

[Public Works Code - Authorizing and Permitting Neighborhood Amenities]

Ordinance amending the Public Works Code to streamline and authorize the approval of certain neighborhood amenities, also known as Love Our Neighborhoods Projects, in sidewalks and other public right-of-ways within the Department of Public Works' jurisdiction, to reduce fees for certain minor encroachment permits, to waive certain annual encroachment assessments, to clarify the approval process for commemorative plaques, 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.

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

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

Section 1. Environmental Findings.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 230768 and is incorporated herein by reference. The Board affirms this determination.

1 Section 2. General Findings.

2 (a) Public spaces in San Francisco are integral to the economic, cultural, spiritual, and
3 social health of the City. The Department of Public Works (“Department”), commonly referred
4 to as San Francisco Public Works, is the steward of the public right-of-way and its mission is
5 to clean, “green,” and enhance the public right-of-way for residents, businesses, workers and
6 visitors. To implement this work to the greatest effect, the Department cooperates and
7 collaborates extensively with community benefit districts, community groups, merchant
8 associations, and neighborhood nonprofit organizations.

9 (b) Particularly as neighborhoods recover from the COVID-19 pandemic, various
10 stakeholders have expressed interest in innovative and creative ways to activate and enhance
11 public spaces and the public right-of-way more efficiently, effectively, and affordably.

12 (c) This ordinance seeks to establish an accessible, user-friendly, and affordable
13 approach to reviewing and approving neighborhood beautification efforts that employ sidewalk
14 and street amenities that benefit neighborhoods and commercial corridors, beautify or
15 enhance the public right-of-way, and are accessible to the public.

16 Section 3. The Public Works Code is hereby amended by revising Article 15, Sections
17 723, 723.1, 723.2, 786, 786.7, 786.9, 789.2, 789.4, 789.5, and 791, and Article 2.1, Section
18 2.1.1, to read as follows:

19
20 **SEC. 723. OBSTRUCTION OF AND ENCROACHMENT UPON PUBLIC RIGHT-OF-**
21 **WAY PROHIBITED.**

22 (a) It shall be unlawful for any person, firm or corporation, without permission from the
23 Department of Public Works (*the “Department”*), to pile, cap, or otherwise obstruct or place
24 obstructions or encroachments upon, above, or below, any public right-of-way, whether the
25 same be graded or not. “Public right-of-way” shall mean the area across, along, beneath, in,

on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, roadways, sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Department of Public Works. The placement of any obstructions or encroachments upon, above, or below any public right-of-way shall comply with all applicable provisions of federal, State, and local disability and accessibility laws.

(b) Any violation of this Section 723, or any violation of any encroachment permit issued by or right-of-way authorization granted by the Department of Public Works, shall be deemed a public nuisance subject to enforcement actions pursuant to Administrative Code Chapter 100, which is hereby incorporated in its entirety, Administrative Code Chapter 80, and Police Code Section 39-1, and other Public Works regulations, procedures, and actions adopted by order.

* * * *

SEC. 723.1. NEIGHBORHOOD AMENITY (LOVE OUR NEIGHBORHOODS)
PROJECT SIDEWALK BARRIERS.

(a) Neighborhood Amenities. The neighborhood amenities described in this Section 723.1, which are intended to facilitate residents' and civic organizations' promotion of neighborhood love, pride, and enjoyment, shall be permitted according to Section 723.2 or Section 786 based on the requirements and approvals in Section 723.1(c).

(b) Definitions.

"Department" means the Department of Public Works.

"Front Yard Bench" means a seat that can accommodate more than one person that complies with the requirements set forth in the Department's regulations.

1 "Front Yard Library" means an enclosed bookshelf that does not exceed 24 inches in height
2 (excluding the post), 25 inches in length, and 11 inches in depth and which is mounted on a post placed
3 in the sidewalk and which is used for the sole purpose of displaying and sharing books with the public.

4 "Front Yard Planter" means an enclosed vessel used for planting vegetation that complies with
5 the requirements of Public Works Orders regarding planters including but not limited to Department of
6 Public Works Order 179,231 titled "ESTABLISHING GUIDELINES FOR THE PLACEMENT OF
7 SIDEWALK LANDSCAPE CONTAINERS ON THE SIDEWALK THAT ARE LESS THAN 36 INCHES
8 IN HEIGHT," as the Department may modify from time to time. Front Yard Planters do not include
9 bioretention planters.

