

1 [Public Works Code Permit Fees and Assessments.]

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3 **Ordinance adding Article 2.1 of the Public Works Code to add sections 2.1.1, 2.1.2,**
4 **2.1.3, and 2.1.4 concerning permit fees and occupancy assessments, specifying**
5 **procedures to establish such permit fees and assessments, amending section 2.4.45 to**
6 **modify the procedures for fee review and adjustments, and making environmental**
7 **findings.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The Planning Department has determined that the actions contemplated in
14 this Ordinance are in compliance with the California Environmental Quality Act (California
15 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of
16 the Board of Supervisors in File No. _____ and is incorporated herein by reference.

17 Section 2. The San Francisco Public Works Code is hereby amended by adding Article
18 2.1 and Sections 2.1.1, 2.1.2, 2.1.3, and 2.1.4 to read as follows:

19 Article 2.1 FEES

20 Sec. 2.1.1. Fee and Assessment Schedule Establishment.

21 Notwithstanding the permit fee provisions listed elsewhere in this Code, the Director of
22 Public Works is authorized to establish a permit fee and assessment schedule for the permit
23 categories and uses specifically listed below:

24 (a) Street Flower Market Permit pursuant to Article 5 (sections 155 et seq.);

25 (b) Tables and Chairs Permit pursuant to Article 5.2 (sections 176 et seq.);

(c) Display Merchandise Permit pursuant to Article 5.3 (sections 183 et seq.);

1 (d) Street Improvement Permit in an accepted or unaccepted right-of-way in order to
2 satisfy requirements under sections 416, 706, 708, and 724.2;

3 (e) Special Sidewalk Permit pursuant to section 703.1;

4 (f) Automobile Runway (Driveway) Permits pursuant to sections 715 et seq.

5 (i) Standard Permit; and

6 (ii) Over-wide Driveway Permit;

7 (g) Pipe Barrier Permit pursuant to section 723.1

8 (i) Standard Permit; and

9 (ii) Security Bollard Barrier;

10 (h) Minor Sidewalk Encroachment Permit pursuant to section 723.2

11 (i) Standard Permit;

12 (ii) Underground Storage Tank Abandonment;

13 (iii) Underground Vault, which shall be comprised of: (A) a permit fee and (B)
14 an annual occupancy assessment cost per 100 square feet of occupied space;

15 (iv) Underground Vaults with validly issued permits prior to July 1, 2003 shall be
16 subject to the annual occupancy assessment cost beginning January 1, 2004;

17 (i) Debris Box Permit pursuant to section 725

18 (i) 7-day Permit; and

19 (ii) Annual Permit;

20 (j) Encroachment Permit pursuant to section 786;

21 (k) Commemorative Plaque Permit pursuant to section 789.2.

22 Section 2.1.2. Fee and Assessment Review and Adjustment.

23 (a) Beginning with fiscal year 2004-2005, the fees and occupancy assessment costs
24 which are established for the permit categories and uses set forth in section 2.1.1 for fiscal
25 year 2003-2004 may be adjusted each year, without further action by the Board of

1 Supervisors, to reflect changes in the relevant Consumer Price Index, as determined by the
2 Controller. No later than April 15th of each year, the Director shall submit the Department's
3 current fees and occupancy assessment costs schedule to the Controller, who shall apply the
4 price index adjustment to produce a new fee schedule and occupancy assessment for the
5 following year. No later than May 15th of each year, the Controller shall file a report with the
6 Board of Supervisors reporting the new fee schedule and occupancy assessment and
7 certifying that: (a) the fees produce sufficient revenue to support the costs of providing the
8 services for which the fee is charged and (b) the fees do not produce revenue that exceeds
9 the costs of providing the services for which each permit fee is charged. Notwithstanding the
10 above, the Board of Supervisors, in its discretion, may modify the fees or occupancy
11 assessment costs by ordinance at any time.

