



**TREASURE ISLAND
DEVELOPMENT AUTHORITY**
CITY & COUNTY OF SAN FRANCISCO
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MEMORANDUM TO THE TIDA BOARD

HEARING DATE: November 8, 2023

Board File No: None.
Project Name: Municipal Parks Code for TIDA Parks & Open Space
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Reviewed by: AnMarie Rodgers, Deputy Director

Recommendation: discussion only

Purpose of this Report

This memorandum presents options for a Parks Code to govern conduct within Treasure Island and Yerba Buena Island's new parks and open spaces. Two choices are evaluated: 1) crafting a new "code" within San Francisco's Municipal Code titled "Treasure Island/Yerba Buena Parks Code" or 2) creating a new Article within San Francisco's Municipal Code's existing Parks Code, titled "Article 11B: Treasure Island/Yerba Buena Parks". After this hearing to consider options, staff will bring the draft municipal code amendments to the December Board meeting for consideration of a recommendation of approval to the Board of Supervisors.

BACKGROUND

The Treasure Island/Yerba Buena Island (hereinafter "TI/YBI") development project is delivering approximately 290 acres of new world-class public parks and open space to San Francisco. The TI/YBI Parks and Open Space System (heretofore referred to collectively as the "Parks System") includes a series of signature shoreline parks, recreation and sports fields, hiking trails, community agriculture and gardens, public plazas and more.

TIDA will assume permanent jurisdiction, including overall operations and maintenance responsibility, over the facilities comprising the Parks System upon each individual facility's phased acceptance by the TIDA Board of Directors and acknowledgement by the Board of Supervisors.

Unique in California, the City and County of San Francisco is structured as a combined city and county government. The California Constitution lets charter cities govern their own municipal affairs under locally adopted charters that control their powers and structures. As a Charter City, San Francisco's Charter establishes the powers of the local government. The Board of Supervisors is the legislative branch and is the only body that can establish components of the Municipal Code. San Francisco's Municipal Code currently contains the following elements: Charter, Administrative Code, Business and Tax Regulations Code, Campaign and Governmental Conduct Code, Environment Code, Fire Code, Health Code, Municipal Elections Code, Park Code, Planning Code (including Zoning Maps), Police Code, Port

Code, Public Works Code, Subdivision Code, Transportation Code and the Codes of the Building Inspection Commission: Building Code, Electrical Code, Green Building Code, Housing Code, Mechanical Code and Plumbing Code.¹

This memo provides discussion of how to govern the TI/YBI Parks within the Municipal Code. The options presented would either create a new “code” like the Parks Code or the Port Code or new “article” for the TI/YBI Parks within the existing Municipal “Park Code”. While this report discusses minor differences, the structure of where the parks controls is to be codified would likely be non-substantive. TIDA will work closely with the City Attorney on a draft Ordinance.

Legislation for TI/YBI Parks

Necessity of a Parks Code. To ensure maximum public enjoyment of the Parks System, protect the public from safety hazards within the facilities, prevent damage to Parks System property and properly coordinate special events and organized activities within the Parks System, it is necessary for TIDA to establish appropriate and reasonable time, place and manner restrictions on conduct and activities for the Parks System.

Establishing a Treasure Island/Yerba Buena Island Parks Code provides the most clarity in regulating activity in the Parks System, ensuring public safety, and fulfilling TIDA’s obligation to administer the public trust in the Parks.

Key goals for a TI/YBI Parks Code. A proper Parks Code provides the structure for administering and ensuring safe and equitable enjoyment of our parks land. As the TIDA Board seeks to establish local parks laws, identifying shared goals for the Parks Code can help the public and decision-makers.

- Seek to create broad use of the parks without damaging the parks or infringing on the rights of other park users.
- Define transparent rules and restrictions.
- Allow flexibility for evolving updates to park-specific rules, restrictions and guidelines based on day-to-day experience of park operations;
- Strive to ensure that parks remain open and available to the public, while recognizing that some small number of restricted access events or time-specific commercial use may be helpful in increasing community programming and activation.
- Recognize that parkland on TI/YBI will be extensive and, as such, safe access and movement through and across parklands is needed for people with a variety of mobility needs (e.g. wheelchairs, strollers)
- Ensure clarity in lines of responsibility for enforcement and accountability of the governing body for spaces.