10 "Mural" means a picture or design painted on or affixed to a sidewalk or a picture, design, or
11 two-dimensional artwork painted on or affixed to an existing City-owned bridge, retaining wall, or
12 stairway (only allowed on the riser portion) within the jurisdiction of the Department. No Mural may
13 contain or constitute advertising of any kind.

14 "Seasonal Sidewalk Lighting" means raised lighting powered by electricity from one building
15 that is placed over a sidewalk at or above the height of 12 feet above the sidewalk surface and adjacent
16 to one building address for a duration not to exceed 60 uninterrupted days. Seasonal Sidewalk
17 Lighting does not include any lighting that is placed on or which extends over the roadway.

18 "Tier 1 Love Our Neighborhoods Project" or "Tier 1 Project" means any of the following
19 amenities installed, attached, constructed, placed, or otherwise caused to be located on a sidewalk
20 within the jurisdiction of the Department: a Front Yard Bench, a Front Yard Library, or a Front Yard
21 Planter.

22 "Tier 2 Love Our Neighborhoods Project" or "Tier 2 Project" means a Mural, a
23 commemorative plaque that is being installed according to the requirements of Public Works Code
24 Section 789 et seq., minor landscape infrastructure, a project consisting solely of maintenance of
25 dedicated public right-of-way amenities within the Department's jurisdiction, or Seasonal Sidewalk

1 Lighting suspended across a sidewalk within the jurisdiction of the Department. The preceding project
2 categories shall have the meanings defined in the Public Works Code and/or the Department's orders
3 and regulations. To qualify as a Tier 2 Project, the permit applicant must be a nonprofit organization,
4 a community benefits district, a merchants association, or an established community-based
5 organization.

6 "Tier 3 Love Our Neighborhoods Project" or "Tier 3 Project" means any of the following
7 amenities installed, attached, constructed, placed, or otherwise caused to be located on or over a
8 sidewalk or other public right-of-way within the jurisdiction of the Department in accordance with
9 Public Works Code Sections 786 through 786.9: a sculpture, a newly constructed or structurally
10 modified stairway, a fog catcher, an irrigation system extending beyond the frontage of more than one
11 real property parcel, major landscape infrastructure, a newly constructed retaining wall or structure,
12 stringed lighting suspended across a roadway in a commercial corridor, or decorative street lighting.
13 The preceding project categories shall have the meanings defined in the Public Works Code and/or the
14 Department's orders and regulations. To qualify as a Tier 3 Project, the permit applicant must be a
15 nonprofit organization, a community benefits district, a merchants association, or an established
16 community-based organization.

17 **(c) Requirements and Approvals.**

18 (1) Tier 1 Love Our Neighborhoods Projects. Tier 1 Projects may be authorized
19 according to the registration and compliance requirements in Section 723.2(b)(2) and the applicable
20 Department orders and regulations. The Director or the Director's designee, in their discretion, shall
21 determine whether a project constitutes a Tier 1 Project.

22 (2) Tier 2 Love Our Neighborhoods Projects. Tier 2 Projects may be permitted
23 according to the permit application and compliance requirements in Section 723.2(b)(3) and the
24 applicable Department orders and regulations. The Director or the Director's designee, in their
25 discretion, shall determine whether a project constitutes a Tier 2 Project.

1 (3) Tier 3 Love Our Neighborhoods Projects. Tier 3 Projects may be permitted
2 according to the permit application and compliance requirements in Section 786 and the applicable
3 Department orders and regulations. The Director or the Director's designee, in their discretion, shall
4 determine whether a project constitutes a Tier 3 Project.

