

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Phil Ginsburg, General Manager, Recreation and Parks Department
Ashley Summers, Commission Liaison, Recreation and Parks Commission
Andrico Penick, Director, Real Estate Division

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: May 5, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on May 2, 2023.

File No. 230522

Ordinance amending the Park Code to authorize the Recreation and Park Commission to cause the Park Code to apply to specified properties it has authorized the Recreation and Park Department to lease or operate for recreational purposes.

If you have 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 or by email at: Erica.Major@sfgov.org.

cc: Sarah Madland, Recreation and Parks Department
Beverly Ng, Recreation and Parks Department

1 [Park Code - Authorizing Recreation and Park Commission to Apply the Park Code to
2 Additional Property]

3 **Ordinance amending the Park Code to authorize the Recreation and Park Commission**
4 **to cause the Park Code to apply to specified properties it has authorized the Recreation**
5 **and Park Department to lease or operate for recreational purposes.**

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

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

14 Section 1. Background

15 From time to time, the Recreation and Park Commission has authorized the Recreation
16 and Park Department (“RPD”) to operate property that is not formally under the Commission’s
17 jurisdiction, to enhance recreational opportunities for the public. For example, the Board of
18 Supervisors is considering a resolution to approve a lease between RPD, as tenant, and the
19 State of California, as landlord, so that RPD can operate the property as a public park, known
20 as the “Selby and Palou Mini Park.” A copy of the proposed resolution and the lease are on file
21 with the Clerk of the Board of Supervisors in File No. _____. But because properties like this
22 are not formally under Recreation and Park Commission jurisdiction, the Park Code, which sets
23 uniform rules for City parks, does not by its terms apply to those properties.

24 Section 2. The Park Code is hereby amended by revising Section 2.01, to read as
25 follows:

1 **SEC. 2.01. "PARK" DEFINED.**

2 (a) When used in this Code, the word "park" shall mean and include ~~(1)~~all grounds,
3 roadways, avenues, squares, recreation facilities, and other property placed under the control,
4 management, and direction of the Recreation and Park Commission by the Charter of the City
5 and County of San Francisco;

6 (b) When used in this Code, the word "park" shall also mean and include any of the following:

7 _____ ~~(1)~~(2) the open space on the blocks bounded by Market, Folsom, Third, and
8 Fourth Streets which is under the control, management, and direction of the *Redevelopment*
9 *Agency of the City and County of San Francisco*Office of Community Investment and Infrastructure,
10 otherwise known as the "Yerba Buena Gardens;" and

11 (2)~~(3)~~ the open space generally known as the "Transbay Rooftop Park" which is
12 located on the roof of the facility located on the blocks bounded by Mission, Beale, Howard,
13 and Second Streets, and which is under the ownership, control, management, and direction of
14 the Transbay Joint Powers Authority (TJPA), provided that the TJPA Board of Directors has
15 not rescinded or revoked the TJPA resolution of consent to the enforcement of the Park Code
16 for the Transbay Rooftop Park, which is on file with the Clerk of the Board of Supervisors in
17 File No. 180087. *The foregoing definitions of the word "park" shall not apply where such word is*
18 *otherwise defined within the section in which it appears. In addition, the designation of Yerba Buena*
19 *Gardens and the Transbay Rooftop Park as "parks" for purposes of this Code does not effect a*
20 *jurisdictional transfer of either property, does not place either property under the jurisdiction and*
21 *control of the Recreation and Park Commission, does not render either property "park land" or "park*
22 *property" as those terms are used in any provision of the Charter, and does not entitle the City and*
23 *County of San Francisco to receive revenues that may be generated by either property.*

24 _____ ~~(3)~~(b) For purposes of ~~When used in~~ Articles 3, 4 and 7 of this Code only, the word
25 "park" shall also include the area comprising Fulton Street between Hyde and Market Streets

1 and Leavenworth Street between McAllister and Fulton Streets, which area was closed to
2 vehicular traffic by San Francisco Board of Supervisors Resolution No. 373-73 and is
3 otherwise known as United Nations Plaza, and the area that is bounded by the northwesterly
4 line of Market Street, the southerly line of Eddy Street and the westerly line of Lot 13,
5 Assessor's Block 341, and is otherwise known as Hallidie Plaza. ~~The designation of United
6 Nations Plaza and Hallidie Plaza as parks for purposes of Articles 3, 4 and 7 of this Code does not
7 effect a jurisdictional transfer of these plazas, does not place these plazas under the jurisdiction and
8 control of the Recreation and Park Commission and does not render these plazas "park land" or "park
9 property" as those terms are used in any provision of the San Francisco Charter.~~

