

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; 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.

14

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.

1 Section 3. Port Commission Actions.

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

9
10 Section 4. Article 15 of the Public Works Code is hereby amended by adding
11 Section 796, to read as follows:

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

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

21 (b) Exception for Port Regulation of Certain Minor Encroachments. The categories of minor
22 encroachments specified in this subsection (b) shall not be subject to permitting, approval, or
23 enforcement by the Department, provided the Port of San Francisco ("Port") has exercised authority
24 to permit or approve said categories of encroachments. This exception shall apply only to the following
25 categories of minor encroachments: merchandise displays; benches and similar seating; tables;

1 planters; and café tables, chairs, and related appurtenant items such as umbrellas, lighting, pedestrian
2 diverters, and waste containers, provided such items satisfy specifications and a range of physical
3 dimensions agreed upon in writing by the Port and Public Works (collectively, “Port-Regulated
4 Encroachments”). Such Port-Regulated Encroachments shall not be subject to Public Works Code
5 Sections 176 et seq. (café tables and chairs); Sections 183 et seq. (food and non-food merchandise
6 display stands); Sections 723 et seq. (minor encroachments); Sections 793 et seq. (Shared Spaces); and
7 Article 16 (Urban Forestry Ordinance) to the maximum extent permitted by Proposition E (November
8 2016). The Port shall exercise exclusive authority to regulate and enforce compliance regarding such
9 Port-Regulated Encroachments. The Port shall exercise exclusive authority and responsibility for
10 Maintaining Street Trees, as those terms are defined in Proposition E, that are Port-Regulated
11 Encroachments, to the extent required by Proposition E. Port-Regulated Encroachments must not be
12 permanently affixed (e.g., bolted) to the sidewalk.

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

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

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

1 Section 5. Permit Liability and Enforcement Responsibilities. For Public Right-of-Way
2 encroachments that are regulated by the Port and not Public Works in accordance with this
3 ordinance, the Port shall be responsible for all enforcement responsibilities arising from such
4 encroachments, whether permitted or unpermitted. Public Works shall bear no financial or
5 legal liability for any costs or claims arising from such encroachments regulated by the Port in
6 accordance with this ordinance.

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

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

19
20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

22 By: /s/ HEATHER GOODMAN
23 HEATHER GOODMAN
24 Deputy City Attorney

25
n:\legana\as2025\2500046\01823466.docx