5 ~~The Department of Public Works may grant permission, revocable at the will of the Director of~~
6 ~~Public Works, to owners of property abutting any court, alley or narrow street to install and maintain~~
7 ~~barriers of an approved design, spacing and location in the sidewalk fronting their property where~~
8 ~~necessary to control illegal vehicular parking or driving in sidewalk areas.~~

9 ~~The owner of the abutting property, or his authorized agent applying for a permit to install and~~
10 ~~maintain sidewalk barriers shall agree to hold harmless the City and County of San Francisco, its~~
11 ~~officers, agents, and employees, from any damage or injury caused by reason of the installation or~~
12 ~~maintenance of the barriers in the sidewalk, and the owner or owners or subsequent owner or owners~~
13 ~~of the respective property shall be solely liable for any damage or loss occasioned by any act or neglect~~
14 ~~in respect to the installation or maintenance of the barriers in the sidewalk.~~

15 ~~Before the issuance of the permit, the applicant therefor shall be required to pay to the said~~
16 ~~Department, as an inspection fee, the sum of \$100 for each 25 feet, or fractional part thereof, of the~~
17 ~~sidewalk frontage of the property.~~

18 ~~A copy of each permit issued under the provisions of this Section shall be recorded in the office~~
19 ~~of the Recorder of the City and County of San Francisco.~~

20 ~~The Board of Supervisors shall have the right of approval and/or revocation of any permit for~~
21 ~~the installation and maintenance of barriers on public sidewalks.~~

22 23 **SEC. 723.2. MINOR SIDEWALK ENCROACHMENTS.**

24 (a) Minor Encroachments. The Director of the Department of Public Works
25 ("Department") may grant permission, revocable at the Director's ~~his or her~~ will in accordance

1 with subsection (f), to an owner of property abutting any court, alley, or street to install and
2 maintain minor encroachments such as fences, retaining walls, steps or stairways, sidewalk
3 (pipe) barriers to control illegal vehicular parking or driving in sidewalk and public right-of-way
4 areas, and other minor structures in the sidewalk fronting such property where such
5 encroachments are desirable or convenient in conjunction with the owner's use and
6 enjoyment of the property, or required for the safety, convenience, and comfort of the public
7 using the sidewalk. Pipelines or other portions of an alternate water source system
8 constructed within the public right-of-way for the purposes set forth in Article 12C of the Health
9 Code and in accordance with Health Code Section 12C.6 are minor encroachments subject to
10 the requirements of this Section 723.2. Tier 1 Projects and Tier 2 Projects, as defined in Section
11 723.1(a), are minor encroachments subject to the requirements of Section 723.2.

12 (b) **Requirements and Conditions.**

13 (1) General. Minor ~~Such~~ encroachments shall not occupy more than 10% ~~percent~~
14 of the area of the sidewalk fronting the property nor more than 25% ~~percent~~ of the width of the
15 sidewalk (together, "Dimensional Requirements"), unless the Director ~~of Public Works~~ determines
16 that such restrictions are not applicable due to the nature of the encroachment. The Director
17 ~~may shall require further restrictions or modifications and impose such requirements and~~ conditions
18 ~~as he or she~~ the Director deems necessary or appropriate to protect the public peace, safety, health,
19 and welfare of pedestrians and other users of the sidewalks, public right-of-way, and public property
20 ("Conditions of Approval"). To memorialize the Conditions of Approval, the Director may require the
21 permittee to enter into a written agreement that is recorded in the Office of the Assessor-Recorder. No
22 advertisement shall be permitted on the encroachments.

23 (2) Tier 1 Love Our Neighborhoods Projects.

24 (i) Registration Requirement. The owner of real property, or the owner's
25 authorized agent, shall not be required to obtain a permit prior to the placement of the Tier 1 Project,

1 as defined in Section 723.1, in the sidewalk adjacent to the owner's real property provided that the
2 sidewalk is within the Department's jurisdiction, the Tier 1 Project satisfies all of the applicable
3 requirements for the Tier 1 Project as set forth in the Department's regulations, and the owner
4 registers the Tier 1 Project with the Department in a manner prescribed by the Department. Upon the
5 owner's registration of the Tier 1 Project and acknowledgment of the owner's liability for any injury or
6 Claims, as defined in Section 723.2(e)(1), caused by the Tier 1 Project, the Tier 1 Project shall be
7 presumed to be authorized to be placed on the sidewalk within the Department's jurisdiction as long as
8 the sidewalk preserves the greater of a minimum path of travel of four feet after the installation or
9 placement of the Tier 1 Project or, with respect to sidewalks that are a minimum of twelve feet wide, a
10 minimum path of travel of six feet after the installation or placement of the Tier 1 Project.

