

BOARD of SUPERVISORS



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January 29, 2018

**File No. 180087**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Gibson:

On January 23, 2018, Supervisor Kim introduced the following legislation:

**File No. 180087**

**Ordinance amending the Park Code to treat the rooftop park located above the Transbay Transit Center as a City park for certain purposes; amending the Health Code to prohibit smoking on the rooftop park; and affirming the Planning Department's determination under the California Environmental Quality Act.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

By: John Carroll, Assistant Clerk  
Public Safety and Neighborhood Services Committee

Attachment

c: Joy Navarrete, Environmental Planner  
Laura Lynch, Environmental Planner

1 [Park, Health Codes - Transbay Rooftop Park]

2

3 **Ordinance amending the Park Code to treat the rooftop park located above the**  
4 **Transbay Transit Center as a City park for certain purposes; amending the Health Code**  
5 **to prohibit smoking on the rooftop park; and affirming the Planning Department's**  
6 **determination under the California Environmental Quality Act.**

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

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

15 Section 1. Environmental Findings.

16 The Planning Department has determined that the actions contemplated in this  
17 ordinance comply with the California Environmental Quality Act (California Public Resources  
18 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
19 Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
20 determination.

21 Section 2. The Park Code is hereby amended by revising Sections 2.01 and 4.10 to  
22 read as follows:

23 **SEC. 2.01. "PARK" DEFINED.**

24 (a) When used in this Code, the word "park" shall mean and include *(1)* all grounds,  
25 roadways, avenues, squares, recreation facilities, and other property placed under the control,

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

18 \* \* \* \*

19  
20 **SEC. 4.10. ALCOHOLIC BEVERAGES.**

21 (a) Except as provided in Subsection 4.10(b), no person shall consume alcoholic  
22 beverages of any kind in any building, children's areas, swimming pool, restroom, or any of  
23 the following parks or portions of parks:

24 \* \* \* \*

25 Sunnyside Conservatory;

1           Transbay Rooftop Park;

2           Union Square Park;

3           \* \* \* \*

4  
5           Section 3. The Park Code is hereby amended by adding Article 11A, consisting of  
6 Sections 11A.01, 11A.02, 11A.03, and 11A.04 to read as follows:

7                           **ARTICLE 11A: TRANSBAY ROOFTOP PARK**

8                   **SEC. 11A.01. AUTHORITY OF TRANSBAY JOINT POWERS AUTHORITY BOARD OF**  
9 **DIRECTORS.**

10                   *Notwithstanding any other provision of this Code, the Board of Supervisors recognizes the*  
11 *Transbay Joint Powers Authority (TJPA) Board of Directors as the governing body of the Transbay*  
12 *Rooftop Park. The TJPA Board of Directors shall have the exclusive authority to set rules for the*  
13 *Transbay Rooftop Park pursuant to Article 3 and Article 4 of this Code, to issue permits for the use of*  
14 *the park consistent with the general purposes described in Section 7.01 of this Code, to set and collect*  
15 *fees as authorized by state law, and to designate persons who shall perform all other functions for*  
16 *Transbay Rooftop Park that would be otherwise performed by the General Manager, Superintendent of*  
17 *Recreation, or Superintendent of Parks for any other park under this Code.*

18  
19                   **SEC. 11A.02. CERTAIN ATHLETIC ACTIVITIES PROHIBITED.**

20                   *No person shall participate in any team athletic activity in the Transbay Rooftop Park,*  
21 *including but not limited to volleyball, baseball, soccer, football, or lacrosse, nor in the individual*  
22 *activities of roller skating, roller blading, bicycle riding, kite flying, or skateboarding, except when*  
23 *acting pursuant to a permit issued by the TJPA Board of Directors or its designee.*

1                    **SEC. 11A.03. ANIMALS PROHIBITED.**

2                    No person, other than members of the Police Department when on duty, shall bring any  
3 animals, including but not limited to dogs, cats, and horses, into the Transbay Rooftop Park except  
4 when acting pursuant to a permit issued by the TJPA Board of Directors or its designee.

5 Notwithstanding the preceding sentence, a person with a disability may enter the Transbay Rooftop  
6 Park with a guide or signal dog without a permit.

