

File No. 051606

Committee Item No. 8

Board Item No. 11

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date Nov 7, 2005

Board of Supervisors Meeting Date \_\_\_\_\_

**Cmte Board**

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Resolution                                   |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
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**OTHER**

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Completed by: Victor Young  
Completed by: *[Signature]*

Date Nov 3, 2005  
Date 11-9-05

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

11

1 [Penalties related to vicious and dangerous dogs.]

2

3 **Ordinance amending Article 1, Section 42.2 of the San Francisco Health Code to**

4 **transfer authority for registration of vicious and dangerous dogs from the Department**

5 **of Public Health to the Department of Animal Care & Control, increase the vicious and**

6 **dangerous dog registration fee from \$50 to \$250, allow for microchipping as an**

7 **alternative form of permanent identification for dogs, and clarify standards for outdoor**

8 **enclosures; amending Section 42.3 to adjust hearing deadlines for vicious and**

9 **dangerous dog hearings; and amending Section 42.4 making a second or subsequent**

10 **violation within any 12-month period from the initial incident punishable as a**

11 **misdemeanor, and to allocate dog registration fees and fines collected for violations of**

12 **Sections 42 through 42.3 to the Department of Animal Care & Control for enforcement**

13 **of the vicious and dangerous dog program; and making environmental findings.**

14 Note: Additions are single-underline italics Times New Roman;

15 deletions are ~~strikethrough italics Times New Roman~~.

16 Board amendment additions are double underlined.

17 Board amendment deletions are ~~strikethrough normal~~.

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

18 Section 1. Article 1, Section 42.2 of the San Francisco Health Code is hereby  
19 amended to read as follows:

20 **SEC. 42.2. REGISTRATION.**

21 Any dog found to be vicious and dangerous either as a result of (1) the actions of the

22 dog constituting vicious and dangerous behavior occurring in the presence of an animal

23 control officer, or representative of the Department of Public Health or Police Department; and

24 upon finding after hearing under Section 42.3; (2) a signed complaint or a verbal complaint

with corroborating evidence by an animal control officer or representative of the Department of

1 Public Health or Police Department; and (3) upon a finding after hearing under Section 42.3,  
2 shall be registered with the Department of *Public Health, Bureau of Communicable Disease*  
3 *Control, Animal Bite Investigation Unit* Animal Care and Control.

4 All such dogs should be registered within 10 days of the effective date of the finding.  
5 The Department of *Public Health* Animal Care and Control shall establish a registration fee *not to*  
6 *exceed* of \$50250.

7 Furthermore the keeping of a registered dog shall be subject to the following  
8 conditions:

9 (a) **Permanently Affixed Identification Number and Tattoo**. The owner, guardian or  
10 keeper shall have the licensing number assigned to such dog, or such other identification  
11 number as the City shall determine, ~~tattooed~~ permanently affixed to the dog by a licensed  
12 veterinarian or *other Department authorized agency/individual* ~~Department of Public Health~~  
13 ~~representative~~ on the dog's upper inner lip, inner thigh or elsewhere as directed by the  
14 Department of *Public Health* Animal Care and Control. For the purposes of this section  
15 "~~tattoo~~ permanently affixed" shall be defined as any permanent numbering of a dog by means of  
16 indelible or permanent ink or by microchip with the number designated by the Department of  
17 *Public Health* Animal Care and Control, or any other permanent method of ~~tattooing~~ affixing the  
18 identification number acceptable to the Department of *Public Health* Animal Care and Control.

19 (b) **Display of Sign**. The owner, guardian or keeper shall display a sign on his or her  
20 premises warning that there is a vicious and dangerous dog on the premises. Said sign shall  
21 be visible and capable of being read from the fronting street or public highway.

22 (c) **Confinement Indoors**. No registered dog may be kept on a porch, patio or in any  
23 part of a house or structure that would allow the dog to exit such building on its own volition  
24 except to a secured enclosure. In addition, no such dog may be kept in a house or structure  
25

1 when the windows are open or when screen windows or screen doors are the only obstacles  
2 preventing the dog from exiting the structure.