Using these principles as a guide, a Parks Code could serve to impose reasonable time, place and manner restrictions upon activities of the general public. It would delineate specific permitted and

¹ The full 2022 San Francisco Building Code consists of the 2022 California Building Code, as further amended by these San Francisco amendments, as well as the 2022 California Residential Code, as further amended by these San Francisco amendments.

prohibited actions and conduct by groups and individuals, define the rules and restrictions on the presence and treatment of animals, and set regulations on traffic and vehicle regulations in and around the Parks. The TI/YBI Parks Code would define organized events and activities, and the describe the permit processes required to to hold such gatherings.

The San Francisco Port Code served as a model for staff in developing the TI/YBI Parks Code proposals. This approach was chosen because the Port and TIDA share similar responsibilities in ensuring safe access to grand public parks, many of which are under the Public Trust². All public park agencies manage lands for the benefit and enjoyment of the public. Public park agencies subject to the Public Trust doctrine also focus on increasing public access and connection to the water. These guiding principles are paired with broad, City interests in regulating activities to protect visitors from safety hazards, prevent damage to the property, and facilitate special events. The San Francisco Port Code navigates these issues to allow the Port of San Francisco to impose reasonable time, place and manner restrictions upon activities for the public good: maximizing recreation and enjoyment for all. The Port and TIDA share similar responsibilities in ensuring safe access to grand public parks, many of which are under the Public Trust³.

Just as TIDA will have varied parks spaces, spaces governed under the Port Code are varied in both their design and intended public use, including: passive recreational areas with art like Cupid's Span in Rincon Park; the active, multi-modal public spaces surrounding Oracle Park; natural areas like Heron's Head Park; and the plaza-like nature of Hyde Street Pier.

[The San Francisco Port Code can be reviewed in its entirety at this link.](#)

Option A: New TI/YBI Parks Code. This option would codify the TI/YBI Parks controls as a new "code" within San Francisco's Municipal Code titled "Treasure Island/Yerba Buena Island Parks Code".

Under a TI/YBI Parks Code, the Authority and it's Director would still be empowered to adopt and enact rules and procedures furthering the provisions of the Code without requiring further code amendments or Board of Supervisors approvals. Within a new TI/YBI Parks Code, the Authority would be able to perform many critical functions under it's own departmental auspices and without requiring legislative action by the Board of Supervisors. Some such critical actions include the ability to approve and adopt rules and signage furthering provisions of the Code, establish and amend procedures for the filing and processing of permit applications, impose reasonable conditions on permit approval, authorize designees to enforce provisions of the Code on behalf of the Authority, temporarily exclude the public

³ BCDC describes The Public Trust Doctrine as "protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to the water." See: <https://bcdc.ca.gov/public-trust.html>, retrieved on Oct 30, 2023.

from Parks spaces in event of hazard or emergency, authorize removal of vehicles found in violation of the Code, and issue permissions for performing otherwise restricted activities.

Option B: A New Article within the Existing San Francisco Park Code. This option would codify the TI/YBI Parks controls as a new “article” within the existing Park Code titled “Article 11B: Treasure Island/Yerba Buena Island Parks”. The City’s existing Park Code addresses a wide variety of parks types, including some with uses like TI/YBI that are not found on Port Property as sports fields. The Park Code establishes rules for unique uses like Farmer’s Markets and fishing at Lake Merced. The Parks Code has two separate sections for parks governed by the successor to the Redevelopment Agency (OCII) and for parks governed by the Transbay Joint Powers Authority.

The unique aspects described within the Yerba Buena Gardens article and the Transbay Roof Top Park article establish further controls for these parks, while acknowledging that the unique governing bodies, respectively OCII and the TJPA maintain rights to set rules, issue permits, collect fees and do other functions that would normally be done by the Recreation and Parks Department. These articles set more restrictive local laws for these parks, including the following: 1) no pet dogs or cats, whereas these animals are allowed within certain rules in other parks and 2) no wheeled conveyances, with certain exceptions.

