

LEGISLATIVE DIGEST
(As amended 11/5/2013)

[Park Code - Hours of Operation for City Parks]

Ordinance amending the Park Code to establish hours of operation for City parks from 5:00 a.m. to midnight, with certain exceptions; and making environmental findings.

Existing Law

The Recreation and Park Commission sets by resolution the hours that parks are open to the public. The Park Code authorizes the Recreation and Park Commission or the General Manager to temporarily close parks or park buildings to address emergencies or when the public interest demands it. The Park Code also prohibits sleeping in the park, but allows individuals violating this rule to avoid penalties for a first offense or if they seek social service assistance from the City within 30 hours of receiving a citation.

Amendments to Current Law

The proposal is an ordinance that would amend the Park Code to provide that City parks would be open to the public from 5:00 a.m. to midnight daily, and prohibit any person from being in a City park outside of those hours. The Recreation and Park Commission could also set different hours of operation for any park by resolution based on operational needs or neighborhood impacts.

The proposal would not apply to buildings on park property, such as recreation centers and clubhouses, or to athletic fields. The Department would continue to set the hours of operations for those facilities. The proposal also would not apply in the following situations:

- Where someone is using a roadway or adjacent sidewalk to cross Balboa Park, Golden Gate Park, Lincoln Park, or McLaren Park;
- Where someone is using a bike path to cross the Panhandle;
- Where someone is using the paved areas to cross Union Square, Civic Center Plaza, or Justin Herman Plaza;
- Where the Department has set different hours in a permit, contract, or lease; or,

- Where the General Manager has temporarily closed a park to protect the safety and well-being of the public.

Violations of the proposal could be punished as a misdemeanor or an infraction. A person found sleeping in the park outside of the park's open hours could be cited for violating the Park Code prohibition on sleeping in the park but could not be cited under this ordinance for being present in the park while sleeping.

The General Manager and the Recreation and Park Commission would retain the authority to close the parks to address an emergency. The ordinance would clarify that the General Manager and the Commission could not close an part of a park or building because of the content or viewpoint of constitutionally protected expressive activities.

The ordinance would also require the Recreation and Park Department to issue annual reports to the Board of Supervisors and Mayor providing information about citations issued for violations of the ordinance, the costs of addressing vandalism in the parks, and the costs of enforcing the ordinance.

The ordinance would also urge the Recreation and Park Department to increase the number of Park Patrol scheduled to patrol parks.

Background Information

This ordinance reflects amendments adopted by the Board at its regular meeting on November 5, 2013.

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NOTE: Additions are *single-underline italics Times New Roman*; deletions are *strike-through italics Times New Roman*. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130766 and is incorporated herein by reference.

Section 2. Findings and Policy.

(a) The Board of Supervisors finds that vandalism of park property often occurs late at night and such vandalism is a serious problem that imposes substantial costs on the City in the form of maintenance and repairs, such as graffiti abatement. The Board finds that establishing uniform hours of operation for parks Citywide will help prevent vandalism and disruptive loitering by keeping persons out of the park during the late-night hours when such activities are most likely to occur.

(b) The Board recognizes that effective enforcement of hours of operation in City parks may require additional City resources. Towards that end, the Board urges the Recreation and Park Department to increase the number of Park Patrol scheduled to patrol parks between

1 midnight and 5 a.m. and to request funding for additional Park Patrol to enforce this
2 ordinance. The Board also urges the Recreation and Park Department to prioritize
3 enforcement of park hours in smaller neighborhood parks and playgrounds, where the effects
4 of vandalism and loitering are particularly disruptive to the neighboring community.
5

6 Section 23. The San Francisco Park Code is hereby amended by adding Section 3.21,
7 to read as follows:

8 **SEC. 3.21. HOURS OF OPERATION.**

9 (a) Persons may enter and use any park from 5:00 a.m. to midnight daily, provided that (1) the
10 Department may set different hours in a permit, contract or lease, and (2) whenever a threat to
11 public health or safety exists in any park resulting from any natural cause, explosion, accident
12 or any other cause, or by riot or unlawful assembly or activity, the General Manager may close
13 the park or any part thereof to the public for such duration as he or she deems necessary to
14 ensure the safety and well-being of the public. This subsection shall not apply to buildings, such
15 as recreation centers, restrooms and clubhouses, or to athletic fields, which may have different hours of
16 operation, as determined by the General Manager or the Commission, as the case may be.

17 (b) Notwithstanding the provisions of subsection (a), the Commission may by resolution and at
18 any time set different hours of operation for any park or part thereof, based on operational
19 requirements or neighborhood impacts.

20 (c) No person shall enter or remain in any park without the permission of the Department
21 outside of the hours open to the public as set in subsection (a) or under subsection (b), except that:

22 (1) In the case of Balboa Park, Golden Gate Park, Lincoln Park, and McLaren Park,
23 persons may use a vehicle (including but not limited to a car, truck, bicycle and motorcycle) on the
24 roadway(s) in those parks or walk on paved sidewalks immediately adjacent to such roadways, at any
25 time for purposes of transversing the park only;

1 (2) In the case of the Panhandle, persons may walk or ride a bicycle on the bike paths
2 at any time for purposes of transversing the park only; and,

3 (3) In the case of Union Square, Civic Center Plaza, and Justin Herman Plaza, persons
4 may walk on the paved portions of those plazas at any time for purposes of transversing the plaza only.

5 (d) (1) Except as provided in subsection (2), A violation of subsection (c) shall be
6 subject to the penalties set forth in Park Code Article 10.

7 (2) A person who is found sleeping in a park outside of the hours open to the public in
8 violation of subsection (c) shall not be cited under this section for being present in the park
9 while sleeping. Such a person may be cited only under Section 3.13 of this Code.

10 (e) The Department shall post the hours for each park (1) at the park in a location designed to
11 provide notice to members of the public, and (2) on the Department's website.

12 (f) The Department shall issue an annual report to the Board of Supervisors and Mayor
13 by September 1 of each year providing the following information for the preceding fiscal year:

14 (1) the number of citations issued by the Police Department and Park Patrol for violations of
15 this section and the age and race of individuals cited, (2) the Department's costs for repairs
16 and maintenance, including graffiti abatement, resulting from vandalism in parks. and (3) the
17 Department's costs associated with enforcing this section.

18 (g) Nothing in this section shall limit the authority of the General Manager and the
19 Commission under section 3.03 of this Code.

20
21 Section 34. The San Francisco Park Code is hereby amended by revising Section
22 3.03, to read as follows:

23 **SEC. 3.03. PUBLIC MAY BE EXCLUDED.**

24 In case of an emergency, or when in the judgment of the Recreation and Park
25 Commission or the General Manager the public interest demands it, any portion of any park or

1 park building therein may be closed to the public until such park area or building is reopened
2 to the public by the Recreation and Park Commission or the General Manager; provided,
3 however, that nothing in this Section shall authorize the General Manager or the Commission
4 to close any portion of any park or park building because of the content or viewpoint of
5 expressive activities, existing or anticipated, to the extent such expressive activities, existing
6 or anticipated, engaged in for the purpose of expressing ideas or causes, which activities are
7 protected by the First Amendment to the United States Constitution.

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

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

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16 By: _____
17 FRANCESCA GESSNER
Deputy City Attorney

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