

20 **ARTICLE 1B: PERFORMANCE OF WILD OR EXOTIC ANIMALS**

21 **FOR PUBLIC ENTERTAINMENT OR AMUSEMENT**

22 **SEC. 1B.1. Statement of Purpose.**

23 **SEC. 1B.2. Definitions.**

24 **SEC. 1B.3. Performance of Wild or Exotic Animals Prohibited.**

25 **SEC. 1B.4. Exemptions.**

1 SEC. 1B.5. Implementation and Enforcement.

2 SEC. 1B.6. Penalties.

3 SEC. 1B.7. Undertaking for the General Welfare.

4 SEC. 1B.8. No Conflict With Federal or State Law.

5 SEC. 1B.9. Severability.

6
7 SEC. 1B.1. STATEMENT OF PURPOSE.

8 The purpose of this Article 1B is to protect wild and exotic animals from cruel and inhumane
9 treatment and to protect the public from the danger posed by the use of wild and exotic animals for
10 entertainment.

11
12 SEC. 1B.2. DEFINITIONS.

13 For purposes of this Article 1B:

14 "Cause a Performance" means to be responsible for the management of a Performance, to
15 financially benefit as an owner or operator from a Performance, or to sponsor a Performance.

16 "Companion Animal" means any type of animal that is commonly kept by persons as a pet or
17 for companionship and includes but is not limited to (a) domesticated dogs, (b) domesticated cats, (c)
18 ferrets, (d) gerbils, (e) guinea pigs, (f) hamsters, (g) horses, (h) mice, (i) rabbits, and (j) rats.

19 "Domestic Animal" means any animal that is Livestock, a Companion Animal, or both.

20 "Educational Activities" means teaching or instructing with the intent of imparting knowledge
21 to others.

22 "Livestock" means (a) poultry, (b) cattle, (c) swine, (d) sheep, (e) goats, (f) horses, (g) donkeys,
23 and (h) mules.

24 "Performance" means any public showing, presentation, display, exposition, fair, act, circus,
25 ride, trade show, petting zoo, carnival, parade, race, photographic opportunity, exhibition, or similar

1 undertaking in which animals are required to perform tricks, fight, or participate as accompaniments
2 for the entertainment, amusement, or benefit of an audience.

3 “Person” means any individual, establishment, firm, association, organization, partnership,
4 trust, corporation, or company.

5 “Wild or Exotic Animal” means any non-Domestic Animal. “Wild or Exotic Animal” includes
6 but is not limited to the following orders or families, or similar orders or families, whether bred in the
7 wild or in captivity, and any hybrid with Domestic Animals. The examples identified in parentheses are
8 not intended to be an exhaustive list and do not limit the generality of each group of animals, unless
9 otherwise specified:

10 (a) Non-human primates and prosimians (chimpanzees and monkeys)

11 (b) Felidae (except domesticated cats)

12 (c) Canidae (except domesticated dogs)

13 (d) Ursidae (bears)

14 (e) Proboscidea (elephants)

15 (f) Cetacea (whales, dolphins, porpoises)

16 (g) Crocodilia (alligators, crocodiles)

17 (h) Marsupialia (kangaroos, opossums)

18 (i) Reptilia

19 (j) Perissodactyla (rhinoceroses, tapirs, zebras, but not horses, donkeys, or mules)

20 (k) Artiodactyla (hippopotamuses, giraffes, camels, but not cattle, swine, sheep, or
21 goats)

22 (l) Hyaenidae

23 (m) Mustelidae (skunks, weasels, otters, badgers)

24 (n) Procyonidae (raccoons, coatis)

25 (o) Edentata (anteaters, sloths, armadillos)

1 (p) Viverridae (mongooses, civets, genets)

2 (q) Pinnipedia (seals, sea lions, walruses)

3 (r) Struthioniformes (ostriches)

4 (s) Casuariiformes (emus)

5 Notwithstanding the above, reptilia under 8 feet in length and snakes and reptiles of non-venomous
6 variety are not Wild or Exotic Animals.

7
8 **SEC. 1B.3. PERFORMANCE OF WILD OR EXOTIC ANIMALS PROHIBITED.**

9 It shall be unlawful for any Person to Cause a Performance of any Wild or Exotic Animal on
10 any public or private property within the City and County of San Francisco.

11
12 **SEC. 1B.4. EXEMPTIONS.**

13 (a) The following are exempt from the provisions of this Article 1B:

14 (1) The involvement of animals in animal-related Educational Activities.

15 (2) The involvement of animals in activities or enterprises endorsed or accredited by
16 any of the following: the Association of Zoos and Aquariums, the American Sanctuary Association, and
17 the American Alliance of Museums.

18 (3) The diagnosis or treatment of animals by veterinarians in the course of a
19 veterinarian's practice of veterinary medicine.

20 (4) The otherwise lawful use of animals for therapeutic purposes by persons who are
21 physically or mentally disabled.

22 (b) In its discretion, the Animal Care and Control Department may on a case-by-case basis
23 grant an exemption from the provisions of this Article 1B following a written application for an
24 exemption, where the proposed activity or enterprise is substantially similar in nature or purpose to an
25 exemption provided in this Section 1B.4.