3 (d) **Confinement Outdoors.** When outside, all registered dogs shall be confined in a  
4 secure enclosure, except when necessary to obtain veterinary care or to comply with  
5 commands or directions of a City official. All such enclosures must be adequately lighted and  
6 ventilated and kept in a clean, and sanitary, and humane conditions.

7 Whenever necessity requires a registered dog to be outside of the enclosure, the dog  
8 shall be securely muzzled and restrained with a chain having a minimum tensile strength of  
9 300 pounds and not exceeding three feet in length, with handgrip, and shall be under the  
10 direct control and supervision of the owner, guardian or keeper of the dog.

11 (e) **Reserved.**

12 (f) **Identification Photographs.** All owners, keepers or harborers of a registered dog  
13 must, within 10 days of the effective date of this ordinance, provide to the Director of the  
14 Department of Animal Care and Control, ~~Communicable Disease Control~~, or his ~~or~~ her designee  
15 two color photographs of the registered animal clearly showing the color and approximate size  
16 of the animal.

17 (g) **Reporting Requirements.** All owners, keepers or harborers of a registered dog  
18 must, within 10 days of the incident, report the following information in writing to the Director  
19 of the Department of Animal Care and Control, ~~Communicable Disease Control~~, or his ~~or~~ her  
20 designee:

21 (1) The removal from the City or death of a registered dog;

22 (2) The new address of a registered dog owner or guardian should the owner or  
23 guardian move within City limits.

24 (h) **Sale or Transfer of Ownership Prohibited.** No person shall sell, barter or in any  
other way dispose of a dog registered with the City to any person within the City; provided that

1 the owner or guardian of a registered dog may sell or otherwise dispose of a registered dog or  
2 the offspring of such dog to persons who neither reside within the City nor intend to train,  
3 keep, harbor, own, or in any way possess such animal in the City providing written approval of  
4 such sale or transfer by an authorized officer or employee of the city or county where the dog  
5 is intended to be kept.

6 (i) **Violation of Registration Requirements.** It shall be unlawful for the owner,  
7 guardian, keeper or harbinger of a dog registered with the City to fail to comply with the  
8 requirements and conditions set forth in this ordinance regarding registration. Any dog found  
9 to be the subject of a violation of these registration requirements shall be subject to seizure  
10 and impoundment. In addition, failure to comply will be cause for the revocation of the license  
11 of such animal resulting in the immediate removal of the animal from the City.

12 Section 2. Article 1, Section 42.3 of the San Francisco Health Code is hereby  
13 amended to read as follows:

14 **SEC. 42.3. SEIZURE OF DOG: HEARINGS.**

15 (a) **Subject to Seizure.** Upon the receipt of a signed complaint, or upon the personal  
16 observation of an Animal Control Officer, or a representative of the Department of Public  
17 Health or Police Department, that a dog is vicious and dangerous, and said dog is on its  
18 owner, guardian, keeper or harbinger's property, the Animal Control Officer, or the Department  
19 of Public Health or Police Department representative, may find the dog presents a danger and  
20 is subject to seizure and impoundment. Upon a finding that the dog is subject to seizure,  
21 written notice of such finding shall be made to the owner, guardian, keeper or any adult in  
22 apparent control or possession of the dog. Prior to the seizure of the dog, the owner,  
23 guardian, or keeper of the dog shall be entitled to a hearing as described in paragraph (c) of  
24 this section.

25 (b) **Immediate Seizure.**

1 (i) Should any Animal Control Officer, representative of the Department of Public  
2 Health or the Police Department determine that probable cause exists to believe that a dog is  
3 vicious and dangerous and cannot be properly controlled, such dog is subject to immediate  
4 seizure. The owner, guardian, or keeper of the dog shall be entitled to a hearing upon seizure  
5 as described in paragraph (c) of this section, and upon the hearing the owner or guardian of  
6 any dog found to be vicious or dangerous shall be assessed the costs of sheltering the dog  
7 and of administering the ordinance.

