

**THE PRESIDIO TRUST
BOARD OF DIRECTORS**

RESOLUTION 14-21

**ADOPTION OF PROPOSED INTERIM RULE AS FINAL INTERIM RULE AND
WITHDRAWAL OF PROPOSED RULE:
PUBLIC USE LIMIT ON COMMERCIAL DOG WALKING**

WHEREAS, the regulation at [36 C.F.R. § 1001.5](#) (Regulation) authorizes the Presidio Trust Board of Directors to impose public use limits in all or a portion of the area of the Presidio of San Francisco administered by the Presidio Trust (Area B) to all public use or to a specific use or activity upon a determination that such action is necessary for the maintenance of public health and safety, the protection of environmental or scenic values, the protection of natural or cultural resources, the implementation of management responsibilities, or the avoidance of conflict among visitor use activities; and

WHEREAS, in [Resolution 13-3](#) the Board of Directors adopted a determination (Determination) that a public use limit on commercial dog walkers in Area B was necessary, and authorized the Executive Director to take all required action to impose the public use limit; and

WHEREAS, on November 21, 2012, the Presidio Trust published in the Federal Register a proposed rule requiring commercial dog walkers in Area B to possess a valid commercial dog walking permit issued by the City and County of San Francisco (City) and to comply with the terms and conditions of the City permit as well as those rules and regulations otherwise applicable to Area B; and

WHEREAS, the Presidio Trust initially sought public comment on the proposed rule for a period of 65 days, and extended the public comment period for 30 days until it closed on February 25, 2013; and

WHEREAS, in response to the Presidio Trust's proposed rule, the National Park Service (NPS) proposed establishing an interim commercial dog walking permit system on Golden Gate National Recreation Area (GGNRA) lands in San Francisco and Marin Counties before completing its dog management planning process and rulemaking, and asked the Presidio Trust to consider adopting its interim permit system rather than the system being implemented by the City to avoid public confusion and to better protect resources; and

WHEREAS, the Presidio Trust agreed to hold its proposed commercial dog walking rule in abeyance until the NPS developed its interim permit system; and

WHEREAS, on March 14, 2014, the NPS published notice of its interim permit requirement for commercial dog walkers in the GGNRA; and

WHEREAS, on March 19, 2014, the Presidio Trust published in the Federal Register a proposed interim rule (Proposed Interim Rule) requiring commercial dog walkers in Area B to possess a valid commercial dog walking permit issued by the NPS and to comply with the terms and conditions of the NPS permit as well as those rules and regulations otherwise applicable to Area B; and

WHEREAS, the Presidio Trust accepted public comment on the Proposed Interim Rule for a period of 47 days until the public comment period closed on May 5, 2014; and

WHEREAS, on the basis of the public comments and to establish a consistent rule for the management of commercial dog walking in the Presidio of San Francisco, the Board of Directors desires to revise the Determination (Revised Determination) to impose public use limits on commercial dog walkers in Area B that are the same as the limitations being imposed by the NPS in the GGNRA;

WHEREAS, on the basis of the public comments, an independent review of the NPS's environmental impact analysis, and the information in the administrative record, the Presidio Trust categorically excluded the Proposed Interim Rule pursuant to its National Environmental Policy Act regulations at [36 C.F.R. §1010](#); and

NOW, THEREFORE, BE IT RESOLVED, that the Presidio Trust Board of Directors rescinds the Determination adopted in [Resolution 13-3](#), and adopts the [Revised Determination](#) attached hereto; and

BE IT FURTHER RESOLVED, that the Board of Directors withdraws its proposed rule concerning the public use limit on commercial dog walking published in the Federal Register on November 21, 2012; and

BE IT FURTHER RESOLVED, that the Board of Directors authorizes the Executive Director to publish the required notice in the Federal Register of the Proposed Interim Rule as a final interim rule, and to take all other action necessary to impose the public use limit on commercial dog walking in Area B, including, conducting public outreach and education to commercial dog walkers, posting signage, and providing handouts to notify parks users of the public use limit in areas where dog walking is a particularly high-use activity; and

BE IT FURTHER RESOLVED, that the final interim rule shall take effect as soon as may be practicable following the operative date of the NPS's interim permit requirement for commercial dog walkers and shall remain in effect until such time as the NPS's final special regulation for dog walking in GGNRA is promulgated, at which time the Board of Directors will consider adopting a final rule following public input and comment.