11 (ii) Conditional Exemptions from Certain Requirements. The owner of real
12 property adjacent to a properly registered Tier 1 Project shall not be required to obtain a permit, pay
13 the permit fee and right-of-way occupancy fee set forth in Section 2.1.1(l), or furnish evidence of an
14 insurance policy set forth in subsection (e)(2) for the Tier 1 Project at the time of registration and may
15 install or place the encroachment upon the sidewalk following registration.

16 (iii) Safety Inspection. Any person may request that the Department perform a
17 safety inspection of a Tier 1 Project at a specified street address for any reason including, but not
18 limited to, due to concerns that the encroachment fails to comply with an applicable requirement or
19 such encroachment poses a threat to public health, safety, or welfare. The Department, in its sole
20 discretion, may elect to perform an inspection of the encroachment, and may require that the owner of
21 the real property adjacent to the encroachment modify or remove the encroachment for the purposes of
22 public safety, health, or welfare. In addition, if the Department allows the encroachment to remain in
23 place, the Department may require the owner of the real property adjacent to encroachment to pay a
24 safety inspection fee and/or submit a minor encroachment permit application and comply with the
25 requirements of this Section 723.2 including but not limited to obtaining a permit, paying the permit fee

1 and right-of-way occupancy fee set forth in Section 2.1.1(l), and furnishing evidence of an insurance
2 policy set forth in subsection (e)(2).

3 (3) Tier 2 Love Our Neighborhoods Projects.

4 (i) Minor Encroachment Permits Required. Tier 2 Projects shall be required to
5 obtain a minor encroachment permit as provided in this Section 723.2. Prior to submitting a minor
6 encroachment permit application for a Mural or a commemorative plaque, the permit applicant must
7 obtain all necessary approvals from the Arts Commission and the Civic Design Review Committee.

8 (ii) Neighborhood Notice for Murals; Compliance With Department
9 Specifications. A permit applicant proposing a Mural shall submit a signed declaration identifying the
10 steward of the Mural who will be responsible for maintaining, repairing, and removing the Mural for a
11 period of five years. In addition, the permit applicant shall provide mailed notice of the application to
12 the owner or owners of record of all units of real property within 250 feet of the proposed location of
13 the Mural. All Murals shall comply with all requirements and specifications determined by the
14 Department including but not limited to requirements pertaining to slip resistance, dimensions,
15 durability, and removability of media and materials.

16 (4) Sidewalk (Pipe) Barriers. The Department of Public Works may grant permission,
17 revocable at the will of the Director of Public Works, to owners of property abutting any court, alley,
18 or narrow street to install and maintain sidewalk (pipe) barriers, also referred to as bollards, of an
19 approved design, spacing, and location in the sidewalk fronting their property where necessary to
20 control illegal vehicular parking or driving in sidewalk areas. Before the issuance of a permit for
21 sidewalk (pipe) barriers, the applicant shall be required to pay to the Department, as an inspection fee,
22 the sum of \$100 for each 25 feet, or fractional part thereof, of the sidewalk frontage of the property.

23 (c) **Permit Issuance.** In considering the issuance of permits under ~~the provisions of~~ this
24 Section 723.2, the Director ~~of Public Works~~ shall give due regard to the location, neighborhood
25 pattern, anticipated pedestrian traffic, and access requirements of the Fire Department, and to

1 the convenience and necessities of the owners, occupants, or tenants of offices, stores, or
2 shops in the vicinity. Permits for Murals shall be valid for up to five years, subject to the Director's
3 discretion to grant up to two successive five-year extensions to a permittee that has complied with the
4 conditions of their permit. A permit for a Mural on a stairway shall only allow the Mural to be painted
5 or affixed to the riser portion of the stairway.

6 (d) **Liability for Minor Encroachments.**

7 (1) **Adjacent Property Owners.** Other than with respect to a Mural or a
8 commemorative plaque for which the Department has issued a Tier 2 Permit to a steward who is not
9 the owner of the real property adjacent to the Mural or commemorative plaque, the owner of real
10 property adjacent to a minor encroachment shall be solely and fully liable for any injury or Claims
11 resulting from the minor encroachment, shall bear all costs of such injury or Claims, shall pay all costs
12 incurred by the City for any review and inspections of the encroachment, and, if ordered by the
13 Department to do so, and shall be required to modify and/or remove the minor encroachment and
14 restore the sidewalk or other public right-of-way to a condition acceptable to the Director in the
15 Director's sole discretion.