8 (ii) Upon the receipt of a signed complaint, or upon the personal observation of an  
9 Animal Control Officer, or a representative of the Department of Public Health or Police  
10 Department, that a dog has killed or wounded, or assisted in killing or wounding any domestic  
11 animal, or has attacked, assaulted, bit or otherwise injured any person or assisted in  
12 attacking, assaulting, biting or otherwise injuring any person, such dog shall be subject to  
13 immediate seizure and impoundment. The owner, guardian, or keeper of the dog shall be  
14 entitled to a hearing upon seizure as described in paragraph (c) of this section.

15 (c)(i) Prior to the seizure of any dog authorized by paragraph (a) and within three days  
16 of the seizure of any dog pursuant to paragraph (b) a hearing officer shall inform, in writing,  
17 the owner, guardian, or keeper of the dog that the person's dog is alleged to be vicious and  
18 dangerous and be subject to penalties under this ordinance. Unless the hearing is waived by  
19 the owner, guardian, or keeper of the dog, or the hearing is scheduled on an agreed-upon  
20 date ~~not later than 30 days from the date of the incident~~, the hearing officer shall fix a time not less  
21 than ~~30~~15 nor more than ~~60~~90 days from the date ~~of that~~ the incident-enforcement agency locates  
22 the dog and/or the owner, guardian or keeper, and fix a place for said hearing and cause all  
23 parties to be notified, not less than ~~15~~10 days before the ~~day~~date of such hearing. The hearing  
24 may be informal and the rules of evidence not strictly observed. It shall not be necessary, for  
the City; to prove that the owner, guardian, or keeper of the dog knew that the dog was

1 vicious and dangerous. Within 15 days following the hearing, the hearing officer shall issue his  
2 or her decision to all parties.

3 (ii) Should the hearing officer find the dog to be vicious and dangerous, the hearing  
4 officer shall order the dog be registered pursuant to Section 42.2, and that the dog be spayed  
5 or neutered. The hearing officer may, in addition, order other remedies as may be appropriate  
6 for the safety of the public, including, but not limited to, an order that the dog and the owner,  
7 guardian, keeper and any person in control of the dog attend and complete a basic obedience  
8 course under an approved and recognized obedience trainer or dog-training organization. If  
9 the hearing officer finds that the owner, guardian, keeper, or other person in control of the dog  
10 has not or cannot adequately control his or her dogs, the hearing officer may also prohibit that  
11 person or persons from owning or possessing dogs for a period of three years from the date  
12 of the order.

13 (iii) In the event the hearing officer concludes that the dog is vicious and dangerous  
14 and that the health, safety and welfare of the community is not adequately addressed by the  
15 requirements provided in Section 42.3(c)(ii), the hearing officer may order the dog destroyed.

16 (iv) The decision of the hearing officer is final.

17 Section 3. Article 1, Section 42.4 of the San Francisco Health Code is hereby  
18 amended to read as follows:

19 **Section 42.4. PENALTY; MISDEMEANOR OR INFRACTION.**

20 Any person who violates any provision of Sections 42 through 42.6~~3~~ shall be deemed guilty of  
21 a misdemeanor or infraction.

22 (a) If charged as an infraction, the penalty upon conviction of such person shall be a  
23 fine not exceeding \$500. A second or subsequent violation within any 12-month period from the  
24 initial incident will be punishable as a misdemeanor.

25


1 (b) If charged as a misdemeanor, the penalty upon conviction of such person, shall be  
2 imprisonment in the County Jail for a period not to exceed one year or by a fine not exceeding  
3 \$1,000, or by both such fine and imprisonment. Upon conviction of a misdemeanor the court  
4 may prohibit the person from owning, keeping or otherwise being in control of a dog within the  
5 City and County for a period of one year. Violation of that prohibition shall constitute a  
6 misdemeanor.