1 **SEC. 1B.5. IMPLEMENTATION AND ENFORCEMENT.**

2 Section 1B.3 shall be implemented and enforced by the Animal Care and Control Department
3 with the support of the Police Department in the exercise of its ordinary law enforcement duties, and
4 the support of other City agencies as appropriate. The Animal Care and Control Department may
5 issue rules, regulations, or guidance consistent with this Article 1B to further the purpose of the Article.

6
7 **SEC. 1B.6. PENALTIES.**

8 (a) Any Person who violates Section 1B.3 shall be guilty of a misdemeanor. The penalty upon
9 conviction shall be imprisonment in the County Jail for a period not to exceed one year or by a fine not
10 exceeding \$1,000, or by both fine and imprisonment.

11 (b) The City Attorney may maintain an action for injunction to enforce Section 1B.3, to cause
12 the correction of any such violation, and for assessment and recovery of a civil penalty for such
13 violation pursuant to subsection (c).

14 (c) Any Person who violates Section 1B.3 may be liable for a civil penalty not to exceed \$1,000
15 for each violation. Each Wild or Exotic Animal in each Performance shall constitute a separate
16 violation. Such penalty shall be assessed and recovered in a civil action brought in the name of the
17 people of the City and County of San Francisco by the City Attorney in any court of competent
18 jurisdiction. In assessing the amount of the civil penalty, the court may consider any one or more of the
19 relevant circumstances presented by any of the parties to the case including, but not limited to, the
20 following: the nature and seriousness of the violations, the number of violations, the persistence of the
21 violations, the length of time over which the violations occurred, the willfulness of the Person charged
22 with the violations, and the assets, liabilities, and net worth of the Person charged with the violations.
23 The City Attorney also may seek recovery of the attorney's fees and costs incurred in bringing a civil
24 action for injunction or civil penalties pursuant to this section.

1 **SEC 1B.7. UNDERTAKING FOR THE GENERAL WELFARE.**

2 In enacting and implementing this Article 1B, the City is assuming an undertaking only to
3 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
4 obligation for breach of which it is liable in money damages to any person who claims that such breach
5 proximately caused injury.

6
7 **SEC. 1B.8. NO CONFLICT WITH FEDERAL OR STATE LAW.**


8 Nothing in this Article 1B shall be interpreted or applied so as to create any requirement,
9 power, or duty in conflict with any federal or state law.

10
11 **SEC. 1B.9. SEVERABILITY.**

12 If any section, subsection, sentence, clause, phrase, or word of this Article 1B, or any
13 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
14 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining
15 portions or applications of the Article. The Board of Supervisors hereby declares that it would have
16 passed this Article and each and every section, subsection, sentence, clause, phrase, and word not
17 declared invalid or unconstitutional without regard to whether any other portion of this Article or
18 application thereof would be subsequently declared invalid or unconstitutional.

19
20 Section 3. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor's veto of the ordinance.

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

3 By: 
4 BRADLEY A. RUSSI
Deputy City Attorney

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LEGISLATIVE DIGEST

[Health Code - Wild or Exotic Animals for Public Entertainment or Amusement]

Ordinance amending the Health Code to prohibit the performance of wild or exotic animals for public entertainment or amusement.

Existing Law

City law does not regulate the performance of wild or exotic animals for public entertainment or amusement. Various other provisions of existing law regulate the possession and sale of certain wild and potentially dangerous animals.

Amendments to Current Law

The proposed ordinance would amend the Health Code to prohibit any individual or entity from causing a performance in which a wild or exotic animal is required to perform tricks, fight, or participate as an accompaniment for the entertainment, amusement or benefit of an audience. The prohibition does not apply to domesticated animals, including dogs, cats, and horses. There are also exceptions for educational activities and activities endorsed or accredited by certain zoological and museum organizations.

The Animal Care and Control Department with the support of the Police Department is authorized to enforce the ordinance. Violating the ordinance is a misdemeanor, punishable by a fine not to exceed \$1,000, up to a year in the County Jail, or both. The City Attorney is authorized to bring a civil action to enjoin a violation of the ordinance and may seek civil penalties not to exceed \$1,000 for each violation.

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Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

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. 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 Imperative

Sponsor(s):

Supervisor Katy Tang, Supervisor Scott Wiener, Supervisor Norman Yee

Subject:

Ordinance amending the Health Code to prohibit the performance of wild or exotic animals for public entertainment or amusement

The text is listed below or attached:

Please see attached

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

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

March 4, 2015

File No. 150191

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

Dear Ms. Jones:

On February 24, 2015, Supervisor Tang introduced the following legislation:

File No. 150191

Ordinance amending the Health Code to prohibit the performance of wild or exotic animals for public entertainment or amusement.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to read "Derek Evans".

By: Derek Evans, Assistant Clerk

Attachment

cc: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Rm 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 & Control Department
Chief Greg Suhr, Police Department
Barbara Garcia, Director, Department of Public Health

FROM: Derek Evans, Assistant Clerk

DATE: March 6, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors Public Safety & Neighborhood Services Committee has received the following legislation, which is being referred to your department for informational purposes.

File No. 150191

Ordinance amending the Health Code to prohibit the performance of wild or exotic animals for public entertainment or amusement.

Please submit any comments or reports to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Christine Fountain, Police Department
Inspector John Monroe, Police Commission
Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health