16 (2) **Stewards.** For Murals and commemorative plaques, the steward identified in the
17 Tier 2 Project permit shall be solely and fully liable for any injury or Claims, as defined in Section
18 723.2(e), resulting from the Mural or commemorative plaque, as applicable, and the steward shall bear
19 all costs of such injury or Claims, shall pay all costs incurred by the City for any review and
20 inspections of the Mural or commemorative plaque, and, if ordered by the Department to do so, shall
21 be required to modify and/or remove the Mural or commemorative plaque and shall restore the
22 sidewalk or other public right-of-way to a condition acceptable to the Director in the Director's sole
23 discretion.

1 **(e) Indemnification, Security, and Insurance Requirements.**

2 *(1) For minor encroachment permits issued pursuant to Section 723.2, the* owner of the
3 real property or the owner's authorized agent applying for a permit under the provisions of ~~this~~
4 Section 723.2 shall agree to hold harmless, defend, and indemnify the City and County of San
5 Francisco, including, without limitation, each of its commissions, departments, ~~its~~ officers, agents,
6 and employees, from and against ~~any damage or injury~~ all losses, liabilities, expenses, actions,
7 claims, demands, injuries, damages, fines, penalties, suits, costs, or judgments, including, without
8 limitation, attorneys' fees and costs (collectively, "Claims"), caused by reason of the installation or
9 maintenance of the encroachment in the sidewalk, and the owner or owners or subsequent
10 owner or owners of the respective real property shall be solely liable for any ~~damage or loss~~
11 Claims occasioned by any act or neglect in respect to the installation or maintenance of the
12 encroachments in the sidewalk.

13 *(2) The Director may require the recipient of a minor encroachment permit or the owner*
14 *of real property with an authorized minor encroachment to furnish a bond, or other form of security*
15 *that is acceptable to the Director, in an amount required to complete the installation of the*
16 *encroachment remove the encroachments, and restore the public right-of-way to a condition*
17 *satisfactory to the Director based on a cost that the City Engineer determines. The permittee shall*
18 *provide evidence to the Department that the bond or other security is operative on an annual basis.*

19 *(3) For an encroachment with construction costs equal to or greater than \$50,000, the*
20 *Director may require the recipient of a minor encroachment permit or the owner of real property*
21 *adjacent to an authorized Tier 1 Project to furnish evidence of an insurance policy that is satisfactory*
22 *to the City's Risk Manager. Such insurance shall in no way relieve or decrease a permittee's or its*
23 *agents' obligation to indemnify the City under this subsection (d).*

24 **(fe) Recordation.** Each permit issued under the provisions of this Section 723.2 shall not
25 become effective until the permit has been signed by the owner or the owner's authorized

1 agent and, where the permittee owns the property adjacent to the encroachment, a copy thereof has
2 been recorded in the office of the Assessor-Recorder of the City and County of San Francisco.

3 **(g) Revocation.**

4 (1) The Director is authorized to initiate proceedings to revoke the permit or
5 authorization of a minor encroachment upon the Director's determination that a permittee or owner of
6 real property adjacent to the minor encroachment has failed to comply with the any of the Conditions
7 of Approval; that a minor encroachment, whether or not it is associated with an issued permit, poses a
8 threat to public safety, health, or welfare; or that all or a portion of the public right-of-way on which a
9 minor encroachment is located is required for a different public purpose. To initiate revocation
10 proceedings, the Director shall provide the permittee, the adjacent property owner, and the steward, if
11 applicable, with written notification of the time and date of a public hearing to consider the grounds for
12 revoking, modifying, or suspending the minor encroachment permit or, as may be applicable, the City's
13 authorization of an encroachment without issuance of a permit. This notification may include
14 requirements that would apply to restoration of the public right-of-way as set forth in Section
15 723.2(g)(2). Following the public hearing, the Director may issue an order revoking or modifying the
16 minor encroachment permit and/or authorization of a minor encroachment for good cause. If the
17 failure to comply with the Conditions of Approval poses an imminent threat to public safety, health, or
18 welfare, the Director shall immediately suspend the minor encroachment permit or authorization of a
19 minor encroachment pending a final decision to revoke or modify the minor encroachment permit or
20 authorization of a minor encroachment. The Director's modification, revocation, or suspension of a
21 minor encroachment permit or authorization of a minor encroachment may be appealed under
22 subsection (g).