12 Section 2.1.3. Additional Fees. In instances where administration or processing of any
13 permit is or will exceed the fee amount established pursuant to section 2.1.1 or 2.1.2, the
14 Director, in his or her discretion, may require an applicant or permittee to pay any sum in
15 excess of the subject fee amounts. This additional sum shall be sufficient to recover actual
16 costs incurred by the Department and shall be charged on a time and materials basis. The
17 Director also may charge for any time and materials costs incurred by other agencies, boards,
18 commissions, or departments of the City in connection with the processing or administration of
19 a particular application or permit. Whenever additional fees are or will be charged, the
20 Director, upon request of the applicant or permittee, shall provide in writing the basis for the
21 additional fees or an estimate of the additional fees to be charged.

22 Section 2.1.4. Fee and Occupancy Assessment Calculation Method. Establishment of
23 the fees for each permit category and use specified in section 2.1.1 shall be based on the
24 Department's actual costs to process and administer the particular permit category or use.
25 Said fees may include the actual costs incurred by other agencies, boards, commissions, or

1 departments of the City in connection with the processing or administration of a particular
2 application or permit if said costs are not charged pursuant to section 2.1.3. The occupancy
3 assessment costs specified in section 2.1.1 shall be based on fair market value. The Director
4 shall codify the fee and assessment schedule by departmental order. Any adjustment in fees
5 and assessments pursuant to section 2.1.2 also shall be codified by departmental order. The
6 fee and assessment schedule shall be effective on the date that the departmental order is
7 issued, but in no case shall the schedule become effective before the beginning of the fiscal
8 year for which the schedule has been adjusted.

9 Section 3. Establishment of the initial fee and assessment schedule specified in Public
10 Works Code section 2.1.1 shall not be effective until all of the following actions have been
11 completed:

12 (a) This Ordinance shall be in effect;

13 (b) The Director of Public Works shall submit to the Controller and the Planning
14 Department's Environmental Compliance Officer written documentation that demonstrates the
15 proposed fee and assessment schedule satisfies the requirements of Public Works Code
16 section 2.1.4.

17 (c) The Controller shall submit written certification to the Director and the Clerk of the
18 Board of Supervisors that the fees and assessments specified in the Director's proposal are
19 consistent with the charges that are authorized under Public Works Code section 2.1.4. The
20 Controller's verification shall be on file with the Clerk of the Board of Supervisors in File No.
21 ;

22 (d) The Environmental Compliance Officer shall submit written certification to the
23 Director and the Clerk of the Board of Supervisors that the fees and assessments
24 contemplated in the Director's proposal are in compliance with the California Environmental
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1 Quality Act (California Public Resources Code sections 21000 et seq.). This verification shall
2 be on file with the Clerk of the Board of Supervisors in File No. ;

3 (e) The Director shall make available for public review all written documentation
4 prepared in relation to the proposed fee and assessment schedule. Said materials shall be
5 available for review by appointment at the Director's Office, City Hall, 1 Dr. Carlton B.
6 Goodlett Place, Room 348;

7 (f) The Director shall hold a public hearing on the proposed schedule;

8 (g) Notice of the public hearing shall be provided in the following manner:

9 (i) Notice of the date, time, and location of the hearing shall be published in a
10 newspaper of general circulation and the Department's website for at least two weeks prior to
11 the public hearing;

12 (ii) Notice of the date, time, and location of the hearing shall be posted outside
13 the hearing room for at least one week before the hearing;

14 (iii) At least one week before the hearing, notice of the date, time, and location
15 of the hearing shall be mailed to all those individuals or organizations that requested such
16 notice;

17 (h) The Director shall appoint an administrative hearing officer to conduct the hearing.
18 Said hearing shall be tape recorded;

19 (i) Within 10 days after the public hearing, the hearing officer shall submit a written
20 recommendation on the proposed fee schedule along with copies of all materials submitted at
21 the hearing and a copy of the hearing tape to the Director;

22 (j) After review of the hearing record, the Director shall approve, deny, or modify the
23 hearing officer's recommendation and shall issue a tentative decision on the establishment of
24 fees and assessments to the Controller.

