

1 [Prohibiting smoking on unenclosed areas of City parks and recreational areas in San  
2 Francisco open to the public.]

3 **Ordinance amending the San Francisco Health Code by adding Article 19 I,**  
4 **encompassing Sections 1009.80 et seq., to prohibit smoking on any unenclosed area of**  
5 **property in the City and County of San Francisco that is open to the public under the**  
6 **jurisdiction of the Recreation and Park Commission or any other City department if the**  
7 **property is a park, square, garden, playground, sport or playing field, pier, or other**  
8 **property used for recreational purposes.**

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10 Note: Additions are *single-underline italics Times New Roman*;  
11 deletions are *strikethrough italics Times New Roman*.  
12 Board amendment additions are double underlined.  
13 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. The San Francisco Health Code is hereby amended by adding Article 19 I,  
16 encompassing Sections 1009.80 et seq., to read as follows:

17 Article 19 I

18 PROHIBITING SMOKING IN CITY PARK

19 AND RECREATIONAL AREAS

20 Sec. 1009.80. DEFINITIONS.

21 For purpose of this Article, "smoking" or "to smoke" means and includes inhaling,  
22 exhaling, burning or carrying any lighted smoking equipment for tobacco or any other weed or  
23 plant.

1           Sec. 1009.81. PROHIBITING SMOKING IN CITY PARK AND RECREATIONAL  
2 AREAS.

- 3           (a) Smoking is prohibited on any unenclosed area of property in the City and County of  
4 San Francisco that is open to the public and under the jurisdiction of the Recreation  
5 and Park Commission or any other City department if the property is a park,  
6 square, garden, playground, sport or playing field, pier, or other property used for  
7 recreational purposes.
- 8           (b) Nothing in this section is intended to change the provisions of Health Code Section  
9 1009.22(b) regulating smoking in sport stadiums.
- 10          (c) Each City department with jurisdiction over property subject to this Article shall post  
11 signs in appropriate locations to provide public notice that smoking is prohibited.
- 12          (d) The provisions of this Article do not apply in any circumstance where federal or  
13 state law regulates smoking if the federal or state law preempts local regulation or if  
14 the federal or state law is more restrictive.
- 15          (e) The provisions of this Article do not apply to playgrounds or tot lot sandbox areas,  
16 in and around which smoking is prohibiting by California Health and Safety Code  
17 Section 104495.

18           Sec. 1009.82. VIOLATIONS, AND PENALTIES AND ENFORCEMENT.

19           Any person who violates this Article is guilty of an infraction and shall be punished by a  
20 fine not exceeding one hundred dollars (\$100) for a first violation, two hundred dollars (\$200)  
21 for a second violation of this Article within a year of a first violation, and five hundred dollars  
22 (\$500) for each additional violation of this Article within a year of a first violation. ~~of two~~  
23 hundred and fifty dollars (\$250) for each violation of this Article. ~~Any peace officer shall have~~

1 the authority to enforce the provisions of this Article. *Punishment under this Article shall not*  
2 *preclude punishment pursuant to any provision of law proscribing the act of littering.*

3 Sec. 1009.83. DISCLAIMERS.

4 *In adopting and undertaking the enforcement of this Article, the City and County of San*  
5 *Francisco is assuming an undertaking only to promote the general welfare. It is not assuming,*  
6 *nor is it imposing on its officers and employees, an obligation for breach of which it is liable in*  
7 *money damages to any person who claims that such breach proximately caused injury.*

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

11 By: FREDERICK P. SHEINFIELD  
12 Deputy City Attorney