23 (2) Following the revocation of a minor encroachment permit or authorization of a minor
24 encroachment, the former permittee, the owner of real property formerly authorized to place a Tier 1
25 Project on the sidewalk adjacent to the owner's real property, or the steward, as may be applicable,

1 shall restore the public right-of-way to a condition satisfactory to the Director at the sole and absolute
2 expense of the former permittee, the owner of real property formerly authorized to place a Tier 1
3 Project on the sidewalk adjacent to the owner's real property, or the steward, as may be applicable.

4 (h) Appeals. Within 15 days following the Director's approval, denial, or revocation of a
5 minor encroachment permit or revocation of the authorization of a minor encroachment~~by the~~
6 ~~Director~~, any person may file a notice of appeal as follows:

7 (1) Appeals of the revocation of the authorization of a minor encroachment or the
8 revocation or denial of a permit issued by the Director for ~~the following~~ encroachments that
9 impede or otherwise impact the Central Subway Corridor, as defined in Section 723.3(a)(3) of
10 this Code,; subsidewalk encroachments below the public right-of-way, or other
11 encroachments in, on, and/or below the public right-of-way may be appealed to the Board of
12 Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors.

13 (2) Appeals of the approval, denial, or revocation of all other permits may be
14 appealed by filing a notice of appeal with the Board of Appeals.

15 (3) In the alternative, when the encroachment is related to building construction,
16 rehabilitation, or maintenance, any person may appeal the encroachment permit decision to
17 the Building Inspection Commission. A person waives ~~his or her~~their right to appeal to the
18 Building Inspection Commission encroachment permit decisions relating to building
19 construction, rehabilitation, or maintenance by instead filing the appeal with the Board of
20 Supervisors or the Board of Appeals. No encroachment permit decision may be appealed to
21 both bodies.

22 (if) For purposes of this Section 723.2, an encroachment permit is related to building
23 construction, rehabilitation, or maintenance when the object of the encroachment permit
24 affects the applicant's ability to construct, repair, or maintain the building.

1 (jg) Pending decision by the Board of Supervisors, the Board of Appeals, or the
2 Building Inspection Commission, the Director's permit decision to approve, deny, or revoke a
3 minor encroachment permit or to revoke the authorization of a minor encroachment~~by the Director~~
4 shall be suspended.

5 (kh) Before issuance of the permit, the applicant shall be required to pay to the
6 Department ~~of Public Works~~ all applicable fees as set forth in Section 2.1.1 et seq. and a public
7 right-of-way occupancy assessment fee as set forth in subsection (kl).

8 (li) Nothing in this Section 723.2 shall be construed as authorizing the Director ~~of~~
9 ~~Public Works~~ to grant a permit for any encroachment which the Director ~~he or she~~ determines to
10 be inimical to the health, welfare, safety, and best interest of the general public, or in violation
11 of the Charter or laws of the City ~~and County of San Francisco~~ or laws of the State of California.

12 (mj) The Board of Supervisors, the Board of Appeals, or the Building Inspection
13 Commission may affirm, reverse, or modify any permit decision made by the Director ~~of Public~~
14 ~~Works~~ under the provisions of this Section 723.2. The decision by the Board of Supervisors,
15 the Board of Appeals, or the Building Inspection Commission is final.

16 (nk) Unless otherwise provided in this Section 723.2, the Department~~Board of Supervisors~~
17 ~~reserves the right to exact~~ shall collect a public right-of-way occupancy assessment fee for the
18 use of the sidewalk or other public right-of-way space permitted under the provisions of this
19 Section 723.2.

20 (1) In accordance with this subsection (nk) the public right-of-way occupancy
21 assessment fee for minor ~~sidewalk~~ encroachments, whether permitted or unpermitted and as
22 specified in subsection (nk)(2), shall be an annual fee of \$3.00 per square foot of occupancy of
23 the sidewalk or other public right-of-way space. For purposes of calculating the assessment
24 fee, the Department shall charge no less than \$100.00 per year even though the calculated
25 square footage charge for the encroachment may result in a smaller assessment fee.