A similar new article could be added that addresses unique needs for TI/YBI Parks and delegates certain authority to the TIDA Board and Director that would otherwise go to the Parks Commission and the Recreation and Parks Department General Manager. The Park Code sets both system-wide restrictions and regulations on use of the parks as well as individual granular rules for specific activities at individual park spaces. Individual Park rules and restrictions are primarily legislated inside the Park Code as an action, not by location. For example, instead of setting an entire suite of rules for Kezar Stadium, Park Code Sections 3.07 (3), 4.09, and 7.09 delineate specific processes and restrictions specific to Kezar Stadium, along with all other relevant provisions of the Code as a whole. If a TI/YBI Parks Article of the Park Code was enacted, it would still allow for varied regulations at each individual park as-needed.

Although not a Park-specific function, one existing “nested” Municipal Code structure TIDA currently utilizes to manage use of public space on-Island is the Clipper Cove Special Use Area and the Special Use Area’s Rules and Regulations and vessel anchorage permitting process. A 2012 amendment to the San Francisco Police Code added Code Section 1.1 designating Clipper Cove as a Special Use Area and allowing TIDA to establish a permit application process and set reasonable controls on the activities of vessels and vessel occupants on the waters of Clipper Cove. The Police Code Section 1.1 provides legislative structure while delegating certain day-to-day responsibilities to be administered by TIDA’s administration. The Clipper Cove Special Use Area Rules and Regulations and the anchorage permitting processes are amended by action of the TIDA Board, with any amendment to Police Code Section 1.1 requiring legislative action of the Board of Supervisors.

A TI/YBI Parks article contained within the Park Code could seek to replicate this model whereby the TI/YBI Parks controls are codified, while TIDA maintains the flexibility to enact and amend appropriate Rules and Regulations unique for the Islands unique parks spaces.

[The San Francisco Park Code can be reviewed in its entirety at this link.](#)

Issues & Considerations

While either mechanism described above can establish specifically tailored rules for effective administration of TI/YBI's unique parks with the same force of law, there are perhaps two differences that merit discussion here.

Process for Future TI/YBI Amendments. All changes to municipal law, require approval of the local legislative body, for San Francisco, that body is the Board of Supervisors. This means that whether the local law for TI/YBI lives in it's own Code or is an Article of the existing Park Code, any changes will require Board of Supervisors approval. If the TI/YBI Parks laws are codified as an "article" within the existing Park Code, any amendments may be referred to the Parks Commission for review and comment prior to the Board of Supervisors. The text in the Parks Code is clear that when other agencies manage parks subject to the Park Code (like PW, OCII, TJPA, Department of Real Estate), they are *not* subject to the Parks Commission. Still, the Clerk of the Board typically forwards Parks Code amendments to the Parks Commission who may "comment" without "subjecting" TIDA to requirements. Would it be bad public policy for two bodies to advise the Board of Supervisors? Likely not. The Board of Supervisors already gets multiple recommendations from Commissions who share expertise: like the Planning Commission and the Small Business Commission.

Conversely, if the TI/YBI Parks laws are codified as a new, "Code" placed elsewhere in the municipal code then it seems more likely that only the TIDA Board would review the proposal prior to the legislation reaching the Board of Supervisors. This may miss the opportunity for the City's Parks Commission to advise based upon their experience across the range of San Francisco's parklands.

City Precedent to Solve Universal Parks Code Issues. One aspect of TIDA setting up unique, bespoke solutions, is that TIDA must constantly monitor best practices across a variety of fields and professions to keep up with changing values and science. This creates more staff burden and may increase the odds of inconsistent policy by the City. By relying on the City's Park Code to set norms on a citywide-scale issues like street vendor regulation can ebb and flow under the regulation of the Board of Supervisors without separate problem-solving research or actions by TIDA. However, should TIDA want to remain separate and apart from larger trends in parks code, having a separate article for TI/YBI still enables TIDA to pursue unique language within the broader Park Code.