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1 (k) If the Controller determines that any of the fees or assessments exceed the
2 charges specified in Public Works Code section 2.1.4 as set forth in the Controller's
3 certification, such fees or assessments may not be established; provided, however, the
4 Director, in his or her discretion, may reintroduce the subject fees or assessments. If the
5 Director elects to reintroduce fees or assessments, the Director shall proceed through the
6 steps of this Section beginning with subsection (b) until such fees and assessments satisfy
7 the requirements of subsection (l). If the Controller determines that any of the fees or
8 assessments are less than the charges specified in Public Works Code section 2.1.4 as set
9 forth in the Controller's certification, the Director must obtain Board of Supervisors approval,
10 by ordinance, for such charges. The provisions of this subsection shall not affect the
11 Director's ability to establish fees or assessments that satisfy the requirements of subsection
12 (l).

13 (l) If the Controller determines that some or all of fees or assessments specified in the
14 Director's tentative decision are consistent with the charges set forth in the Controller's
15 certification, the Director shall issue a Departmental Order establishing said fees and
16 assessments. A copy of said Order shall be submitted to the Clerk of the Board of
17 Supervisors and placed in File No. .

18 Section 4. To the extent the fees established pursuant to this Ordinance affect existing
19 permits issued or renewed on an annual basis, the provisions set forth herein shall apply to
20 those permits upon the date of issuance or renewal of the specific permit.

21 Section 5. The San Francisco Public Works Code is hereby amended by amending
22 Section 2.4.45 to read as follows:

23 SEC. 2.4.45. REPORT TO BOARD OF SUPERVISORS AND PROCEDURES FOR FEE
24 ADJUSTMENTS.

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1 (a) Street Damage Restoration Fee Adjustment. Within one year after adoption or
2 amendment of the street damage restoration fee ~~or other fees~~ set forth in this Subarticle, and
3 every three years thereafter, the Director shall review the proceeds of the street damage
4 restoration fee ~~and such other fees, the costs of repaving and reconstruction reasonably attributed to~~
5 ~~excavation in City streets, the City's costs to administer this Article and inspect excavations,~~ and any
6 other new information that shall become available, and prepare a report to the Board of
7 Supervisors. Based upon the result of the review, the Director shall recommend to the Board
8 of Supervisors any necessary adjustments to ~~the~~ such fee, along with written justification for
9 the recommended adjustment and any necessary legislation. In the event that fee proceeds
10 have exceeded, or are anticipated to exceed, the costs for street repaving and reconstruction
11 reasonably attributable to excavation ~~or the City's costs to administer this Article or inspect~~
12 ~~excavations,~~ the Director shall recommend legislation to the Board of Supervisors that modifies
13 ~~the applicable~~ such fee to ensure that fee proceeds do not exceed the costs for street repaving
14 and reconstruction reasonably attributable to excavation ~~or the City's costs to administer this~~
15 ~~Article or inspect excavations.~~ In the event that fee proceeds have undercollected, or are
16 anticipated to undercollect, for the costs for street repaving and reconstruction reasonably
17 attributable to excavation or the City's costs to administer this Article or inspect excavations, the
18 Director may recommend legislation to the Board of Supervisors that modifies the applicable
19 fee to more accurately recover the costs for street repaving and reconstruction reasonably
20 attributable to excavation ~~or the City's costs to administer this Article or inspect excavations.~~

21 (b) Administrative and Inspection Fees Adjustment. The procedures to review and adjust the
22 fees specified in Sections 2.4.41 and 2.4.42 shall be the procedures for fee review and adjustment set
23 forth in Section 2.1.2.

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

By: _____
John D. Malamut
Deputy City Attorney