1 (2) The following categories of minor ~~sidewalk~~ encroachments are subject to the
2 public right-of-way occupancy assessment fee:

3 (A) Encroachments in, on, above, or below the public right-of-way that are
4 affixed or appurtenant to any building whose owner obtained a site permit for new
5 construction on or after August 29, 2005. This subsection (~~nk~~)(2)(A) also shall apply to any
6 commercial, industrial, or mixed-use building whose owner obtained a site permit for new
7 construction prior to August 29, 2005; provided, however, that such building is not located in
8 any Neighborhood Commercial District as designated in Planning Code Article 7 and that the
9 encroachment associated with such building was installed or encroachment permit obtained
10 prior to August 29, 2005. This subsection (~~nk~~)(2)(A) shall specifically include, but not be
11 limited to, doors that open over the public right-of-way and subsidewalk basements; provided,
12 however, that this subsection shall exclude encroachments for shoring and tiebacks. This
13 subsection (~~nk~~)(2)(A) shall not apply to a building that has been converted from a commercial,
14 industrial, or mixed-use building into a building containing only residential use.

15 (B) Encroachments associated with a commercial, industrial, or mixed-use
16 building that change the vertical or horizontal plane of an existing sidewalk and modify the
17 existing sidewalk slope pattern in order to provide access necessary to comply with the
18 Americans with Disabilities Act; provided, however, that the building obtained a site permit for
19 new construction on or after August 29, 2005.

20 (C) Any enclosure of the public right-of-way that is used exclusively for private
21 benefit and was installed on or after August 29, 2005. This subsection (~~nk~~)(2)(C) also shall
22 apply to any enclosure installed prior to August 29, 2005 that is associated with a commercial,
23 industrial, or mixed-use building; provided, however, that the building is not located in any
24 Neighborhood Commercial District as designated in Planning Code Article 7.

25 (D) Underground storage tanks.

1 (3) For purposes of subsection (~~n~~k)(2), the term "site permit" also shall mean
2 "building permit."

3 (4) Notwithstanding subsection (~~n~~k)(2), no public right-of-way occupancy
4 assessment fee shall be charged against the owner of an historic or architecturally significant
5 building who has installed or seeks a permit to install a minor sidewalk encroachment for the
6 sole purpose of in-order-to conforming with an applicable Municipal Code requirement; provided,
7 however that this exception shall not apply if the encroachment is a sub-sidewalk basement.
8 For purposes of this subsection (~~n~~)(4), an historic or architecturally significant building shall be
9 a building so designated pursuant to Planning Code Article 10 or specifically identified as an
10 architecturally significant building on the Planning Department's database or on a list
11 maintained by the Planning Department.

12 (5) Notwithstanding subsection (~~n~~k)(2), no public right-of-way occupancy
13 assessment fee shall be charged against the owner of a property for elements installed as a
14 requirement under Planning Code Section 138.1.

15 (6) Notwithstanding subsection (~~n~~k)(2), if a minor ~~sidewalk~~ encroachment permit is
16 necessary for the development of a project including residential units, all of which are
17 affordable to low- or moderate-income households as defined by the United States Housing
18 and Urban Development Department, then such project shall be exempt from payment of the
19 public right-of-way occupancy assessment fee.

20 (7) The public right-of-way occupancy assessment fee shall be subject to the
21 review and adjustment procedures as set forth in Sections 2.1.1 et seq.

22 (8) The public right-of-way occupancy assessment fee shall not be charged to any
23 federal, state, or local governmental agencies, commissions, or departments.

24 (9) Notwithstanding this subsection (~~n~~k), the public right-of-way assessment fee
25 for underground vaults shall be as specified in Section 2.1.1 et seq.

1 (10) Notwithstanding subsection (~~n~~k)(2), no public right-of-way occupancy
2 assessment fee shall be charged for pipelines or other portions of an alternate water source
3 system constructed within the public right-of-way for the purposes set forth in Article 12C of
4 the Health Code and in accordance with Health Code Section 12C.6.

5 (11) Notwithstanding subsection (~~n~~k)(2), no public right-of-way occupancy
6 assessment fee shall be charged to an owner of property that obtains a minor encroachment
7 permit to construct and maintain a floodwater management project that is located in public
8 rights of way and funded with San Francisco Public Utilities Commission grant funds.