10 _____ (4)(e) ~~When used in this Code, the word "park" also shall include p~~Portions of
11 property owned by the State of California immediately under and adjacent to the portions of
12 the Central Freeway located between Otis and Stevenson Streets and between Valencia and
13 Stevenson Streets and partially bounded by Duboce Avenue referred to as "SoMa West
14 Skatepark and Dog Park," to the extent such property is (1) leased by the City under leases
15 with the State of California, acting by and through its Department of Transportation,
16 authorized under San Francisco Board of Supervisors Resolution No. 160-13 and Resolution
17 No. 161-13, and (2) depicted in such leases as the "skatepark" and the "dog park-"; but not
18 including ~~The word "park" shall not include~~ the portion of the leased property depicted in such
19 leases as the "parking area." ~~In designating SoMa West Skatepark and Dog Park as a "park" for~~
20 ~~purposes of this Code, the Board of Supervisors does not intend to place the leased property under the~~
21 ~~jurisdiction and control of the Recreation and Park Commission within the meaning of Charter Section~~
22 ~~4.113, dedicate any of the leased property as "park land" or "park property" as those terms are used in~~
23 ~~any provision of the San Francisco Charter, or impose this Code on the State of California or its~~
24 ~~employees, agents, or contractors while engaging in the course and scope of their employment on the~~
25 ~~leased property. Rather, the intent is to authorize the Recreation and Park Department to manage the~~

1 ~~SoMa West Skatepark and Dog Park for the Real Estate Division for eational use by the public and~~
2 ~~enforce the provisions of this Code on uses of the SoMa West Skatepark and Dog Park by the public,~~
3 ~~only while the leases referred to herein remain in effect.~~

4 (5) Any property that the Department is operating for recreational purposes under a
5 lease, memorandum of understanding, or similar written agreement, for the duration of said
6 agreement; provided, however, that the Recreation and Park Commission must first adopt a resolution
7 at a public hearing to approve the agreement and to authorize the Park Code to apply after considering
8 possible neighborhood impacts, the operational needs of the Department with respect to the property,
9 and any other information the Commission may deem relevant. The Commission shall provide at least
10 ten days' public notice of said public hearing.

11 (c) In designating property as a "park" under subsection (b), the Board of Supervisors does not
12 intend to place such property under the jurisdiction or control of the Recreation and Park Commission
13 within the meaning of Charter Section 4.113; affect or impair any other legal restrictions that may
14 apply to the property; or impose this Code on the State of California or its employees, agents, or
15 contractors while they are engaging in the course and scope of their employment on the property.

16
17 Section 4. Effective Date.

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

22
23 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

1 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
2 additions, and Board amendment deletions in accordance with the "Note" that appears under
3 the official title of the ordinance.

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5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

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7 By: /s/
8 VICTORIA WONG
Deputy City Attorney

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LEGISLATIVE DIGEST

[Park Code - Authorizing Recreation and Park Commission to Apply the Park Code to Additional Property]

Ordinance amending the Park Code to authorize the Recreation and Park Commission to cause the Park Code to apply to specified properties it has authorized the Recreation and Park Department to lease or operate for recreational purposes.

Existing Law

The Park Code sets forth uniform rules for City parks: for example, Article 3 sets forth basic regulations for City parks such as operating hours; Article 4 has rules to prevent disorderly conduct; and Article 7 addresses permits. The Park Code applies to all City-owned property under the jurisdiction of the Recreation and Park Commission (“RPC”). But if the Recreation and Park Department is managing or operating property that is not formally under the RPC’s jurisdiction, the Park Code by its terms generally does not apply there.

Amendments to Current Law

The ordinance would authorize the RPC to designate additional properties to be subject to the Park Code. For a property to be eligible for Park Code designation, the Recreation and Park Department would need to be operating the property for recreational purposes under a lease, memorandum of understanding, or similar written agreement; and the RPC would need to have acted at a public hearing to approve the agreement and to consider any possible neighborhood impacts, operational needs, and any other relevant information. If the RPC approved a property as being subject to the Park Code, that designation would remain in effect only for the duration of the Recreation and Park Department’s agreement as to that property, and at the end of the agreement’s term, the Park Code would cease to apply. The RPC’s temporary designation of a property as subject to the Park Code would not affect or impair any underlying legal restrictions that apply to a property, and would not place such property under the RPC’s control within the meaning of Charter Section 4.113.

Background

The Recreation and Park Department occasionally manages third-party property, but because such property is not formally under the RPC’s jurisdiction, the Park Code does not apply there. The ordinance would enable the Recreation and Park Department to manage these parks similar to other parks that are formally under the RPC’s jurisdiction.