

1 [Public Works Code - Minor Sidewalk Encroachments at the Mission Rock, Pier 70, and
2 Potrero Power Station Projects]

3 **Ordinance amending the Public Works Code to designate the Port of San Francisco,**
4 **instead of the Department of Public Works, as responsible for permitting tables,**
5 **seating, and other minor encroachments on the public sidewalks at the Mission Rock,**
6 **Pier 70, and Potrero Power Station projects; and affirming the Planning Department’s**
7 **determination under the California Environmental Quality Act, and making findings of**
8 **consistency with the eight priority policies of Planning Code, Section 101.1.**

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

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

17 Section 1. Background and Findings.

18 (a) The Board of Supervisors (the “Board”) previously approved Development
19 Agreements for the Mission Rock, Pier 70, and Potrero Power Station projects (collectively,
20 “Development Agreements”), copies of which are on file with the Clerk of the Board in File
21 Nos. 171313, 170863, and 200040, respectively. Pursuant to the Development Agreements,
22 these projects are being developed by private developers on land owned by the City, acting
23 by and through its Port Commission (“Port”). The Development Agreements require the
24 developers to build specified infrastructure, including public streets, sidewalks, and utilities, as
25 part of the overall projects, including certain roadway and sidewalk improvements comprising
Public Right-of-Ways, as defined in Public Works Code Section 2.4.4. This infrastructure will

1 be offered for public dedication to the City as public roadways and sidewalks that are
2 anticipated to be placed under the jurisdiction of the Department of Public Works (“Public
3 Works”) following the Board’s acceptance and public dedication of these roadways and
4 sidewalks (“Port DA Project Accepted Improvements”). Currently, the Port DA Project
5 Accepted Improvements in Mission Rock and Pier 70 are those specified in Public Works
6 Order Nos. 211444 and 210239, respectively, which are incorporated by reference herein and
7 are on file with the Clerk of the Board in File Nos. 250187 and 240087, respectively. The
8 infrastructure in Potrero Power Station is anticipated to be considered by the Board for
9 acceptance in late 2025. Upon acceptance, said infrastructure will also comprise Port DA
10 Project Accepted Improvements.

11 (b) This ordinance provides that the Port, and not Public Works, will regulate specified
12 minor encroachments on the sidewalk portions of the Port DA Project Accepted
13 Improvements.

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15 Section 2. Environmental and Land Use Findings.

16 (a) In a letter dated February 6, 2025 (“Planning Department Letter”), the Planning
17 Department determined that the actions contemplated in this ordinance comply with the
18 California Environmental Quality Act (California Public Resources Code Sections 21000 et
19 seq.) and do not trigger the need for subsequent environmental review. Said determination is
20 on file with the Clerk of the Board in File No. 250187 and is incorporated herein by reference.

21 (b) In this same letter, the Planning Department determined that the actions
22 contemplated in this ordinance are consistent, on balance, with the eight priority policies of
23 Planning Code Section 101.1.

24 (c) The Board adopts as its own the environmental findings and Planning Code
25 Section 101.1 consistency findings in the Planning Department Letter.

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Section 3. Port Commission Actions.

The Board of Supervisors has reviewed, acknowledges, and approves the actions of the Port Commission, as described in its Resolution No. 25-07 and acknowledged at the Port Commission’s February 11, 2025 meeting, to accept responsibility, including any associated liability, for regulation and enforcement of specified minor encroachments on certain sidewalk portions of the Port DA Project Accepted Improvements, among other actions. A copy of Resolution No. 25-07 is on file with the Clerk of the Board in File No. 250187, and is incorporated herein by reference.

Section 4. Article 15 of the Public Works Code is hereby amended by adding Section 796, to read as follows:

SEC. 796. EXCEPTION FOR MINOR ENCROACHMENTS REGULATED BY THE PORT OF SAN FRANCISCO AT CERTAIN PROJECTS ON PORT PROPERTY.

(a) Application. This Section 796 applies within the public sidewalks in the Mission Rock Special Use District established by Planning Code Section 249.80, the Pier 70 Special Use District established by Planning Code Section 249.79, and that portion of 23rd Street within the Potrero Power Station Special Use District established by Planning Code Sec. 249.87 beginning at Illinois Street and continuing for approximately 735 linear feet to the eastern side of Louisiana Paseo, provided that such streets have been accepted by the Board of Supervisors for maintenance and liability and have been placed within the jurisdiction of the Department of Public Works for regulation of street use.

(b) Exception for Port Regulation of Certain Minor Encroachments. The categories of minor encroachments specified in this subsection (b) shall not be subject to permitting, approval, or enforcement by the Department, provided the Port of San Francisco (“Port”) has exercised authority to permit or approve said categories of encroachments. This exception shall apply only to the following

1 categories of minor encroachments: café tables and chairs, merchandise displays, benches and similar
2 seating, tables, and planters (collectively, “Port-Regulated Encroachments”). Such Port-Regulated
3 Encroachments shall not be subject to Public Works Code Sections 176 et seq. (café tables and chairs);
4 Sections 183 et seq. (food and non-food merchandise display stands); Sections 723 et seq. (minor
5 encroachments); Sections 793 et seq. (Shared Spaces); and Article 16 (Urban Forestry Ordinance) to
6 the maximum extent permitted by Proposition E (November 2016). The Port shall exercise exclusive
7 authority to regulate and enforce compliance regarding such Port-Regulated Encroachments. The Port
8 shall exercise exclusive authority and responsibility for Maintaining Street Trees, as those terms are
9 defined in Proposition E, that are Port-Regulated Encroachments, to the extent required by
10 Proposition E. Port-Regulated Encroachments must not be permanently affixed (e.g., bolted) to the
11 sidewalk.

12 (c) **Major Encroachments.** Notwithstanding subsection (b), if the Department determines that
13 an encroachment would constitute a major encroachment subject to Public Works Code Section 786 et
14 seq., such encroachment shall be subject to the Department’s review and discretionary approval or
15 disapproval pursuant to Section 786 et seq.

16 (d) **Access and Authority.** Nothing in this Section 796 shall preclude any City department from
17 protecting or accessing property or improvements within its jurisdiction for maintenance or any other
18 purpose, or shall otherwise limit the authority of and remedies available to any City department under
19 law.

20 (e) **Procedures.** The Directors of the Port and the Department shall establish procedures to
21 implement this Section 796, including procedures for coordinating encroachments or assets regulated
22 or managed by the Port and the Department, respectively, that may be within close physical proximity.

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24 Section 5. Permit Liability and Enforcement Responsibilities. For Public Right-of-Way
25 encroachments that are regulated by the Port and not Public Works in accordance with this

1 ordinance, the Port shall be responsible for all enforcement responsibilities arising from such
2 encroachments, whether permitted or unpermitted. Public Works shall bear no financial or
3 legal liability for any costs or claims arising from such encroachments regulated by the Port in
4 accordance with this ordinance.

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6 Section 6. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

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11 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the "Note" that appears under
16 the official title of the ordinance.

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18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: /s/ HEATHER GOODMAN
21 HEATHER GOODMAN
22 Deputy City Attorney

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