

BOARD of SUPERVISORS



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MEMORANDUM

TO: Tom Hui, Director, Department of Building Inspection
Mohammed Nuru, Director, Public Works

FROM: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

DATE: June 1, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Farrell on May 24, 2016.

File No. 160590

Ordinance amending the Public Works Code to place additional limits on the duration of street space occupancy permits, and to limit the number of such permits including permit extensions that can be issued at the same address during a three-year period in Residential, Urban Mixed-Use, and Neighborhood Commercial Districts, and precluding the issuance of such permits at the same address for two years after that three-year period; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: andrea.ausberry@sfgov.org

c: Sonya Harris, Building Inspection Commission
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Frank Lee, Public Works
Fuad Sweiss, Public Works

1 [Public Works Code - Street Space Occupancy Permits]

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3 **Ordinance amending the Public Works Code to place additional limits on the duration**
4 **of street space occupancy permits, and to limit the number of such permits including**
5 **permit extensions that can be issued at the same address during a three-year period in**
6 **Residential, Urban Mixed-Use, and Neighborhood Commercial Districts, and precluding**
7 **the issuance of such permits at the same address for two years after that three-year**
8 **period; and affirming the Planning Department's determination under the California**
9 **Environmental Quality Act.**

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

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

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

23 Section 2. The Public Works Code is hereby amended by revising Section 724, to read
24 as follows:
25

1 **SEC. 724. TEMPORARY OCCUPANCY OF STREET – PERMITS REQUIRED.**

2 (a) **Street Space Occupancy Permit.** A permit will be required for occupying any
3 part of the street or sidewalk for building construction operations or for any other purpose, and
4 shall be granted only to the owner or lessee of the premises fronting thereon or his or her
5 authorized agent.

6 * * * *

7 (5) For purposes of Sections 724 et seq., building construction operations
8 shall include all work related to the construction, demolition, maintenance, repair, or
9 replacement of a building.

10 (b) **Permit Applications.**

11 (1) An applicant for a permit shall submit to the Department a written request
12 for a permit no sooner than ~~15~~ *fifteen* days prior to the initiation of the proposed occupation of
13 street space. The permit request shall specify the duration and extent of the proposed
14 occupancy and all other information as set forth in Departmental orders or regulations.

15 (2) A permit applicant also shall request in writing the basis for any proposed
16 modifications to standard permit requirements, such as extended hours of occupancy for the
17 storage of materials and equipment.

18 (3) *If the request is to occupy part of the street or sidewalk for building construction*
19 *operations, in no event may the duration of the proposed occupancy under the street space occupancy*
20 *permit or any extensions thereof be longer than the Building Code allows for completion of work under*
21 *the original building or site permit. A decision by the Department of Building Inspection to extend a*
22 *building or site permit is not binding on the Director of Public Works for purposes of issuing a new*
23 *street space occupancy permit or extending an existing permit. A new Director’s authorization is*
24 *required pursuant to Section 724(e) for continued occupation of the street or sidewalk space under*
25 *such circumstances.*

1 (4) Any application for a permit in any residential, Urban Mixed Use, PDR-1-
2 D, PDR-1-G, and each named Neighborhood Commercial district as defined in the Planning
3 Code that requests more than one on-street parking space and a permit duration of three
4 months or longer shall include a contractor parking plan. The plan shall include the contractor
5 parking plan information as required in Public Works Code Section 2.4.20(b).

6 (5) ~~(4)~~ The permittee shall mail a courtesy notice within five business days from
7 the start of each phase to all impacted fronting property owners. Said notice shall include
8 information about the number and linear feet of parking spaces that will be impacted and/or
9 removed as well ~~at~~ as a 24-hour, ~~seven~~ 7-days per week contact for the project, including name
10 and telephone number. For purposes of this ~~S~~subsection (b)(5), "fronting property owner" shall
11 mean a property owner that owns property along the frontage where on-street parking will be
12 impacted~~d~~ and/or removed. If the fronting property owner is a condominium project, the
13 permittee need only mail the notice to the condominium association and not each individual
14 unit owner.

