

## **LEGISLATIVE DIGEST**

[Public Works Code - Authorizing and Permitting Neighborhood Amenities]

**Ordinance amending the Public Works Code to streamline and authorize the approval of certain neighborhood amenities in sidewalks and other public right-of-ways within the Department of Public Works' jurisdiction, to reduce the fees for certain minor encroachments, and to clarify the permitting, revocation, and restoration requirements for all minor encroachment permits; and affirming the Planning Department's determination under the California Environmental Quality Act.**

### **Existing Law**

Presently, obstructions or encroachments upon the public right-of-way within the regulatory jurisdiction of the Department of Public Works ("Department") require a permit or other authorization from the Department.

### **Amendments to Current Law**

This ordinance would amend Sections 723, 723.1, 723.2, and 2.1.1 of the Public Works Code to facilitate the improvement and beautification of the public right-of-way through fee reductions and streamlined authorization for certain neighborhood amenities that constitute a "Love Our Neighborhood Project," as described below.

- *Public Works Code Section 723.* States expressly that the placement of any obstructions or encroachments upon, above, or below any public right-of-way must comply with the Americans With Disabilities Act and the California Disabled Persons Act, Civil Code Section 54 et seq., and the Unruh Civil Rights Act, Civil Code Section 51 et seq.
- *Public Works Code Section 723.1.* Establishes three tiers of neighborhood amenity projects intended to facilitate residents' and civic organizations' promotion of neighborhood love, pride, and enjoyment, each a "Love Our Neighborhood Project."
  - "Tier 1 Projects" consist of Front Yard Benches, Front Yard Libraries, and Front Yard Planters, as defined in the ordinance.
  - "Tier 2 Projects" consist of murals drawn on or affixed to sidewalks, retaining walls, or bridges within the right-of-way jurisdiction of the Department, and Seasonal Sidewalk Lighting suspended across sidewalks within the jurisdiction of the Department.
  - "Tier 3 Projects" consist of sculptures, tiled stairways, fog catchers, irrigation systems, stringed lighting suspended across roadways in commercial corridors,

and decorative street lighting, as defined in the Public Works Code and/or the Department's regulations.

- *Public Works Code Section 723.2.*
  - Provides that Tier 1 Projects may be authorized according to the registration and compliance requirements; these Tier 1 Projects would not be required to obtain a minor encroachment permit initially, but could be subject to other requirements or modifications following a compliance and safety inspection that any person may request for any reason including, but not limited to, due to concerns that the encroachment fails to comply with an applicable requirement or such encroachment poses a threat to public health, safety, or welfare. The Department may elect to perform an inspection of the encroachment, and may require the modification or removal of the encroachment for the purposes of public safety, health, or welfare.
  - Provides that Tier 2 Projects may be permitted according to the minor encroachment permit application and compliance requirements in the Public Works Code and the applicable Department orders and regulations.
  - Provides that Tier 3 Projects may be permitted according to the major encroachment permit application and compliance requirements in the Public Works Code and the applicable Department orders and regulations.
  - Establishes indemnification requirements, procedures for revoking the minor encroachment permits and authorizations, and additional clarifications.
- *Public Works Code Section 2.1.1.*
  - Subsection (h)(v) establishes a reduced minor encroachment permit application fee that waives 75% of the otherwise applicable application fee for Tier 1 and 2 Projects for a permit applicant that is a community-based organization, nonprofit organizations, community benefits district, or merchants association. The fee reduction would remain in effect until June 30, 2025.
  - Subsection (j) establishes a reduced major encroachment permit application fee that waives 35% of the otherwise applicable application fee for Tier 3 Projects for a permit applicant that is a community-based organization, nonprofit organizations, community benefits district, or merchants association. The fee reduction would remain in effect until June 30, 2025; the fee reduction would not apply to public right-of-way occupancy assessment fees.
  - Subsection (h)(iv) establishes a fee to inspect the safety and conformity of minor encroachments to the Department's standards and specifications.

Background Information

The Department of Public Works, commonly referred to as San Francisco Public Works, is the steward of the public right-of-way in the City and County of San Francisco and its mission is to clean, “green,” and enhance the public right-of-way for residents, businesses, workers and visitors. Particularly as neighborhoods recover from the COVID-19 pandemic, various stakeholders have expressed interest in innovative and creative ways to activate and enhance public spaces and the public right-of-way more efficiently, effectively, and affordably. This ordinance seeks to establish an accessible, user-friendly, and affordable approach to reviewing and approving neighborhood beautification efforts that employ sidewalk and street amenities that benefit neighborhoods and commercial corridors, beautify or enhance the public right-of-way, and are accessible to the public.

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