7 (c) The complaint charging such violation shall specify whether the violation charged is  
8 a misdemeanor or an infraction.

9 (d) Allocation of fees and fines collected. All fees and the City's share of all fines collected  
10 under this section shall be used only by the Animal Care and Control Department to fund the  
11 enforcement of the vicious and dangerous dog program as set forth in this Section.

12 Section 4. The Planning Department has determined that the actions contemplated in  
13 this Ordinance are in compliance with the California Environmental Quality Act (California  
14 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of  
15 the Board of Supervisors in File No. 051606 and is incorporated herein by reference.

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

18 By:   
19 ROSA M. SANCHEZ  
20 Deputy City Attorney

**LEGISLATIVE DIGEST**

[Penalties related to vicious and dangerous dogs.]

**Ordinance amending Article 1, Section 42.2 of the San Francisco Health Code to transfer authority for registration of vicious and dangerous dogs from the Department of Public Health to the Department of Animal Care & Control, increase the vicious and dangerous dog registration fee from \$50 to \$250, allow for microchipping as an alternative form of permanent identification for dogs, and clarify standards for outdoor enclosures; amending Section 42.3 to adjust hearing deadlines for vicious and dangerous dog hearings; and amending Section 42.4 making a second or subsequent violation within any 12-month period from the initial incident punishable as a misdemeanor, and to allocate dog registration fees and fines collected for violations of Sections 42 through 42.3 to the Department of Animal Care & Control for enforcement of the vicious and dangerous dog program; and making environmental findings.**

Existing Law

Under current law, when a hearing officer finds a dog vicious and dangerous, the dog's owner, guardian or keeper must register the dog with the Department of Public Health and pay a registration fee of \$50. The owner, guardian or keeper must have the registered dog's identification number tattooed by a licensed veterinarian on the dog's upper inner lip, inner thigh or elsewhere as directed by the Department of Public Health. The owner, guardian or keeper of a registered dog must provide photographs of the dog to the Director of Communicable Disease Control for identification purposes. The hearing officer has 30 to 60 days from the date of the incident to fix a date for a vicious and dangerous dog hearing. Currently allocation of fees and fines collected under these sections does not exist.

Amendments to Current Law

If passed, the amendments would result in the following changes:

1. Registration: Transfer authority for registration of vicious and dangerous dogs from the Department of Public Health to the Department of Animal Care and Control, and increase the vicious and dangerous dog registration fee from \$50 to \$250. (Section 42.2.)
2. Permanently Affixed Identification Number: Change section title from "Number and Tattoo" to "Permanently Affixed Identification Number." Allow for microchipping as an alternative form of permanent identification for dogs and transfer authority for oversight of this section from the Department of Public Health to the Department of Animal Care and Control. (Section 42.2(a).)

**FILE NO.**

3. Identification Photographs and Reporting Requirements: Transfer oversight from the Director of Communicable Disease Control to the Director of the Department of Animal Care and Control. (Sections 42.2(f) and 42.2(g).)
4. Immediate Seizure: Adjust hearing deadlines for vicious and dangerous dog hearings. (Section 42.3(c)(i).)
5. Penalties: A second or subsequent violation within any 12-month period from the initial incident will be punishable as a misdemeanor. (Section 42.4(a).)
6. Allocation of fees and fines collected: Add a section to allocate dog registration fees and fines collected for violations of Sections 42 through 42.3 to the Department of Animal Care and Control for enforcement of the vicious and dangerous dog program. (Section 42.4(d).)

Background Information

In an effort to clarify the current oversight and duties for the registration and identification of vicious and dangerous dogs located within the City and County of San Francisco, various sections of the San Francisco Health Code have been modified to make clear that the Department of Animal Care and Control is the responsible agency and to further define obligations imposed under these sections. Additionally, the Department of Animal Care and Control has faced many instances in which the time frame for a hearing to be set for a vicious and dangerous dog expires before the owner or animal can be located. Therefore, in an effort to prevent this from happening in the future, the hearing deadlines have been amended to not less than 15 days nor more than 90 days from the date that the enforcement agency locates the dog and/or the owner, guardian or keeper.