15 (c) **Permit Decisions.**

16 (1) The Director of the Department, in his or her discretion, may approve,
17 conditionally approve, or disapprove a street space occupancy permit. When issuing permits,
18 permit modifications, or extending the duration of permits, the Director may impose any
19 conditions consistent with the public health, safety, welfare, and convenience, including, but
20 not limited to, appropriate time, place, and manner restrictions and considerations to minimize
21 neighborhood impacts. If the Director of the Department approves or conditionally approves a
22 permit, said permit shall be issued on a monthly basis with a minimum term of one month and
23 a maximum term of six months. In the absence of special conditions, a permit shall entitle the
24 permittee to occupy the specified street space for a period no longer than 7:00 a.m.-6:00 p.m.,
25 seven days a week for the term of the permit.

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2 (2) **Appeals.** The Director's decision on a permit shall be appealable to the
3 Board of Appeals.

4 (d) **Permit Modification.**

5 (1) On seven days' prior written notice to the Department, a permittee may
6 seek to modify any terms or conditions of an existing valid permit except to extend the
7 duration of a permit pursuant to ~~S~~subsection (e) or to obtain an additional street space
8 occupancy permit pursuant to Sections ~~s~~ 724.7 and 724.8.

9 (2) A request for a permit modification shall be accompanied by a \$50.~~00~~
10 processing fee.

11 (e) **Permit Extension.**

12 (1) No later than 15 fifteen days prior to expiration of a permit, a permittee
13 may request in writing that a permit extension be granted to extend the duration of the street
14 space occupancy.

15 (2) In no event may the Director grant an extension of a street space occupancy
16 permit for the purpose of building construction operations without confirmation by the Department of
17 Building Inspection, or other proof to the satisfaction of the Director, that there is ongoing work at the
18 site under an active building or site permit.

19 (3) The Director shall treat a permit extension request like a new permit, and
20 the Director, in his or her discretion, may issue or deny the extension or impose new or
21 modified conditions on the permit extension.

22 (4) The total inclusive duration of one or more extensions of a street space
23 occupancy permit may not exceed 12 months. Any occupation of street or sidewalk space after that time
24 shall require a new permit that is subject to appeal to the Board of Appeals pursuant to Subsection
25 724(c)(2).

1 (f) **Permit Revocation.** All street *space* occupancy permits are revocable at the will of
2 the Director. In addition, when, in the judgment of the Director of Public Works, the public
3 interest or convenience will be served by the removal of the dirt, debris, materials, and
4 equipment, or any portion thereof, from the street or sidewalk space, the Director shall modify,
5 condition, or revoke the permit accordingly.

6 (g) **Limit on the Number of Street Space Occupancy Permits and Extensions Issued for**
7 **the Same Address.**

8 (1) In any Residential, Urban Mixed Use, named Neighborhood Commercial, or
9 named Neighborhood Commercial Transit District as defined in the Planning Code, the Director may
10 not grant more than six street space occupancy permits or permit extensions covering a continuous
11 three-year period for the same address. Upon expiration of this three-year period, the Director may not
12 grant a new street space occupancy permit for that same address, or an extension of such a permit for a
13 period of two years thereafter.


14 (2) The time limit specified in subsection (g)(1) is retroactive and applies to permits
15 issued and permit extensions granted prior to the effective date of subsection (g)(1), whether or not
16 there is ongoing work at the site under an active building or site permit; provided, however, that the
17 Director may grant a one-time extension for a period of time no longer than three months if the
18 permittee demonstrates to the satisfaction of the Director, and the Department of Building Inspection
19 confirms, that a building project at the site will receive its final inspection and sign-off within the
20 extension of time granted.

21
22 Section 3. Effective Date. This ordinance shall become effective 30 days after
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
25 of Supervisors overrides the Mayor's veto of the ordinance.

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Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 
JUDITH A. BOYAJIAN
Deputy City Attorney

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