Adopted: July 16, 2014



To: Presidio Trust Board of Directors

From: Craig Middleton

Date: June 10, 2014

Re: Public Use Limit: Commercial Dog Walking in Presidio Area B

RECOMMENDATION AND ACTION REQUESTED:

Staff requests that the Board adopt the determination that imposing certain limitations on Commercial Dog Walkers that are the same as the limitations being imposed by the National Park Service/GGNRA is necessary as part of the Trust's management responsibilities to maintain public health and safety, to protect environmental or scenic values, to protect natural or cultural resources, or to avoid conflict among visitor use activities.

BACKGROUND:

According to statistics compiled by the City of San Francisco, approximately 110,000 households in San Francisco own dogs and an estimated one-third of these households employ the services of dog walkers to care for and exercise their dogs. There are 70 dog walkers or dog walking services on the City Animal Care and Control Department's dog walking and professional services referral list, and there also may be dog walkers who provide their services for consideration but who do not have a business license and are unlisted. Although the Trust does not maintain official statistics on the use of the Presidio by dog walking businesses, Trust staff frequently observe and receive reports of dog walkers with four or more dogs in a number of areas in Area B, in particular along the corridor adjoining West Pacific Avenue from the Broadway Gate to the 14th Avenue Gate, as well as the areas east of the Ecology Trail in the Tennessee Hollow Watershed. By both direct observation and through reports from the public, the Trust is aware that dogs brought into the Presidio in these numbers have been responsible for damage to resources, threats to public safety, and visitor conflict.

The City recently adopted an ordinance to license and regulate dog walkers who conduct their business in a multitude of areas within the boundaries of the City and has begun

enforcing the ordinance. San Francisco Health Code Article 39: Commercial Dog Walking. The City permit requirement applies to any person walking four or more dogs at any one time, for some sort of payment (“Commercial Dog Walkers”) on City park property (broadly defined to include, among other areas, all grounds and other property under the management of the Recreation and Park Commission) as well as certain open spaces, certain properties under the jurisdiction of the San Francisco Port Commission, and designated properties under control of the Public Utilities Commission (PUC). Under Article 39, among other requirements, Commercial Dog Walkers must be trained or meet minimum experience requirements, be free of convictions related to animal cruelty within the previous five years, carry \$1 million in general liability insurance, provide sufficient drinking water for the dogs in their charge, transport dogs in a safe manner, and have proper dog walking safety equipment as specified by the City’s Director of Public Works.

The Trust currently does not impose restrictions specific to Commercial Dog Walkers in Area B. However, under Title 36 §1001.5 of the Code of Federal Regulations, the Board may “...impose public use limits or close all or a portion of the area administered by the Presidio Trust.”

In direct response to the City’s Commercial Dog Walker regulations, the Trust requested public comment on a proposed public use limit on Commercial Dog Walkers in Presidio Area B that would have required Commercial Dog Walkers in Area B to possess a valid dog walking permit obtained from the City. Roughly one-half of the comments received (51%) expressed support for the public use limit and roughly one-half were opposed. Commenters who opposed the proposed limit were largely dissatisfied with the status quo and wished to see the activity prohibited. They recommended that the Trust not adopt a proposed use limit until such time as the GGNRA published its own policies and requirements on Commercial Dog Walkers. They further requested that the Trust work in partnership with GGNRA and “come out with one single, clear rule for federal properties.” At the time, the GGNRA had not previously indicated that it would address the issue of regulating Commercial Dog Walkers separately from its final special regulation addressing dog walking and commercial dog walking. However, in reaction to the City’s program and the Trust’s proposed regulation, the GGNRA stated it would consider enacting an interim commercial dog

walking permit system and asked the Trust to consider adopting the GGNRA's interim permit system rather than that being implemented by the City.

In May 2013, the Trust announced on its Web site that it supported the GGNRA's intention to create and implement an interim permit system to regulate commercial dog walking in the park and after examining all public comments and considering new information provided by the GGNRA, it would suspend its own decision regarding the regulation of commercial dog walking pending the NPS/GGNRA action.

On March 14, 2014, the NPS/GGNRA provided public notice of its intended interim change to its compendium requiring that all Commercial Dog Walkers in all San Francisco and Marin County sites administered by the NPS/GGNRA where dog walking is allowed, including Presidio Area A, obtain a permit from the GGNRA. The public comment period for the NPS' Interim Commercial Dog Walking Rule ended on May 14, 2014.

Staff believes that no less restrictive measures are reasonably available to the Trust that would achieve the same results – that is, appropriate behavior to the benefit of other dog walkers and other park users, the protection of natural and cultural resources, and the reduction of expenditures for maintenance that would otherwise be necessitated by unlimited use by Commercial Dog Walkers.