

FILE NO. 030830

ORDINANCE NO. 151-03

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. 030830 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 ~~is~~ exceeds
9 the costs of providing the services for which each permit fee is charged. Notwithstanding the
10 procedures set forth in this Section, the Board of Supervisors, in its discretion, may modify the
11 fees or occupancy assessment costs by ordinance at any time.

12 Section 2.1.3. Additional Fees.

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

23 Section 2.1.4. Fee and Occupancy Assessment Calculation Method.

24 Establishment of the fees for each permit category and use specified in section 2.1.1
25 shall be based on the Department's actual costs to process and administer the particular

1 permit category or use. Said fees may include the actual costs that other agencies, boards,
2 commissions, or departments of the City incur in connection with the processing or
3 administration of a particular permit category or use. The occupancy assessment costs
4 specified in section 2.1.1 shall be based on fair market value. The Director shall codify the fee
5 and assessment schedule by departmental order. Any adjustment in fees and assessments
6 pursuant to section 2.1.2 also shall be codified by departmental order. The fee and
7 assessment schedule shall be effective on the date that the departmental order is issued, but
8 in no case shall the schedule become effective before the beginning of the fiscal year for
9 which the schedule has been established or adjusted.

10 Section 3. The San Francisco Public Works Code is hereby amended by amending
11 Section 2.4.45 to read as follows:

12 SEC. 2.4.45. REPORT TO BOARD OF SUPERVISORS AND PROCEDURES FOR FEE
13 ADJUSTMENTS.

14 (a) Street Damage Restoration Fee Adjustment. Within one year after adoption or
15 amendment of the street damage restoration fee ~~or other fees~~ set forth in this Subarticle, and
16 every three years thereafter, the Director shall review the proceeds of the street damage
17 restoration fee ~~and such other fees, the costs of repaving and reconstruction reasonably attributed to~~
18 ~~excavation in City streets, the City's costs to administer this Article and inspect excavations,~~ and any
19 other new information that shall become available, and prepare a report to the Board of
20 Supervisors. Based upon the result of the review, the Director shall recommend to the Board
21 of Supervisors any necessary adjustments to ~~the~~ such fee, along with written justification for
22 the recommended adjustment and any necessary legislation. In the event that fee proceeds
23 have exceeded, or are anticipated to exceed, the costs for street repaving and reconstruction
24 reasonably attributable to excavation ~~or the City's costs to administer this Article or inspect~~
25 ~~excavations,~~ the Director shall recommend legislation to the Board of Supervisors that modifies

1 ~~the applicable~~ such fee to ensure that fee proceeds do not exceed the costs for street repaving
2 and reconstruction reasonably attributable to excavation ~~or the City's costs to administer this~~
3 ~~Article or inspect excavations~~. In the event that fee proceeds have undercollected, or are
4 anticipated to undercollect, for the costs for street repaving and reconstruction reasonably
5 attributable to excavation or the City's costs to administer this Article or inspect excavations, the
6 Director may recommend legislation to the Board of Supervisors that modifies the applicable
7 fee to more accurately recover the costs for street repaving and reconstruction reasonably
8 attributable to excavation ~~or the City's costs to administer this Article or inspect excavations~~.

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

12 Section 4. Establishment of the initial fee and assessment schedule specified in Public
13 Works Code section 2.1.1, as set forth in this Ordinance, shall not be effective until all of the
14 following actions have been completed:

15 (a) This Ordinance shall be in effect;

16 (b) The Director of Public Works shall submit to the Controller and the Planning
17 Department's Environmental Compliance Officer written documentation that demonstrates the
18 proposed fee and assessment schedule satisfies the requirements of Public Works Code
19 section 2.1.4, as set forth in this Ordinance;

20 (c) The Controller shall submit written certification to the Director and the Clerk of the
21 Board of Supervisors that the fees and assessments specified in the Director's proposal are
22 consistent with the charges that are authorized under Public Works Code section 2.1.4, as set
23 forth in this Ordinance. The Controller's certification shall be on file with the Clerk of the
24 Board of Supervisors in File No. _____ ;

1 (d) The Environmental Compliance Officer shall submit written certification to the
2 Director and the Clerk of the Board of Supervisors that the fees and assessments
3 contemplated in the Director's proposal are in compliance with the California Environmental
4 Quality Act (California Public Resources Code sections 21000 et seq.). This certification
5 shall be on file with the Clerk of the Board of Supervisors in File No.030830 ;

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

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

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

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

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

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

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

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

1 (j) After review of the hearing record, the Director shall approve, deny, or modify the
2 hearing officer's recommendation and shall issue a tentative decision on the establishment of
3 fees and assessments to the Controller;

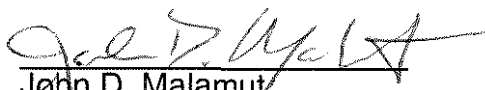
4 (k) If the Controller determines that any of the fees or assessments exceed the
5 charges as set forth in the Controller's certification under subsection (c), such fees or
6 assessments may not be established; provided, however, the Director, in his or her discretion,
7 may reintroduce the subject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

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

20 Section 5. To the extent the fees and assessment schedule established pursuant to
21 Public Works Code section 2.1.1, as set forth in this Ordinance, affects existing permits that
22 are issued or renewed on an annual basis, the fee and assessment schedule shall apply to
23 those permits upon the date of issuance or renewal of the specific permit.
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1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By:

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5 John D. Malamut
6 Deputy City Attorney

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Mayor
BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 030830

Date Passed:

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

June 10, 2003 Board of Supervisors — AMENDED

Ayes: 10 - Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick, Newsom, Peskin, Sandoval

Absent: 1 - Ammiano

June 10, 2003 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 7 - Daly, Dufty, Hall, Ma, Maxwell, McGoldrick, Newsom

Noes: 3 - Gonzalez, Peskin, Sandoval

Absent: 1 - Ammiano

June 17, 2003 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, Newsom, Peskin, Sandoval

Excused: 1 - McGoldrick

June 17, 2003 Board of Supervisors — FINALLY PASSED

Ayes: 8 - Ammiano, Daly, Dufty, Hall, Ma, Maxwell, Newsom, Sandoval

Noes: 2 - Gonzalez, Peskin

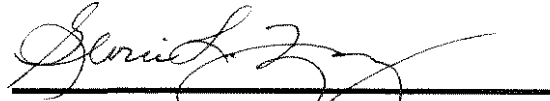
Excused: 1 - McGoldrick

File No. 030830


I hereby certify that the foregoing Ordinance was FINALLY PASSED on June 17, 2003 by the Board of Supervisors of the City and County of San Francisco.

JUN 27 2003

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.