

REVISED LEGISLATIVE DIGEST
(Amended in Committee – November 27, 2023)

[Public Works Code - Authorizing and Permitting Neighborhood Amenities]

Ordinance amending the Public Works Code to streamline and authorize the approval of certain neighborhood amenities, also known as Love Our Neighborhoods Projects, in sidewalks and other public right-of-ways within the Department of Public Works' jurisdiction, to reduce fees for certain minor encroachment permits, to waive certain annual encroachment assessments, to clarify the approval process for commemorative plaques, and to clarify the permitting, revocation, and restoration requirements for all minor encroachment permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Presently, obstructions or encroachments upon the public right-of-way within the regulatory jurisdiction of the Department of Public Works ("Department") require a permit or other authorization from the Department.

Amendments to Current Law

This ordinance would amend Sections 723, 723.1, 723.2, 786, 786.7, 786.9, 789.2, 789.4, 789.5, 791, and 2.1.1 of the Public Works Code to facilitate the improvement and beautification of the public right-of-way through fee reductions and streamlined authorization for certain neighborhood amenities that constitute a "Love Our Neighborhoods Project," as described below.

- *Public Works Code Section 723.*
 - States expressly that the placement of any obstructions or encroachments upon, above, or below any public right-of-way must comply with all applicable provisions of federal, State, and local disability and accessibility laws.
 - Provides that any violation of any encroachment permit issued or right-of-way authorization granted by the Department shall be deemed a public nuisance.
- *Public Works Code Section 723.1.* Establishes three tiers of neighborhood amenity projects intended to facilitate residents' and civic organizations' promotion of neighborhood love, pride, and enjoyment, each a "Love Our Neighborhoods Project." To qualify as a Love Our Neighborhoods Project, the project must qualify as a Tier 1, Tier 2, or Tier 3 Project. For Tier 2 or Tier 3 Projects, the permit applicant must be a

nonprofit organization, a community benefits district, a merchants association, or an established community-based organization.

- “Tier 1 Projects” consist of Front Yard Benches, Front Yard Planters, and Sidewalk Libraries, as defined in the ordinance.
 - “Tier 2 Projects” consist of Murals, as defined in the ordinance, painted on or affixed to sidewalks, stairways (on the riser portion), retaining walls, or bridges within the right-of-way jurisdiction of the Department; commemorative plaques installed according to Public Works Code Section 789 et seq.; minor landscape infrastructure; projects consisting solely of maintenance of dedicated public right-of-way amenities; and Neighborhood String Lighting suspended across public right-of-way within the jurisdiction of the Department.
 - Permits for Murals shall be valid for 5 years and shall be eligible for successive five-year extensions. Prior to the permit expiration, the Steward of a Mural shall paint over the Mural according to the Department’s standards and specifications.
 - “Tier 3 Projects” consist of sculptures, projects involving construction of new or structurally modified stairways, fog catchers, major landscape infrastructure, newly constructed retaining walls or structures, stringed lighting suspended across roadways in commercial corridors, and Decorative Street Lights, as defined in the Public Works Code and/or the Department’s regulations, or a project comprised of a combination of Tier 1, Tier 2, and Tier 3 Projects.
 - Requirements for sidewalk (pipe) barriers, currently codified in Public Works Code Section 723.1, would be relocated to Public Works Code Section 723.2.
- *Public Works Code Section 723.2.*
 - Regulates Tier 1 and Tier 2 Projects as minor encroachments.
 - Authorizes the Director to impose Conditions of Approval on minor encroachments in order to protect the public peace, safety, health, and welfare of pedestrians and other users of sidewalks, public right-of-way, and public property.
 - Authorizes the Director to require minor encroachment permittees to enter into an encroachment agreement that memorializes a permittee’s rights and obligations under a minor encroachment permit.
 - Provides that Tier 1 Projects may be authorized according to specified registration and compliance requirements; Tier 1 Projects would not be required to obtain a minor encroachment permit, but could be subject to other requirements or modifications following a compliance and safety inspection that any person may request in writing due to concerns that the encroachment fails to comply with an applicable requirement or such encroachment poses a threat to public health, safety, or welfare. The Department may elect to perform an inspection of the encroachment, and the Director may require the modification or removal of the encroachment for the purposes of public safety, health, or welfare. In addition, the Director may require the owner of the real property adjacent to a Tier 1 Project to record in the office of the Assessor-Recorder the