7  
8                    **SEC. 11A.04. WHEELED EQUIPMENT PROHIBITED.**

9                    No person, other than employees, agents, or contractors of the TJPA when on duty, shall bring  
10 any wheeled conveyances, including but not limited to trucks, cars, and skateboards, into the Transbay  
11 Rooftop Park except when acting pursuant to a permit issued by the TJPA Board of Directors or its  
12 designee. Notwithstanding the preceding sentence, wheelchairs and strollers for preschool children  
13 may be brought into the Transbay Rooftop Park without a permit.

14  
15                    Section 4. The Health Code is hereby amended by revising Section 1009.81 to read as  
16 follows:

17                    **SEC. 1009.81. PROHIBITING SMOKING IN CITY PARK AND RECREATIONAL**  
18 **AREAS.**

19                    (a) Smoking is prohibited on any unenclosed area of property in the City and County of  
20 San Francisco that is open to the public and under the jurisdiction of the Recreation and Park  
21 Commission or any other City department if the property is a park, square, garden, sport or  
22 playing field, pier, or other property used for recreational purposes, or a farmers' market. For  
23 purposes of this Article 19I, the term "City department" shall include the Transbay Joint Powers  
24 Authority (TJPA) with respect to the Transbay Rooftop Park, provided that the TJPA Board of  
25 Directors has not rescinded or revoked the TJPA resolution of consent to the enforcement of this

1 Article 19I for the Transbay Rooftop Park, which is on file with the Clerk of the Board of Supervisors in

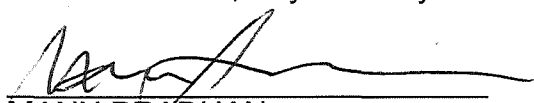
2 File No. \_\_\_\_\_

3 \* \* \* \*

4  
5 Section 5. Effective Date. This ordinance shall become effective 30 days after  
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
8 of Supervisors overrides the Mayor's veto of the ordinance.

9  
10 Section 6. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
14 additions, and Board amendment deletions in accordance with the "Note" that appears under  
15 the official title of the ordinance.

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

19 By:   
20 MANU PRADHAN  
21 Deputy City Attorney

22 n:\govern\as2017\1800299\01244086.docx

## LEGISLATIVE DIGEST

[Park, Health Codes - Transbay Rooftop Park]

**Ordinance amending the Park Code to treat the rooftop park located above the Transbay Transit Center as a City park for certain purposes; amending the Health Code to prohibit smoking on the rooftop park; and affirming the Planning Department's determination under the California Environmental Quality Act.**

### Existing Law

The rooftop park located above the Transbay Transit Center, referred to as the Transbay Rooftop Park, belongs to the Transbay Joint Powers Authority ("TJPA"). The Park Code and the City's ban against smoking on City recreation areas do not apply in the Transbay Rooftop Park.

### Amendments to Current Law

The ordinance would define the Transbay Rooftop Park as a "park" for purposes of the Park Code. This would allow City officials to enforce the rules and regulations set forth in Article 3 and Article 4 of the Park Code on the Transbay Rooftop Park as though that park belonged to the City. But the ordinance would not transfer the park to the jurisdiction of the Recreation and Park Commission. The Transbay Rooftop Park would continue to be managed and operated exclusively by the TJPA.

The ordinance would also amend the Health Code to cause the ban on smoking in City recreation areas to become applicable to the Transbay Rooftop Park.

### Background Information

Under state law, the TJPA has primary jurisdiction with respect to all matters concerning the financing, design, development, construction, and operation of the new transit center, which includes the Transbay Rooftop Park. On September 14, 2017, the TJPA Board of Directors adopted Resolution No. 17-035, authorizing the TJPA's executive director to proceed with requesting proposed amendments to the Park Code and Health Code to make the Transbay Rooftop Park subject to certain rules and regulations under those codes.

# Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED  
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2017 JAN 23 PM 1:33  
Time stamp  
or meeting date **AK**

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 [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. 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 the Imperative Form.**

Sponsor(s):

Kim

Subject:

Park, Health Codes - Transbay Rooftop Park

The text is listed:

Attached

Signature of Sponsoring Supervisor: