

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 28, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 250541
Public Works, Administrative Codes - Café Tables and Chairs, Display Merchandise,
Appurtenant Building Features, and Sidewalk Shared Spaces

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure
- ☐ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - ☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (*Planning Code, Section 1004.3*)
 - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - ☐ Mills Act Contract (*Government Code, Section 50280*)
 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

[Public Works, Administrative Codes - Café Tables and Chairs, Display Merchandise, Appurtenant Building Features, and Sidewalk Shared Spaces]

Ordinance amending the Public Works Code to streamline the approval of certain encroachments in the public right-of-way, to establish a registration requirement in place of all permit requirements and fees for café tables and chairs and display merchandise, and to eliminate minor encroachment permit requirements and right-of-way occupancy fees for appurtenant building features; amending the Administrative Code to exempt café tables and chairs and display merchandise from the Shared Spaces Program; and affirming the Planning Department's determination under the California Environmental Quality Act.

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

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

Section 1. Environmental Findings.

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

1 Section 2. General Findings.

2 (a) Fast, predictable, and transparent processes to authorize certain encroachments
3 on City sidewalks will create new and enhance existing jobs and businesses, as well as
4 facilitate the City's economic recovery from the COVID-19 pandemic. Commonly referred to
5 as "PermitSF," the City's effort to reform permitting consists of improving the customer
6 experience by streamlining approval processes, promoting accountability to provide certainty
7 about the delivery of government services, and centralizing technology to create a single point
8 of permitting access.

9 (b) This ordinance enhances the customer experience by removing barriers to the
10 establishment of café tables and chairs seating and display merchandise through a simplified
11 registration process in lieu of a permit. This legislation also eliminates the permitting
12 requirement for minor appurtenant building features that currently complicate the approval
13 process and add to building costs, such as door actuators or wheelchair lifts, which are
14 constructed for compliance with the Americans with Disabilities Act and other accessibility
15 standards. Other minor appurtenant building features that will receive the same
16 administrative process improvements and cost-cutting measures include the addition of utility
17 fixtures, water spouts, standpipes, out-swinging doors, and security gates.

18 (c) This ordinance enhances the customer experience and promotes government
19 accountability by increasing the certainty and transparency of the regulatory process for small
20 businesses and buildings of all types. Streamlining the public right-of-way encroachment
21 process for certain uses will create a clearer pathway to open new businesses and expand
22 existing businesses, simplify a cumbersome process for standard building features that
23 minimally encroach onto the sidewalk, and help drive the City's economic recovery.

Section 3. Article 5.2 of the Public Works Code is hereby amended by revising Sections 176, 176.1, 176.2, 176.4, 176.5, 176.6, 176.6A ,176.7, 176.8, and 176.9 and deleting Section 176.3 to read as follows:

ARTICLE 5.2:

**CAFÉ TABLES AND CHAIRS AND DISPLAY MERCHANDISE IN THE PUBLIC
RIGHT-OF-WAY ~~SIDEWALK OR ROADWAY AREAS~~**

SEC. 176. ~~CAFÉ TABLES AND CHAIRS—PERMIT REQUIRED. DEFINITIONS.~~

~~No owner or operator of a business establishment shall occupy any portion of a public sidewalk, court, alley or street with tables and chairs without first obtaining a café tables and chairs permit in accordance with the provisions of this Article. Any business owner or operator occupying any portion of a public sidewalk, court, alley or street with café tables and chairs without a permit as required by this Article shall be subject to fines and penalties as provided in Sections 176.8 and 176.9 of this Article. For the purpose of this Article 5.2, the following definitions apply:~~

“City” shall mean the City and County of San Francisco.

“Department” shall mean the Department of Public Works.

“Director” shall mean the Director of the Department or the Director’s designee.

“Display Merchandise” shall mean stands for the purpose of displaying fruits, vegetables,
living plants, cut flowers, and nonfood merchandise.

“Public right-of-way” is defined in Section 2.4.4 as the area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Department.

“Owner” shall mean any person who owns or operates a business establishment.

SEC. 176.1. ~~AUTHORITY TO ISSUE PERMITS~~REGISTRATION REQUIRED;
~~REGISTRATION PROGRAM AND APPROVED GUIDELINES~~REGULATIONS.

1 ~~The Director of Public Works or his or her designated representative is hereby authorized and~~
2 ~~empowered to issue café tables and chairs permits, revocable at will, to owners or operators of~~
3 ~~business establishments for the placement of café tables and chairs in the public sidewalk, court, alley~~
4 ~~or street adjacent to said business establishments, according to the procedures set forth in this Article.~~

5 (a) No Owner shall occupy any portion of the public right-of-way with the placement of café
6 tables and chairs or Display Merchandise without first obtaining a registration acknowledgement from
7 the Department in accordance with the provisions of this Article 5.2. Any Owner occupying any
8 portion of the public right-of-way with café tables and chairs or Display Merchandise without a valid
9 annual registration as required by this Article 5.2 shall be subject to enforcement actions by the City,
10 including but not limited to, fines and penalties as provided for in Sections 176.6 and 176.7 of this
11 Article 5.2.

12 (b) The Director shall implement a registration program to authorize Owners to place café
13 tables and chairs and Display Merchandise in the public right-of-way immediately adjacent to their
14 business establishments, according to the procedures set forth in this Article 5.2.

15 (c) The Director of Public Works shall approve and adopt guidelines regulations for the
16 design and placement of permitted café tables and chairs and Display Merchandise.

17 **SEC. 176.2. REGISTRATION AND ANNUAL RENEWAL APPLICATION FOR PERMIT.**

18 Every ~~Owner or operator of a business establishment~~ desiring to place café tables and
19 chairs or Display Merchandise in ~~a the public sidewalk, court, alley or street~~ right-of-way shall first,
20 and annually thereafter, complete the applicable, submit an registration process application for a café
21 tables and chairs permit to with the Department of Public Works. Each such application registration
22 shall state include: (a) the name and contact information of the applicant, (b) the name and
23 address of the business establishment, (c) the proposed area to be occupied by the café tables
24 and chairs or Display Merchandise, and (d) the hours and days that the area is to be so
25 occupied, and shall be accompanied by a fully dimensioned space-use plan showing the locations,

1 ~~number and arrangement of tables and chairs, the size of café tables and chairs to be used, the~~
2 ~~proposed size and locations of the pedestrian diverters planned to demarcate the occupied area, the~~
3 ~~location of the entrance to the establishment, the locations of fire exits or fire escapes, and the nature~~
4 ~~and location of any existing sidewalk obstructions (e) a certification confirming the Owner's agreement~~
5 ~~to satisfy all of the applicable conditions set forth in Section 176.4 and the Department's regulations~~
6 ~~and orders, and (f) an acknowledgement of the Owner's responsibility for any injury or Claims as~~
7 ~~defined in Section 176.4(b) and obligation to maintain the insurance required in Section 176.4(c).~~
8 Upon the Department's issuance of a registration acknowledgement, the café tables and chairs and
9 Display Merchandise shall be presumed to be authorized to be placed in the public right-of-way
10 immediately adjacent to the business establishment specified in the application registration.

11 **~~SEC. 176.3. NOTICE OF INTENT.~~**

12 ~~—Following the filing of the application for a café tables and chairs permit, the permit~~
13 ~~applicant shall post a Notice of Intent to Place Café Tables and Chairs on the business premises~~
14 ~~according to the requirements set forth in this Section.~~

15 ~~—Contents to Notice. The form for Notice of Intent to Place Café Tables and Chairs shall be~~
16 ~~provided to each applicant by the Department of Public Works. Said notice shall include a description~~
17 ~~of the proposed café tables and chairs and the procedure for obtaining any additional information and~~
18 ~~for filing any protest or opposition to the proposed café tables and chairs.~~

19 ~~—Posting of Notice. The Notice of Intent to Place Café Tables and Chairs shall be posted in a~~
20 ~~conspicuous location in a window or other readily visible location of the frontage of the applicant's~~
21 ~~business establishment for 10 calendar days. The notice shall be protected from the weather as~~
22 ~~necessary and shall be clearly visible from the public sidewalk, court, alley or street and not obstructed~~
23 ~~by awnings, landscaping or other impediments.~~

24 **~~SEC. 176.43. ISSUANCE OF PERMIT; APPLICATION~~REQUEST ~~FOR VARIANCE.~~**

1 ~~If after 10 calendar days following posting of the Notice of Intent to Place Café Tables and~~
2 ~~Chairs, the Department of Public Works has received no protest or opposition to the proposed café~~
3 ~~tables and chairs and the proposed design and location of the café tables and chairs, as described in~~
4 ~~the application, conforms to the guidelines set forth by the Director of Public Works, or if applicant~~
5 ~~receives a variance to the guidelines, the Director of Public Works shall issue a café tables and chairs~~
6 ~~permit to the applicant.~~

7 ~~—No permit issued under the provisions of this Section 176.4 shall become effective until the~~
8 ~~permit applicant has signed the permit and has delivered to the Department of Public Works proof of~~
9 ~~insurance to the limits required by Section 176.5 of this Article 5.2 and has paid a street/sidewalk~~
10 ~~occupancy fee which shall be calculated for permits commencing on or before March 31, 2026 by~~
11 ~~applying a rate of \$3 per seat per month, but which shall be no less than \$100 annually nor shall said~~
12 ~~fee exceed a maximum of \$360 annually. For permits commencing on or after April 1, 2026, no~~
13 ~~street/sidewalk occupancy fee shall be due.~~

14 ~~If an Owner's registration~~ the application ~~submitted~~ does not meet the ~~guidelines~~
15 ~~regulations or requirements~~ established by the Director ~~of Public Works~~ for ~~approved~~ authorized
16 café tables and chairs ~~or Display Merchandise~~, the ~~applicant~~ Owner may apply for special review
17 and approval of the proposed café tables and chairs ~~or Display Merchandise~~ permit. The
18 Department may, in its sole discretion, grant a variance from any of the Department's regulations or
19 requirements if it finds that such variance is in the public interest ~~of Public Works shall then submit the~~
20 ~~application to the Interdepartmental Staff Committee on Traffic and Transportation (ISCOTT) for~~
21 ~~special review.~~

22 **SEC. 176.54. CONDITIONS ~~AND RESTRICTIONS~~; INDEMNIFICATION AND**
23 **INSURANCE REQUIREMENTS.**

24 ~~The issuance of permits by the Director of Public Works and the~~ The placement and
25 maintenance of café tables and chairs ~~and Display Merchandise in front of immediately adjacent to~~

1 business establishments by ~~the permittees~~ Owners with a valid registration shall be subject to the
2 ~~guidelines~~ regulations set forth by the Director ~~of Public Works~~ and ~~the~~ following conditions and
3 ~~restrictions~~ requirements:

4 (1a) Neither the City ~~or County~~ nor any of its officers, agents or employees shall be
5 liable for any damages, claims or liability resulting to persons or property arising from the
6 ~~permittee's~~ Owner's placement or maintenance of the café tables and chairs or Display
7 Merchandise.

8 (2b) ~~Each permittee shall, at his or her own expense, maintain in full force and effect an~~
9 ~~insurance policy or policies issued by an insurance company or companies satisfactory to the City's~~
10 ~~Controller and Risk Manager and written by an insurance company or companies having a~~
11 ~~policyholders surplus of at least \$20,000,000. Said policy or policies shall afford liability insurance~~
12 ~~covering all operations, including but not limited to premises, products, personal injuries and~~
13 ~~automobiles and injury to property for single limit of not less than \$1,000,000 applying to bodily~~
14 ~~injuries, personal injuries and property damage or a combination of such injuries. Said policy or~~
15 ~~policies shall include the City and County of San Francisco and its officers and employees jointly and~~
16 ~~severally as additional insureds and shall apply as primary insurance and shall stipulate that no other~~
17 ~~insurance effected by the City and County of San Francisco will be called on to contribute to a loss~~
18 ~~covered hereunder. Said policy or policies shall provide 30 days' notice to Controller, City and County~~
19 ~~of San Francisco, Room 109, City Hall, if the policy or policies should be canceled or materially~~
20 ~~changed;~~ Registered Owners of café tables and chairs and Display Merchandise shall agree to hold
21 harmless, defend, and indemnify the City, including, without limitation, each of its commissions,
22 departments, officers, agents, and employees, from and against all losses, liabilities, expenses, actions,
23 claims, demands, injuries, damages, fines, penalties, suits, costs, or judgments, including, without
24 limitation, attorneys' fees and costs (collectively, "Claims"), caused by reason of the placement or
25 maintenance of the café tables and chairs and Display Merchandise in the public right-of-way, and the

1 Owner or Owners or subsequent Owner or Owners shall be solely liable for any Claims occasioned by
2 any act or neglect in respect to the placement or maintenance of the café tables and chairs and Display
3 Merchandise in the public right-of-way.

4 (3c) ~~An assignment or sale of a permit issued under this Article is prohibited.~~ Owners of café
5 tables and chairs and Display Merchandise shall, at their own expense, maintain in full force and effect
6 an insurance policy or policies sufficient to cover their liabilities and obligations under this Article 5.2.

7 (d) Owners shall maintain the public right-of-way in a clean condition at all times.

8 (e) Owners shall promptly remove café tables and chairs and Display Merchandise from the
9 public right-of-way at the end of each business day.

10 (f) Owners shall display a copy of the valid annual registration in a conspicuous location in a
11 window or other readily visible location on the frontage of the Owners' business establishment. This
12 document shall be clearly visible from the public sidewalk, alley, or street and not obstructed by
13 awnings, landscaping, or other impediments to visibility.

14 (g) Owners are prohibited from assigning or transferring an annual registration.

15 (h) Owners acknowledge that the Department's authorization to encroach upon a portion of the
16 public right-of-way with café tables and chairs and Display Merchandise granted under this Article 5.2
17 does not confer to Owners any real property interest of the City.

18 (i) Owners acknowledges that the Director's authorization for Owners to place encroachments
19 upon the public right-of-way by way of registration is revocable at the will of the Director.

20 (j) The following additional conditions apply to Owners' authorized to place Display
21 Merchandise in the public right-of-way:

22 (1) Display Merchandise shall be placed only in locations where retail commercial
23 activity is permitted under the Planning Code; provided, however, that Display Merchandise is not
24 permitted in C-3 Zoning Districts pursuant to Section 210.3 of the Planning Code.

1 (2) Owners shall display for sale on the public right-of-way adjoining the business
2 premises only those fruits, vegetables, living plants, cut flowers, and nonfood items identified in the
3 valid annual registration.

4 (3) Display Merchandise permitted by this Article 5.2 shall be a minimum of two and
5 one-half feet and a maximum of six feet above the sidewalk, and shall extend into the sidewalk no more
6 than 24 inches or 25% of the width of the sidewalk, whichever is less, as measured from the front of the
7 building. Display Merchandise must meet the guidelines established by the Director for compliance
8 with the disability access standards of the Americans with Disabilities Act and Part II of Title 24 of the
9 California Code of Regulations.

10 (4) An awning or other form of supported covering shall protect all produce and
11 perishable goods.

12 (5) Except for the area occupied by the Display Merchandise, the Owners shall keep
13 the public right-of-way area free of obstructions at all times.

14 (6) The Owner shall not paint, landscape, or alter the public right-of-way in any way
15 without prior written approval of the Department.

16 **SEC. 176.65. PERMIT NOT DEED OR EASEMENT; SUSPENSION OR REVOCATION**
17 **OF PERMIT VIOLATION OF ARTICLE 5.2.**

18 ~~—Permission to encroach upon a portion of a public sidewalk or roadway with café tables and~~
19 ~~chairs granted under this Article shall not constitute a deed or grant of an easement by the City and~~
20 ~~County and shall be subject to the suspension or revocation by the Director of Public Works when the~~
21 ~~permittee violates any of the restrictions and conditions set forth in Section 176.5 of this Article, or any~~
22 ~~rule or regulation of the Director of the Department of Public Works adopted in pursuance of the~~
23 ~~provisions of this Article. Said permission shall be automatically terminated upon the termination of the~~
24 ~~insurance stipulated under Section 176.5 of this Article.~~

1 (a) The Director shall have authority to enforce against violations of this Article 5.2 or any
2 requirements imposed pursuant to this Article 5.2. Upon the Director's determination that an Owner
3 has violated this Article 5.2 or related Department orders, regulations, or requirements; or is subject to
4 any outstanding City fines, penalties, or other charges, the Director shall serve notice on said Owner to
5 abate the violation. Any person whom the Director determines to be a responsible party may be subject
6 to the enforcement mechanisms specified in Sections 176.5 and 176.6.

7 (b) The nonpayment of outstanding City fines, penalties, or other charges, or the continued
8 existence of a condition in violation of this Article 5.2, shall be grounds for the Director to prohibit
9 placement of café tables and chairs and Display Merchandise by the Owner until such outstanding
10 fines, penalties, or other charges have been paid or any violation has been corrected.

11 (c) Failure to maintain a valid annual registration as required by this Article 5.2 does not
12 relieve an Owner of the need to comply with all provisions of this Article 5.2, including, but not limited
13 to, the Owner's liability for any injury or Claims as defined in Section 176.4(b).

14 **SEC. 176.64. ENFORCEMENT ASSISTANCE BY DEPARTMENT OF PUBLIC**
15 **HEALTH.**

16 In addition to the Director ~~of the Department of Public Works~~, the Director of the
17 Department of Public Health may determine when ~~a permittee~~ an Owner violates any of the
18 ~~restrictions and~~ conditions set forth in ~~Section 176.5 of~~ this Article 5.2, or any rule or regulation ~~of~~
19 ~~the Director of the Department of Public Works~~ adopted in ~~pursuance of the provisions of under~~ this
20 Article 5.2. When the Director of the Department of Public Health makes such a determination,
21 ~~he or she they~~ shall forward such determination to the Department ~~of Public Works~~ for
22 appropriate action.

23 **SEC. 176.7. ~~APPEAL OF PROTEST OR DENIAL OF PERMIT~~ ADMINISTRATIVE**
24 **PENALTIES AND COSTS.**

1 ~~Any person or persons who deem their interests or property or that of the general public will be~~
2 ~~adversely affected by the occupancy of a public sidewalk, court, alley or street with café tables and~~
3 ~~chairs for which permission has been applied for under the provisions of this Article, may protest the~~
4 ~~issuance of said café tables and chairs permit by writing to the Director of Public Works within 10~~
5 ~~calendar days from the date of posting of the Notice of Intent to Place Café Tables and Chairs as~~
6 ~~required under Section 176.3 of this Article. Upon receipt of any such written protest, the Director of~~
7 ~~Public Works will schedule a public hearing to hear all protests or oppositions to the issuance of the~~
8 ~~café tables and chairs permit.~~

9 ~~—Upon denial of a permit by the Director of Public Works, an applicant may, within 15~~
10 ~~calendar days following notification of such denial, file a notice of appeal to the Board of Permit~~
11 ~~Appeals, who shall then hear all appeals concerning the application for permit.~~

12 (a) In addition to any other remedies that may be available, a violation of this Article 5.2 may
13 be punishable by an administrative fine, which may be assessed by an administrative citation issued by
14 Department officials or employees designated in Section 38 of the Police Code. Administrative Code
15 Chapter 100, “Procedures Governing the Imposition of Administrative Fines,” as may be amended
16 from time to time, is hereby incorporated and shall govern the procedure for the imposition,
17 enforcement, collection, and administrative review of administrative citations issued to enforce this
18 Article 5.2.

19 (b) Notwithstanding the provisions of Section 176.6(a), if the Director determines that the café
20 tables and chairs or Display Merchandise pose a threat to the public health, safety, welfare, or
21 convenience, the Director shall notify the responsible party that they must immediately correct or
22 otherwise remedy the violation or be subject to the imposition of administrative penalties. The
23 Director's notice shall be a written or electronic communication and shall specify the manner in which
24 the violation shall be remedied.

1 (c) The Director shall not assess administrative penalties for a responsible party's first
2 violation in a 12-month period as long as the responsible party corrects or otherwise remedies the
3 violation within 24 hours.

4 (d) If a responsible party fails to correct or otherwise remedy a violation or receives a second
5 violation within a 12-month period, the responsible party may be assessed administrative penalties
6 pursuant to this Section 176.7 in an amount up to \$1,000 per day, per violation commencing with the
7 first day of the second violation.

8 **SEC. 176.8. CRIMINAL FINES AND CIVIL PENALTIES; OTHER REMEDIES.**

9 **(a) Criminal Fines.**

10 (1) The Director is authorized to enforce the criminal provisions of this Article 5.2, to
11 call upon the Chief of Police and authorized agents to assist in the enforcement of this Article 5.2, or
12 both.

13 (2) Any person who violates this Article 5.2 shall be deemed guilty of an infraction.
14 Every violation determined to be an infraction is punishable by (A) a fine not exceeding \$100 for the
15 first violation within one year if not abated within 24 hours of the Director's notice of a violation, (B) a
16 fine not exceeding \$200 for a second violation within one year from the date of the first violation, or
17 (C) a fine not exceeding \$500 for the third and each additional violation within one year from the date
18 of the first violation.

19 (3) When a government official authorized to enforce this Article 5.2 pursuant to
20 Subsection (1) above has reasonable cause to believe that any person has committed an infraction in
21 the official's presence that is a violation of this Article 5.2, the official may issue a citation to that
22 person pursuant to California Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.

23 ~~The nonpayment of such fine, or the continued existence of a condition in violation of this~~
24 ~~Article, shall be grounds for the Director of Public Works to prohibit placement of tables and chairs by~~
25

1 ~~the responsible owner or operator of the fronting business establishment until such penalty has been~~
2 ~~paid or the condition corrected.~~

3 **(b) Civil Penalties.**

4 (1) The Director may call upon the City Attorney to maintain an action for injunctive
5 relief or summary abatement to cause the correction or abatement of a violation of this Article 5.2, and
6 for assessment and recovery of civil penalties and reasonable attorneys' fees for such violation.

7 (2) Any person who violates this Article 5.2 may be liable for civil penalties, not to
8 exceed \$500 for each day such violation is committed or permitted to continue, which penalty shall be
9 assessed and recovered in a civil action brought in the name of the people of the City by the City
10 Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalties, the court
11 may consider any one or more of the relevant circumstances presented by any of the parties to the case,
12 including, but not limited to, the following: (A) the nature and seriousness of the misconduct, (B) the
13 number of violations, (C) the persistence of the misconduct, (D) the length of time over which the
14 misconduct occurred, (E) the willfulness of the defendant's misconduct, and (F) the defendant's assets,
15 liabilities, and net worth. The City Attorney also may seek recovery of the attorneys' fees and costs
16 incurred in bringing a civil action pursuant to this Section 176.8.

17 **SEC. 176.9. REMOVAL OF CAFÉ TABLES AND CHAIRS AND DISPLAY**
18 **MERCHANDISE.**

19 ~~Any tables and chairs placed in public sidewalk or roadway areas without a validly issued~~
20 ~~permit may be seized and removed pursuant to this Section. Before any tables and chairs are seized, the~~
21 ~~owner or operator of the business establishment fronting on the sidewalk from which the tables and~~
22 ~~chairs are to be removed shall be notified and given 10 business days in which to remedy the violation.~~
23 ~~If the responsible party does not remedy the violation and apply for and obtain a café tables and chairs~~
24 ~~permit within the time prescribed, the City may seize and remove the tables and chairs.~~

(a) ~~Notwithstanding a~~Any other provisions of this Article ~~5.2~~~~notwithstanding~~, if any café tables and chairs ~~or Display Merchandise~~ are placed in ~~the~~ public ~~sidewalk or roadway areas right-of-way~~ in such a place or manner as to pose an immediate ~~and serious~~ danger to persons or property, the City may seize such café tables and chairs ~~and Display Merchandise~~ without prior notice to the ~~person~~ responsible party for such café tables and chairs ~~and Display Merchandise~~ if it is impractical to remedy the danger by moving the café tables and chairs ~~or Display Merchandise~~ to another point on the ~~sidewalk or~~ public right-of-way. The responsible party shall be notified promptly of such seizure and shall have the right to request an informal hearing before a ~~designated~~ City official that the Director designates within 10 business days after such notification to determine whether the seizure was proper. Any café tables and chairs ~~and Display Merchandise~~ seized pursuant to this Section 176.9 shall be retained by the City and may be recovered as provided herein.

(b) Seized café tables and chairs and Display Merchandise shall be retained by the City ~~and County~~ and may be recovered by the responsible party for a period of at least 10 business days following seizure. As a condition of recovering any café tables and chairs and Display Merchandise properly seized pursuant to this Section 176.9, the ~~person~~ responsible party for such café tables and chairs and Display Merchandise shall pay an impound fee covering the actual cost to the City of transporting and storing such café tables and chairs and Display Merchandise.

Section 4. The Public Works Code is hereby amended by deleting Article 5.3, consisting of Sections 183, 183-1, 183-2, 183-3, 183-4, 183-5, 183-6, and 183-7 in its entirety.

~~**ARTICLE 5.3:**~~

~~**DISPLAY OF FRUITS AND VEGETABLES OR NONFOOD MERCHANDISE ON
PUBLIC SIDEWALKS**~~

1 ***SEC. 183. AUTHORITY TO ISSUE PERMITS.***

2 ~~—(a) The Director of Public Works is hereby authorized and empowered to issue revocable~~
3 ~~permits for the placement of display stands used for the purpose of displaying fruits, vegetables, living~~
4 ~~plants, cut flowers and nonfood merchandise in any area in public sidewalk areas contiguous to~~
5 ~~business establishments in locations wherein retail commercial activity is permitted under the Planning~~
6 ~~Code except for those areas designated C-3 pursuant to Section 210.3 of the Planning Code.~~

7 ~~—(b) In determining the issuance of permits pursuant to Subsection (a) above, the Director of~~
8 ~~Public Works shall consider the convenience and necessity of pedestrians, property owners, occupants,~~
9 ~~tenants, or of offices, stores, or shops in the vicinity, the dimensions of the public sidewalk areas, the~~
10 ~~location of nearby fire hydrants, bus shelters and stops, newspaper racks and similar factors, and shall~~
11 ~~further consider the commercial or residential character of the neighborhood and the impact of the~~
12 ~~proposed display on adjacent residential properties. The Director of Public Works shall forward all~~
13 ~~applications for the sidewalk display of fruits and vegetables to the Department of Public Health for its~~
14 ~~review and comments prior to the issuance of permits and shall forward all applications for the~~
15 ~~sidewalk display of nonfood merchandise to the Police Department for its review and comments prior~~
16 ~~to the issuance of permits.~~

17 ***SEC. 183-1. APPLICATION FOR PERMITS; NOTICE OF INTENT TO DISPLAY***
18 ***MERCHANDISE.***

19 ~~—(a) Each application for a permit to place displays of fruits and vegetables or nonfood~~
20 ~~merchandise adjacent to a business establishment and each application to amend a permit previously~~
21 ~~issued hereunder shall state the name and address of the applicant and business nature of the~~
22 ~~establishment, a physical description of the sidewalk and of the portion of the sidewalk proposed to be~~
23 ~~occupied, the general category of items to be displayed, and a description of the display stand,~~
24 ~~including size and building materials used or to be used.~~

1 ~~—(b) The Department of Public Works shall provide a form entitled "Notice of Intent to~~
2 ~~Display Merchandise" to each applicant. It shall include the applicant's name, a brief description of the~~
3 ~~merchandise to be displayed and the proposed display stand configuration. It shall also include the~~
4 ~~following provision: "A public hearing by the Director of Public Works on the issuance of the permit~~
5 ~~will be held only if written objections are submitted to the Director of Public Works within 10 calendar~~
6 ~~days of the date the Notice of Intent to Display Merchandise was posted." The Notice of Intent shall be~~
7 ~~posted in a conspicuous location in a window or other readily visible location on the frontage of the~~
8 ~~applicant's business establishment for 10 calendar days. It shall be clearly visible from the public~~
9 ~~sidewalk, alley, or street and not obstructed by awnings, landscaping or other impediments to visibility.~~

10 **~~SEC. 183-2. INVESTIGATION AND INSPECTION RULES AND REGULATIONS.~~**

11 ~~—The Director of Public Works or his/her designee shall make all investigations and~~
12 ~~inspections necessary to the issuance of permits and shall have the power and authority to adopt and~~
13 ~~enforce such rules and regulations necessary for the protection of the public interest.~~

14 **~~SEC. 183-3. PERMIT: APPLICATION, PUBLIC HEARING, FEES, TERM, DISPLAY OF~~**
15 **~~PERMIT.~~**

16 ~~—(a) No owner or operator of a business establishment shall occupy any portion of a public~~
17 ~~sidewalk with stands for the display of fruits and vegetables or nonfood merchandise without first~~
18 ~~obtaining a permit to do so in accordance with the provisions of Section 183-1 of this Article 5.3. The~~
19 ~~permit application shall be on a form provided by the Department of Public Works, which form shall~~
20 ~~include the following provision: "The applicant hereby affirms that the applicant is not prohibited by~~
21 ~~any lease or rental agreement from locating a display on the sidewalk adjacent to applicant's place of~~
22 ~~business." Each application for a permit or an amendment to a permit shall be signed under penalty of~~
23 ~~perjury and must be accompanied by a check or money order in the amount of \$100 payable to the~~
24 ~~Department of Public Works. In addition, a permit fee of a minimum of \$4.80 for each square foot of~~
25 ~~sidewalk to be occupied by display stands authorized by the permit shall be collected from each~~

1 ~~applicant by the Department of Public Works at the time the permit is issued. For permits commencing~~
2 ~~on or after April 1, 2026, no per square foot permit fee under this Section 183-1 shall be due, but the~~
3 ~~\$100 application fee shall continue to apply.~~

4 ~~—(b) No later than 21 days after the 10 calendar day display period has expired, the Director~~
5 ~~of Public Works or his/her designee shall hold a public hearing on issuance of permits for which~~
6 ~~written objections have been timely received. At least 10 days prior to the date of the hearing, notice of~~
7 ~~said hearing shall be mailed to the applicant and all persons who have submitted written objections to~~
8 ~~the Director of Public Works. In the event that written objections are submitted by standardized or~~
9 ~~duplicate forms, one person submitting such objections shall be designated by the written objection to~~
10 ~~receive notice of the public hearing. Such notice shall clearly state the date, time, place and purpose of~~
11 ~~the hearing. Upon receipt, the applicant shall post a true and correct copy of said notice in a~~
12 ~~conspicuous location in a window or other readily visible location on the frontage of the applicant's~~
13 ~~business establishment. It shall be clearly visible from the public sidewalk, alley, or street and not~~
14 ~~obstructed by awnings, landscaping or other impediments to visibility.~~

15 ~~—During such hearing or hearings, any interested person shall have an opportunity to be heard,~~
16 ~~subject to any rules of procedure adopted by the Director of Public Works.~~

17 ~~—(c) Within 15 days of the completion of the hearing or hearings, the Director of Public~~
18 ~~Works shall issue a written decision as to whether the permit shall be issued and what conditions, if~~
19 ~~any, in addition to those provided for in this Section shall be imposed. Said decision shall be mailed to~~
20 ~~the applicant.~~

21 ~~—(d) A permit issued pursuant hereto shall remain valid until revoked, until such time as the~~
22 ~~applicant no longer owns or operates said business establishment, until the time period for which the~~
23 ~~permit shall remain valid, as determined by the Director of Public Works, has expired, or until one~~
24 ~~year from the date the permit was issued, whichever occurs earlier. Said permit shall be displayed in a~~
25 ~~conspicuous location in a window or other readily visible location on the frontage of the applicant's~~

1 ~~business establishment. It shall be clearly visible from the public sidewalk, alley, or street and not~~
2 ~~obstructed by awnings, landscaping or other impediments to visibility.~~

3 **~~SEC. 183-4. CONDITIONS AND RESTRICTIONS.~~**

4 ~~—The issuance of permits and the maintenance of stands for display of fruits and vegetables or~~
5 ~~nonfood merchandise in front of business establishments by the permittee shall be subject to the~~
6 ~~following conditions and restrictions as well as such other conditions and restrictions as may be~~
7 ~~imposed by the Director of Public Works or his/her designee:~~

8 ~~—(a) Stands for the display of fruits and vegetables or nonfood merchandise shall be confined~~
9 ~~to an area approved by the Director of Public Works.~~

10 ~~—(b) The fruits and vegetables or nonfood merchandise displayed on the sidewalk shall be the~~
11 ~~same as displayed for sale on the premises in the business operated by the permittee.~~

12 ~~—(c) Fruits, vegetables or nonfood merchandise shall be displayed on a stand approved by the~~
13 ~~Director of Public Works or his/her designee.~~

14 ~~—(d) The display stands permitted by this Section shall be a minimum of 2½ feet and a~~
15 ~~maximum of six feet above the sidewalk, and shall extend into the sidewalk no more than 24 inches or~~
16 ~~25 percent of the width, whichever is less, from the front of the building. All display stands shall meet~~
17 ~~the guidelines established by the Director of Public Works for compliance with the disability access~~
18 ~~standards of the Americans with Disabilities Act (ADA) and Part II of Title 24 of the California Code of~~
19 ~~Regulations.~~

20 ~~—(e) All fruits and vegetables shall be protected by an awning.~~

21 ~~—(f) All display stands shall be promptly removed from the sidewalk at the end of each~~
22 ~~business day.~~

23 ~~—(g) The permittee shall maintain the sidewalk in a clean condition at all times.~~

24 ~~—(h) The permittee shall keep the sidewalk area not occupied by the display stand free of~~
25 ~~obstructions at all times.~~

1 ~~—(i) There shall be no liability on the City or upon any of its officers, agents or employees for~~
2 ~~any damage sustained by the permittee from any cause arising out of permitted activities. Furthermore,~~
3 ~~the permittee shall agree to indemnify, defend and hold harmless the City and County, its officers and~~
4 ~~employees from any liability arising out of permitted activities.~~

5 ~~—(j) Each permittee shall, at his own expense, maintain in full force and effect an insurance~~
6 ~~policy or policies issued by an insurance company or companies satisfactory to the City's Controller~~
7 ~~and Director of Public Works. Policy or policies shall afford liability insurance in an amount not less~~
8 ~~than \$1,000,000 covering all operations, including, but not limited to, premises, products, personal~~
9 ~~injuries and property damage or a combination of such injuries. Said policy or policies shall include~~
10 ~~the City and County of San Francisco and its officers and employees jointly and severally as additional~~
11 ~~insureds and shall apply as primary insurance and shall stipulate that no other insurance effected by~~
12 ~~the City and County of San Francisco will be called on to contribute to a loss covered hereunder. Said~~
13 ~~policy or policies shall provide 30 days notice to Controller, City and County of San Francisco, Room~~
14 ~~109, City Hall, and the Director of Public Works, Room 260, City Hall, if the policy or policies should~~
15 ~~be canceled or materially changed.~~

16 ~~—(k) Any assignment or sale of a permit issued under this Article is prohibited.~~

17 ~~—(l) Sidewalk areas shall not be painted, landscaped or altered in any way without prior~~
18 ~~written approval of the Department of Public Works.~~

19 ~~—(m) A permit issued under this Article does not constitute a deed or grant of an easement by~~
20 ~~the City and is revocable at any time at the will of the Director of Public Works or the Board of~~
21 ~~Supervisors.~~

22 **~~SEC. 183-5. PENALTIES; INVESTIGATION FEES; DISPLAY STANDS WITHOUT OR~~**
23 **~~IN VIOLATION OF A VALID PERMIT; APPEALS.~~**

24 ~~—(a) Any person violating the provisions of this Section shall be guilty of an infraction. Every~~
25 ~~violation determined to be an infraction is punishable by (1) a fine not exceeding \$100 for a first~~

1 ~~violation; (2) a fine not exceeding \$200 for a second violation within one year; (3) a fine not exceeding~~
2 ~~\$500 and revocation of the permittee's license issued pursuant to Section 183-2 of this Article for a~~
3 ~~third violation within one year.~~

4 ~~—In addition, fines may be imposed by the Department of Public Works for investigation of~~
5 ~~display stands being maintained without or in violation of a valid permit. The Director of Public Works~~
6 ~~shall establish a schedule of such fees. Payment of the fees shall be directly to the Department of Public~~
7 ~~Works.~~

8 ~~—The person responsible for payment of the fee may appeal the amount of the investigation fee~~
9 ~~to the Board of Permit Appeals, subject to its filing fees and rules.~~

10 ~~—(b) The nonpayment of such fee or fine, or the continued existence of a condition in violation~~
11 ~~of this Section, shall be grounds for the Director of Public Works to deny a permit for display stands to~~
12 ~~the responsible owner or applicant until such penalty has been paid and the condition corrected.~~

13 **~~SEC. 183-6. APPEAL OF DIRECTOR'S DECISION.~~**

14 ~~—Any decision on an application for a permit pursuant to this Section, may be appealed to the~~
15 ~~Board of Permit Appeals within 15 days of the issuance of a decision by the Director of Public Works.~~

16 **~~SEC. 183-7. REMOVAL OF DISPLAY STANDS.~~**

17 ~~—Any display stands placed in the public sidewalk without a validly issued permit may be seized~~
18 ~~and removed pursuant to this Section. Before any display stands are seized, the owner or operator of~~
19 ~~the business establishment fronting on the sidewalk from which the display stands are to be removed~~
20 ~~shall be given 10 business days in which to apply for a valid permit. If the responsible party does not~~
21 ~~make a good faith effort to submit a permit application pursuant to Section 183-2 herein within the time~~
22 ~~prescribed, the display stands may be seized and removed from their sidewalk location by the City.~~

23 ~~—Seized display stands shall be retained by the City and County and may be recovered by the~~
24 ~~responsible person for a period of at least 10 business days following seizure. As a condition of~~
25 ~~recovering any display stands seized pursuant to this Section, the person responsible for such display~~

1 ~~stands shall pay an impound fee equal to the actual cost to the City of transporting and storing such~~
2 ~~display stands.~~

3
4 Section 5. Article 15 of the Public Works Code is hereby amended by revising Section
5 723.2 to read as follows:

6 **SEC. 723.2. MINOR ENCROACHMENTS.**

7 (a) **Minor Encroachments.** The Director of the Department of Public Works
8 (“Department”) may grant permission, revocable at the Director’s will in accordance with
9 subsection (f), to an owner of property abutting any court, alley, or street to install and
10 maintain minor encroachments such as fences, retaining walls, steps or stairways, sidewalk
11 (pipe) barriers to control illegal vehicular parking or driving in sidewalk and public right-of-way
12 areas, and other minor structures in the sidewalk fronting such property where such
13 encroachments are desirable or convenient in conjunction with the owner’s use and
14 enjoyment of the property, or required for the safety, convenience, and comfort of the public
15 using the sidewalk. Pipelines or other portions of an alternate water source system
16 constructed within the public right-of-way for the purposes set forth in Article 12C of the Health
17 Code and in accordance with Health Code Section 12C.6 are minor encroachments subject to
18 the requirements of this Section 723.2. Tier 1 Projects and Tier 2 Projects, as defined in
19 Section 723.1(a), are minor encroachments subject to the requirements of this Section 723.2.
20 Appurtenant building features, as defined in Section 723.2(b)(5), are minor encroachments subject to
21 the requirements of this Section 723.2.

22 (b) **Requirements and Conditions.**

23 (1) **General.** Minor encroachments shall not occupy more than 10% of the area
24 of the sidewalk fronting the property nor more than 25% of the width of the sidewalk (together,
25 “Dimensional Requirements”), unless the Director determines that such restrictions are not

1 applicable due to the nature of the encroachment. The Director shall impose requirements
2 and conditions as the Director deems necessary or appropriate to protect the public peace,
3 safety, health, and welfare of pedestrians and other users of the sidewalks, public right-of-
4 way, and public property ("Conditions of Approval").- Conditions of Approval may include but
5 are not limited to periodic inspection, maintenance, and repair requirements. To memorialize
6 the Conditions of Approval, the Director may require the permittee to enter into a written
7 agreement that is recorded in the Office of the Assessor-Recorder. No advertisement shall be
8 permitted on the encroachments.

9 * * * *

10 **(3) Tier 2 Love Our Neighborhoods Projects.**

11 (i) Minor Encroachment Permits Required. Tier 2 Projects shall be
12 required to obtain a minor encroachment permit as provided in this Section 723.2. Prior to
13 submitting a minor encroachment permit application for a Tier 2 Project, the permit applicant
14 must obtain all necessary approvals from City departments and agencies including but not
15 limited to the Arts Commission and the Civic Design Review Committee, as may be
16 applicable.

17 (ii) Neighborhood Notice for Murals; Compliance With Department
18 Specifications. A permit applicant proposing a Mural shall submit a signed declaration
19 identifying the steward of the Mural who will be responsible for maintaining, repairing, and
20 removing the Mural for a period of five years. In addition, the permit applicant shall provide
21 mailed notice of the application to the owner or owners of record of all units of real property
22 within 250 feet of the proposed location of the Mural. All Murals shall comply with all
23 requirements and specifications determined by the Department including but not limited to
24 requirements pertaining to slip resistance, dimensions, durability, and removability of media
25 and materials.

1 **(4) Sidewalk (Pipe) Barriers.** The Department of Public Works may grant permission,
2 revocable at the will of the Director of Public Works, to owners of property abutting any court,
3 alley, or narrow street to install and maintain sidewalk (pipe) barriers, also referred to as
4 bollards, of an approved design, spacing, and location in the sidewalk fronting their property
5 where necessary to control illegal vehicular parking or driving in sidewalk areas. Before the
6 issuance of a permit for sidewalk (pipe) barriers, the applicant shall be required to pay to the
7 Department, as an inspection fee, the sum of \$100 for each 25 feet, or fractional part thereof,
8 of the sidewalk frontage of the property.

9 **(5) Appurtenant Building Features.** *The owner of real property, or the owner's*
10 *authorized agent, shall not be required to obtain a permit from the Department prior to the installation*
11 *of the following types of appurtenant building features, provided they satisfy all of the applicable*
12 *requirements as set forth in the Department's orders and regulations, including maintenance of a clear*
13 *path of travel from the public right-of-way to the face of the building. An "Appurtenant Building*
14 *Feature" is:*

15 *(i) An element affixed to any building extending no more than four inches into*
16 *the public right-of-way.*

17 *(ii) An minor element affixed to a building where such element has been*
18 *authorized by a building permit. These may include utility fixtures, water spouts, standpipes, out-*
19 *swinging doors, and security gates. This does not include any awning with fixed vertical posts that are*
20 *placed on the public right-of-way.*

21 *(iii) An element affixed to or immediately adjacent to the face of any building*
22 *where such element is authorized by a building permit and constructed exclusively for compliance with*
23 *any applicable accessibility standard, including but not limited to any requirement of the Americans*
24 *with Disabilities Act. These may include door actuators and wheelchair lifts.*
25

1 (iv) Any other elements the Department classifies as a permissible Appurtenant
2 Building Feature in the Department's orders and regulations implementing this Section 723.2.

3 (6) Other Public Works Permits May Be Required. Notwithstanding the provisions of
4 Subsection (b)(5), if installation of the Appurtenant Building Feature requires other Public Works
5 authorizations or permits, e.g., a Street Improvement Permit in accordance with Section 708, the owner
6 shall obtain such authorizations or permits.

7 * * * *

8 **(e) Indemnification, Security, and Insurance Requirements.**

9 (1) For minor encroachment permits ~~issued, and~~ Tier 1 Projects registered
10 pursuant to Section 723.2, and Appurtenant Building Features authorized in Section 723.2(b)(5),
11 the ~~The~~ owner of the real property or the owner's authorized agent applying for a permit, ~~or~~
12 registering a Tier 1 Project under the provisions of Section 723.2, or installing and maintaining
13 Appurtenant Building Features under Section 723.2(b)(5), shall agree to hold harmless, defend,
14 and indemnify the City and County of San Francisco, including, without limitation, each of its
15 commissions, departments, officers, agents, and employees, from and against all losses,
16 liabilities, expenses, actions, claims, demands, injuries, damages, fines, penalties, suits,
17 costs, or judgments, including, without limitation, attorneys' fees and costs (collectively,
18 "Claims"), caused by reason of the installation or maintenance of the encroachment in the
19 public right-of-way, and the owner or owners or subsequent owner or owners of the respective
20 real property shall be solely liable for any Claims occasioned by any act or neglect in respect
21 to the installation or maintenance of the encroachments in the sidewalk.

22 (2) The Director may require the recipient of a minor encroachment permit or
23 the owner of real property with an authorized minor encroachment to furnish a bond, or other
24 form of security that is acceptable to the Director, in an amount required to complete the
25 installation of the encroachment remove the encroachments, and restore the public right-of-

1 way to a condition satisfactory to the Director based on a cost that the City Engineer
2 determines. The permittee shall provide evidence to the Department that the bond or other
3 security is operative on an annual basis.

4 (3) For an encroachment with construction costs equal to or greater than
5 \$50,000, the Director may require the recipient of a minor encroachment permit or the owner
6 of real property adjacent to an authorized Tier 1 Project to furnish evidence of an insurance
7 policy that is satisfactory to the City's Risk Manager. Such insurance shall in no way relieve or
8 decrease a permittee's or its agents' obligation to indemnify the City under this subsection (d).

9 (f) **Recordation.** Each permit issued under the provisions of this Section 723.2 shall
10 not become effective until the permit has been signed by the permittee or the permittee's
11 authorized agent and, where the permittee owns the property adjacent to the encroachment, a
12 copy thereof has been recorded in the office of the Assessor-Recorder. The Department, in
13 the Department's sole authority, may require the owner of the real property adjacent to a Tier
14 1 Project who is the registrant of the Tier 1 Project, or the owner of the real property adjacent to
15 Appurtenant Building Features authorized in Section 723.2(b)(5). to record in the office of the
16 Assessor-Recorder the owner's acknowledgment of the owner's liability for any injury or
17 Claims, as defined in Section 723.2(e)(1), caused by the Tier 1 Project or the Appurtenant
18 Building Features authorized in Section 723.2(b)(5).

19 (g) **Revocation.**

20 (1) The Director is authorized to initiate proceedings to revoke the permit or
21 authorization of a minor encroachment upon the Director's determination that a permittee,
22 steward, or owner of real property adjacent to the minor encroachment has failed to comply
23 with the any of the Conditions of Approval; that a minor encroachment, whether or not it is
24 associated with an issued permit, poses a threat to public safety, health, or welfare; or that all
25 or a portion of the public right-of-way on which a minor encroachment is located is required for

1 a different public purpose. To initiate revocation proceedings, the Director shall provide the
2 permittee, the adjacent property owner, and the steward, if applicable, with written notification
3 of the time and date of a public hearing to consider the grounds for revoking, modifying, or
4 suspending the minor encroachment permit or, as may be applicable, the City's authorization
5 of an encroachment without issuance of a permit. This notification may include requirements
6 that would apply to restoration of the public right-of-way as set forth in Section 723.2(g)(2).
7 Following the public hearing, the Director may issue an order revoking or modifying the minor
8 encroachment permit and/or authorization of a minor encroachment for good cause. If the
9 failure to comply with the Conditions of Approval poses an imminent threat to public safety,
10 health, or welfare, the Director shall immediately suspend the minor encroachment permit or
11 authorization of a minor encroachment pending a final decision to revoke or modify the minor
12 encroachment permit or authorization of a minor encroachment. The Director's modification,
13 revocation, or suspension of a minor encroachment permit or authorization of a minor
14 encroachment may be appealed under subsection (g).

15 (2) Following the revocation of a minor encroachment permit or authorization of
16 a minor encroachment, the former permittee, the owner of real property formerly authorized to
17 place a Tier 1 Project on the sidewalk adjacent to the owner's real property, or the steward, as
18 may be applicable, or the owner of real property authorized to install Appurtenant Building Features
19 as defined in Section 723.2(b)(5), shall restore the public right-of-way to a condition satisfactory
20 to the Director. Any restoration shall occur at the sole and absolute expense of the former
21 permittee, the owner of real property formerly authorized to place a Tier 1 Project on the
22 sidewalk adjacent to the owner's real property, or the steward, as may be applicable, or the
23 owner of real property authorized to install Appurtenant Building Features as defined in Section
24 723.2(b)(5).

25 * * * *

1 (n) Unless otherwise provided in the Section 723.2, the Department shall collect a
2 public right-of-way occupancy assessment fee for the use of the sidewalk or other public right-
3 of-way space permitted under the provisions of this Section 723.2.

4 (1) In accordance with this subsection (n) the public right-of-way occupancy
5 assessment fee for minor encroachments, whether permitted or unpermitted and as specified
6 in subsection (n)(2), shall be an annual fee of \$3 per square foot of occupancy of the sidewalk
7 or other public right-of-way space. For purposes of calculating the assessment fee, the
8 Department shall charge no less than \$100 per year even though the calculated square
9 footage charge for the encroachment may result in a smaller assessment fee.

10 * * * *

11 (13) Notwithstanding subsection (n) of this Section 723.2, no public right-of-way
12 occupancy assessment fee shall be charged for ~~any encroachment that is appurtenant to any~~
13 ~~building and that is constructed exclusively for compliance with any applicable accessibility standard,~~
14 ~~including but not limited to any requirement of the Americans with Disabilities Act~~ Appurtenant
15 Building Features authorized in Section 723.2(b)(5).

16
17 Section 6. Chapter 94A of the Administrative Code is hereby amended by revising
18 Sections 94A.2, 94A.6, and 94A.10 to read as follows:

19 **SEC. 94A.2. DEFINITIONS.**

20 For purposes of this Chapter 94A, the following definitions shall apply:

21 * * * *

22 "Sidewalk Shared Space" is a Shared Space with activities occurring on a portion of
23 sidewalk. A Sidewalk Shared Space does not include the authorized placement of café tables and
24 chairs or Display Merchandise under Article 5.2 of the Public Works Code.

1 “Temporary Closure” has the same meaning as the term is defined in Section 101 of
2 Division II of the Transportation Code.

3
4 **SEC. 94A.6. OPERATIONAL REQUIREMENTS.**

5 **(a) Applicability of Requirements.** The Operational Requirements set forth in
6 subsection (b) below shall apply to all Shared Spaces except as follows:

7 (1) The applicability of the Operational Requirements to a Shared Space within
8 the jurisdiction of the MTA requires the MTA’s approval.

9 (2) One or more of the Operational Requirements may not be warranted or
10 appropriate for a particular Shared Space or event occurring at a Shared Space, due to
11 special circumstances. In such situations: the Director of Real Estate (for a City Lot Shared
12 Space), the Director of Public Works (for a Curbside Shared Space or Sidewalk Shared
13 Space), or the Director of MTA (for a Roadway Shared Space) may grant a non-material
14 exception or other minor amendment to the Good Neighbor Policies set forth in subsection
15 (b)(8) or waive or modify one or more of the other Operational Requirements if the Director
16 finds, in the Director’s sole discretion, that the Requirement is not warranted or appropriate for
17 a particular Shared Space or event and that the public interest would be served by granting
18 the waiver or modification or exception.

19 **(b) Operational Requirements.**

20 * * * *

21 (9) Additional Operational Requirements.

22 (A) Sidewalk Path of Travel for Sidewalk Shared Spaces. Sidewalk
23 Shared Space Permittees shall provide a path of unimpeded access at least eight feet wide
24 across the sidewalk fronting their Shared Space, unless Public Works determines that such
25 unimpeded access is not physically feasible due to the width of the sidewalk in relation to

1 fixed obstacles on the sidewalk, including but not limited to trees, parking meters, garbage
2 cans, benches, or bike parking fixtures. All Sidewalk Shared Space Permittees who cannot
3 provide an eight-foot wide path of access as described above, ~~and any permittee holding a valid~~
4 ~~Tables and Chairs permit pursuant to Public Works Code Article 5.2 and Public Works Order 183,188,~~
5 ~~as of the effective date of the Ordinance contained in Board of Supervisors File No. 210284,~~ must
6 provide a path of unimpeded access at least six feet wide across the sidewalk fronting their
7 Shared Space. Sidewalk Shared Space Permittees must post signage stating the minimum
8 path of travel that must be maintained at all times.

9 (B) Site Treatments for Curbside Shared Spaces. Any design guidelines
10 issued by Public Works or the MTA for Curbside Shared Spaces shall include the obligation to
11 maximize visibility for safety, including, but not limited, to installation of reflective materials or
12 soft hit posts.

13 (C) Because Shared Spaces are intended to be publicly accessible open
14 spaces, private dining and table service shall not be permitted in Sidewalk Shared Spaces,
15 Curbside Shared Spaces, or Roadway Shared Spaces, unless expressly authorized in the
16 Shared Space Permit. Any approved use of a Sidewalk, Curbside, or Roadway Shared Space
17 for private dining and table service is limited to the normal hours of the business's operation.
18 Any business that uses a Shared Space exclusively for private dining and table service must
19 provide public seating consistent with Section 94A.6(b)(1).

20 21 **SEC. 94A.10. FEES.**

22 (a) Shared Space Permit and License Fees. Pursuant to subsection 94A.5(c)(1), a
23 Shared Space Permit substitutes for a permit that would otherwise be required by the
24 Municipal Code. Notwithstanding any other provision of the Municipal Code including Public
25 Works Code Section 2.1.3, the permit and license fees may be adjusted each year, without

1 further action by the Board of Supervisors, only to reflect changes in the relevant Consumer
2 Price Index, as determined by the Controller.

3 (1) Public Works shall assess Sidewalk Shared Spaces permit and license fees
4 using the fees authorized in Article 2.1 of the Public Works Code. The fees to be imposed
5 shall be based on the proposed scope of the Sidewalk Shared Spaces Permit ~~(e.g. sidewalk~~
6 ~~tables and chairs,~~ or other appropriate permit types).

7 * * * *

8
9 Section 7. For purposes of this Ordinance, any permittee in good standing who has an
10 active permit from Public Works for the placement of café tables and chairs or Display
11 Merchandise, pursuant to under Public Works Code Article 5.2 and Article 5.3, respectively,
12 prior to the Effective Date of this Ordinance shall not be required to submit the registration
13 application specified in Public Works Code Section 176.2 until their first annual renewal
14 occurring after the Effective Date of this Ordinance. Any such permittee that received a
15 variance from Public Works regulations for the placement of café tables and chairs, pursuant
16 to under Public Works Code Section 176.4, prior to the Effective Date of this Ordinance shall
17 not be required to seek a new variance from the Public Works.

18
19 Section 8. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

23
24 Section 9. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
3 additions, and Board amendment deletions in accordance with the “Note” that appears under
4 the official title of the ordinance.

5
6 APPROVED AS TO FORM:
7 DAVID CHIU, City Attorney

8 By: /s/ JOHN D. MALAMUT
9 JOHN D. MALAMUT
Deputy City Attorney

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LEGISLATIVE DIGEST

[Public Works, Administrative Codes - Café Tables and Chairs, Display Merchandise, Appurtenant Building Features, and Sidewalk Shared Spaces]

Ordinance amending the Public Works Code to streamline the approval of certain encroachments in the public right-of-way, to establish a registration requirement in place of all permit requirements and fees for café tables and chairs and display merchandise, and to eliminate minor encroachment permit requirements and right-of-way occupancy fees for appurtenant building features; amending the Administrative Code to exempt café tables and chairs and display merchandise from the Shared Spaces Program; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The Public Works Code includes a variety of permit programs for discrete types of encroachments on the public right-of-way. Article 5.2, Sections 176 et seq. establishes a permit program and associated fees, including annual occupancy fees, for café tables and chairs. Article 5.3, Sections 183 et seq. establishes a permit program and associated fees, including annual occupancy fees, for Display of Fruits, Vegetables, and Nonfood Merchandise. Article 15, Section 723.2 establishes a program for minor sidewalk encroachments that meet certain dimensional requirements and are installed on, above, or in the sidewalk. These minor sidewalk encroachments also are associated with fees, including annual occupancy fees. Administrative Code Chapter 94A establishes a permitting framework for the Shared Spaces Program. A component of this Program is sidewalk shared spaces that are placed on the sidewalk.

Amendments to Current Law

This ordinance would establish a registration requirement in lieu of a permit for café tables and chairs and display merchandise placed on the public right-of-way, and consolidate this program in Article 5.2 of the Public Works Code. The legislation also would eliminate the permit requirement for certain minor sidewalk encroachments, defined in the ordinance as appurtenant building features, where the City approves the encroachment as part of a building permit. These features would include, but are not limited to, encroachments that are needed exclusively for compliance with the Americans with Disabilities Act, such as a wheel chair lift. The ordinance would waive the annual occupancy assessment fee for these three categories of encroachments. The legislation also would delete references to café tables and chairs and display merchandise permits in Administrative Code Chapter 94A as they relate to sidewalk shared spaces.

Background Information

This legislation is part of the PermitSF streamlining effort.

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