October 18, 2005

Chris Jay Hoofnagle  
944 Market St #709  
San Francisco, CA 94102

Committee Clerk  
City Operations and Neighborhood Services Committee  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

**Re: Dog / Dog Owner Regulation**

Dear Supervisors McGoldrick, Dufty, and Ma:

I submit these comments for the record of the meeting where proposed ordinances 051605 (Penalties related to dog licensing), 051606 (Penalties related to vicious and dangerous dogs), and 051607 (Mandating the spaying and neutering of pit bulls and prohibiting non-permitted breeding of pit bulls). I believe these proposed ordinances will be considered on November 7, 2005 and cannot attend the meeting in person.

Thank you for considering new legislation on these matters. I strongly support the above-listed proposed ordinances, and urge the Committee to consider additional accountability measures for irresponsible dog owners concerning four issues:

1) Off-leash Dogs in Parks.

I live in Noe Valley, where it seems that every park in the neighborhood is a *complete* off-leash area. I would like to run in a park, in order to avoid cars, but instead have to avoid off-leash dogs, some of which are in packs.

I have been chased several times by off-leash dogs. Sometimes dogs on leashes lunge at me aggressively.

I urge you to consider greater limits on off-leash areas in the neighborhood parks. There should be parks--especially population-dense parks like Mission Dolores--that people can enjoy without loose dogs.

2) Enforcement of "curb" responsibilities.

In Noe Valley, there is new dog excrement on every street, every day. Additionally, there is dog excrement on the trails in the off-leash parks. Bernal Heights Park, in particular, has problems with dog owners who do not curb. Because of these problems, I urge you to heighten enforcement of curb responsibilities.

3) Enforcement of leash laws.

The leash laws are routinely ignored in this city, especially in Noe Valley.

Dog owners are not always sensitive to the effect that an unleashed animal has on others. Some walk breeds that have historically been owned for their destructive power, such as rotweilers, off leash. There needs to be more enforcement of leash laws, because too many owners apparently do not care to obey them.

4) Create clear avenues for animal-related complaints.

It is not clear how one complains about non-emergency animal control problems, such as off-leash dogs. The Commission of Animal Control and Welfare website, while an excellent resource for animal *welfare* issues, lacks prominent, clear information about animal *control* problems, such as how to file complaints concerning off-leash dogs.

I urge you to enhance methods for individuals to file complaints concerning animals. Complaints are an essential early warning system in addressing the problem of irresponsible owners.

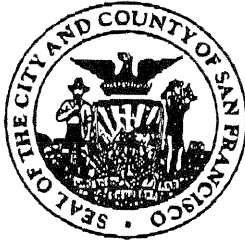
Respectfully submitted,



Chris Hoofnagle  
415-981-6400



BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 544-5227

# MEMORANDUM

TO: Department of Planning  
Environmental Review Officer

FROM: Gloria L. Young, Clerk of the Board *by [signature]*

DATE: September 28, 2005

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
City Operations and Neighborhood Services

The Board of Supervisors City Operations and Neighborhood Services has received the following which is being referred to the Planning Department for determination as to whether the proposed legislation will impact the environment.

**Please provide your findings within 10 days from the date of referral.**

File: 051606

Penalties related to vicious and dangerous dogs

Please return this cover sheet with the Commission's response to Victor Young, Clerk, City Operations and Neighborhood Services.

\*\*\*\*\*

RESPONSE FROM PLANNING DEPARTMENT - Date: October 19, 2005

- No Comment
- Recommendation Attached

*Exempt from CEQA  
Non-physical Exemption  
CEQA Guidelines § 15060(c)(2)*

\_\_\_\_\_  
Planning Department  
Paul Maltzer, Environmental Review  
Officer