- owner's acknowledgment of the owner's liability for any injury or Claims, as defined in Section 723.2(e)(1), caused by the Tier 1 Project.
- Provides that Tier 2 Projects may be permitted according to the minor encroachment permit application and compliance requirements in the Public Works Code and the applicable Department orders and regulations. Permit applicant must obtain all necessary approvals from City departments and agencies including but not limited to the Arts Commission and the Civic Design Review Committee, as may be applicable.
 - Provides that Tier 3 Projects may be permitted according to the major encroachment permit application and compliance requirements in the Public Works Code and the applicable Department orders and regulations.
 - Establishes indemnification, insurance, and security requirements; procedures for revoking the minor encroachment permits and authorizations; and additional clarifications.
- *Public Works Code Section 786.*
Provides that Tier 1 or Tier 2 Love Our Neighborhoods Projects shall not be required to obtain a street (or "major") encroachment permit.
 - *Public Works Code Section 786.7.*
 - Exempts improvements associated with Tier 1, Tier 2, and Tier 3 Projects from the public right-of-way occupancy assessment fee.
 - *Public Works Code Section 786.9.*
 - Requires Director to provide quarterly report to the Clerk of the Board of Supervisors regarding the submittal of complete Tier 3 Love Our Neighborhoods Project applications.
 - Authorizes Director to approve, conditionally approve, or deny a Tier 3 Love Our Neighborhoods permit application administratively without action of the Board of Supervisors.
 - *Public Works Code Section 789.2.*
 - Clarifies that any person seeking to commemorate a site, event, or person of historical interest to San Francisco by way of placement and installation of a commemorative plaque on a specific public sidewalk or place shall be required to obtain all necessary permits and approvals for the commemorative plaque including any applicable major or minor encroachment permits, and may be required to provide any security and/or evidence of insurance
 - *Public Works Code Section 789.4.*
 - Authorizes the Board of Supervisors to elect to hold a hearing on a proposal to commemorate a site, event, or person of historical interest to San Francisco prior to the submittal of a complete application to the Department.

- The Board of Supervisors may elect to pass a resolution approving the commemoration of a site, event, or person, and authorizing the Director, following the Arts Commission's approval of the plaque design and the Director's review of all permit application materials, to approve the installation of commemorative plaques at precise locations that comply with Department's technical criteria.
- *Public Works Code Section 789.5.*
 - Provides that Department will develop engineering, installation, safety and siting criteria for commemorative plaques. In addition, the Department will develop design requirements and guidelines in consultation with the Arts Commission.
- *Public Works Code Section 791.*
 - Defines "Furnishing Zone" to mean the portion of the sidewalk used for street trees, landscaping, transit stops, street lights, and site furnishings.
 - Amends definition of Public Improvements to include commemorative plaques installed in the Furnishing Zone according to a Tier 2 Love Our Neighborhoods Permit.
 - Provides that the Director of Public Works, on behalf of the City, may accept a gift of Public Improvements within the Department's permitting and maintenance jurisdiction, including a commemorative plaque constructed within the Furnishing Zone in accordance with a Tier 2 Love Our Neighborhoods Permit.
 - Authorizes the Director to waive entirely the cost of the maintenance endowment with respect to a commemorative plaque that is installed according to a Tier 2 Love Our Neighborhoods Permit.
- *Public Works Code Section 2.1.1.*
 - Subsection (iv) establishes a reduced minor encroachment permit application fee of \$500 for Tier 2 Projects for a permit applicant that is a community-based organization, nonprofit organizations, community benefits district, or merchants association.
 - Subsection (j)(ii) establishes a reduced major encroachment permit application fee of \$1,000 for Tier 3 Projects for a permit applicant that is a community-based organization, nonprofit organizations, community benefits district, or merchants association.

Background Information

The Department of Public Works, commonly referred to as San Francisco Public Works, is the steward of the public right-of-way in the City and County of San Francisco and its mission is to clean, "green," and enhance the public right-of-way for residents, businesses, workers and visitors. Particularly as neighborhoods recover from the COVID-19 pandemic, various

stakeholders have expressed interest in innovative and creative ways to activate and enhance public spaces and the public right-of-way more efficiently, effectively, and affordably. This ordinance seeks to establish an accessible, user-friendly, and affordable approach to reviewing and approving neighborhood beautification efforts that employ sidewalk and street amenities that benefit neighborhoods and commercial corridors, beautify or enhance the public right-of-way, and are accessible to the public. Funding for the Love Our Neighborhoods program was included in the fiscal year 2023-2024 and fiscal year 2024-2025 budgets.

This updated Legislative Digest includes amendments that were passed at a hearing of the Land Use and Transportation Committee of the Board of Supervisors on November 27, 2023.

This Legislative Digest was updated on December 4, 2023 to include a correction to the prior version, pertaining to Public Works Code Section 723.1. This Legislative Digest clarifies that a project may qualify as a Tier 1 Project without the submittal of a permit application from a nonprofit organization, a community benefits district, a merchants association, or an established community-based organization.

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