

LEGISLATIVE DIGEST

[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, 786.7, 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 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 Libraries, and Front Yard Planters, 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; minor landscape infrastructure; projects consisting solely of maintenance of dedicated public right-of-way amenities; and Seasonal Sidewalk Lighting suspended across sidewalks within the jurisdiction of the Department.
- Permits for murals shall be valid for 5 years and shall be eligible for two successive five-year extensions. Prior to the expiration of a mural permit, the permittee shall paint over the mural according to the Department’s standards and specifications.
- “Tier 3 Projects” consist of sculptures, projects involving construction of new stairways, fog catchers, irrigation systems, stringed lighting suspended across roadways in commercial corridors, and decorative street lighting, as defined in the Public Works Code and/or the Department’s regulations.
- *Public Works Code Section 723.2.*
 - Provides that Tier 1 Projects may be authorized according to the registration and compliance requirements; these Tier 1 Projects would not be required to obtain a minor encroachment permit initially, but could be subject to other requirements or modifications following a compliance and safety inspection that any person may request for any reason including, but not limited to, 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 may require the modification or removal of the encroachment for the purposes of public safety, health, or welfare.
 - 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.
 - 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 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 and 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 (h)(iv) establishes a fee to inspect the safety and conformity of minor encroachments to the Department's standards and specifications.
 - Subsection (h)(v) establishes a reduced minor encroachment permit application fee of \$200 for Tier 1 Projects, if required, for a permit applicant that is a community-based organization, nonprofit organizations, community benefits district, or merchants association.
 - Subsection (h)(v) 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.

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