No Change to Agency Jurisdictional Control or Ownership. As originally established, the Park Code only regulated land under the control, management and direction of the Recreation and Parks Department. Overtime, this code was amended to apply to lands owned and managed by others. For example, in 1994, Ordinance number 370-94 amended the Park Code to add an article for Yerba Buena Gardens. In 1999 Ordinance No 17-99 amended the Park Code to enable the Director of Public works to manage United Nations Plaza and to enable the Director of Real Estate to manage Halide Plaza via the Park

Code⁴. In 2018, the Park Code was amended to include lands owned by the TJPA without otherwise changing the ownership, governance, or administration of these lands⁵.

To clarify the limits of the Park Code relative to the powers of the TJPA and OCII, Parks Code Sec. 201.(a) states: *“In addition, the designation of Yerba Buena Gardens and the Transbay Rooftop Park as “parks” for purposes of this Code does not effect a jurisdictional transfer of either property, does not place either property under the jurisdiction and control of the Recreation and Park Commission, does not render either property “park land” or “park property” as those terms are used in any provision of the Charter, and does not entitle the City and County of San Francisco to receive revenues that may be generated by either property.”*

By codifying the parkland controls for TI/YBI as an article within the Park Code retains TIDA’s purview and does not diminish nor delegate ownership nor administration. Similarly, creating a TI/YBI Parks Code does not inherently strengthen TIDA’s autonomy nor authority. **Besides the two differences described above (process for future amendments and the ability to choose to allow consistency with Citywide changes); the decision as to whether to place TI/YBIs into a new article of an existing code or to create a new code may be largely a non-substantive drafting decision.**

⁴ See Ordinance 17-99 Parks and Recreation:
<https://sfgov.legistar.com/LegislationDetail.aspx?ID=484975&GUID=29BFF18A-F105-471A-B1E4-8AC0154A5FDC&Options=ID|Text|Other|&Search=17-99>

⁵ See Ord. 56-18 Park, Healt Codes- Transbay Rooftop Park: <https://sfbos.org/sites/default/files/o0056-18.pdf>

Listing of the Municipal Code Structure. This chart shows the existing structure of San Francisco’s Municipal Codes in black font and **the two proposed options in blue font.**

- **Option A, New Code:** a new Code Section for TI/YBI as a new column on the right.
- **Option B, New Article:** a new Article within the existing Park Code is shown as a new cell within the Park Code column.

Municipal Codes	Port Code	Park Code	Option A: TI/YBI Parks Code
The Charter	Article 1 Definitions	Article 1: Title and General Provisions	Article 1 Definitions
Administrative Code	Article 2: Regulations	Article 2: Definitions	Article 2: Regulations
Business and Tax Regulations Code	Article 3: Disorderly Conduct	Article 3: Regulations	Article 3: Disorderly Conduct
Campaign and Governmental Conduct Code	Article 4: Animals	Article 4: Disorderly Conduct	Article 4: Animals
Environment Code	Article 5: Traffic Regulations	Article 5: Animals	Article 5: Traffic Regulations
Fire Code	Article 6: Permits	Article 6: Traffic Regulations	Article 6: Permits
Health Code	Article 7: Redevelopment Agency Authority	Article 7: Permits	Article 7: Severability
Municipal Elections Code	Article 8: Severability	Article 8: Lake Merced Fishing	Article 8: Penalties
Park Code	Article 9: Penalties	Article 8B: United Nations Plaza	Article 9: Police Authority
Planning Code (including Zoning Maps)		Article 8C: Hallidie Plaza	
Police Code		Article 9: Severability	
Public Works Code		Article 10: Penalties	
Subdivision Code		Article 11: Yerba Buena Gardens	
Transportation Code		Article 11A: Transbay Rooftop Park	
Building Inspection Codes		Option B: Article 11B:	

Building Code Electrical Code Housing Code Mechanical Code Plumbing Code		Treasure Island/Yerba Buena Island Parks	
		Article 12: Fees	
		Article 13: (Parks and Open Space Citizens Advisory Committee)	
		Article 14: Increased usage of Childrens Playgrounds, walking Trails and Athletic Fields Act	

Recommendation: discussion only