9 (12) Notwithstanding subsection (~~n~~k)(2), no public right-of-way occupancy assessment fee
10 shall be charged for a Tier 1, Tier 2, or Tier 3 Project.

11 (~~o~~) Notwithstanding the fees specified ~~herein~~ in this Section 723.2, if a project involves
12 voluntary seismic retrofit upgrades to soft-story, wood-frame buildings, as defined by the
13 Director of the Department of Building Inspection, such project applicant shall be exempt from
14 the proportionate share of fees specified under this Section 723.2 and Sections 2.1.1 et seq.
15 that is related to such retrofit work.

16 (p) The Director may issue regulations setting forth standard design, safety, and operating
17 requirements for minor encroachment permits ("Regulations"). The Director may, in the Director's
18 discretion, require an encroachment agreement that provides additional detail on the permittee's rights
19 and obligations under a minor encroachment permit, including maintenance of the encroachment, and
20 establishes the regulatory relationship between Public Works and the permittee for implementation of
21 the permit.

23 SEC. 786. STREET (MAJOR) ENCROACHMENT PERMIT.

24 * * * *

1 (g) For purposes of Sections 786 et seq., except as otherwise provided in this subsection
2 (g), a street encroachment permit shall include, but is not limited to, an encroachment above
3 and/or below ground that extends beyond the centerline of the public right-of-way, one or
4 more encroachments that occupy the public right-of-way adjacent to more than one property
5 owner and the applicant(s)/permittee(s) proposes it collectively as a single permit, an
6 encroachment where the applicant/permittee is not the property owner adjacent to the
7 encroachment, an encroachment that exceeds one or both of the occupation limits specified in
8 Section 723.2 governing minor sidewalk encroachments or its successor Section, and any
9 encroachment that the Director determines to have significant impacts to the public right-of-
10 way. A Tier 1 or Tier 2 Love Our Neighborhoods Project, as defined in Section 723.1(b), shall not be
11 required to obtain a street encroachment permit pursuant to Sections 786 et seq.

12 * * * *

13
14 **SEC. 786.7. PUBLIC RIGHT-OF-WAY OCCUPANCY ASSESSMENT FEE FOR**
15 **STREET ENCROACHMENTS.**

16 * * * *

17 (f) Notwithstanding Subsection (b), no public right-of-way occupancy assessment fee
18 shall be charged against the permittee for elements installed: (1) as a requirement under
19 Planning Code Section 138.1, or (2) that the Department determines are consistent with any
20 Board of Supervisors adopted Neighborhood Plan or streetscape plan as identified in the
21 General Plan or Planning Code, or (3) as a condition of a City-approved development
22 agreement or a disposition and development agreement authorized by the City or the
23 Successor Agency to the San Francisco Redevelopment Agency, or (4) for improvements
24 associated with a Planning Commission approved in-kind agreement in accordance with the
25 Planning Code, or (5) pursuant to a street encroachment permit issued under Section

1 786.9(a) or (b), or (6) for a People Place permit associated with the Places for People
2 Program established under Administrative Code Chapter 94A, or (7) for improvements
3 associated with a Tier 1, Tier 2, or Tier 3 Love Our Neighborhoods Project, as defined in Public Works
4 Code Section 723.1.

5
6 **SEC. 786.9. PERMITS FOR CITY DEPARTMENTS, ~~OR~~ OTHER GOVERNMENTAL**
7 **ENTITIES, TIER 3 LOVE OUR NEIGHBORHOODS PROJECTS, AND TEMPORARY**
8 **ENCROACHMENTS.**

9 (a) If a City agency, department, or commission, a Tier 3 Love Our Neighborhoods permit
10 applicant, a State agency, or the federal government applies for a street encroachment permit,
11 the Public Works Director may approve, conditionally approve, or deny in writing the
12 application administratively without action from the Board of Supervisors after the applicant
13 satisfies the requirements of Sections 786 et seq. The Department of Public Works shall submit
14 a quarterly report to the Clerk of the Board of Supervisors that includes a description of all of the
15 complete Tier 3 Love Our Neighborhoods Project applications the Department received during the
16 applicable quarter.

17 * * * *

18
19 **SEC. 789.2. COMMEMORATIVE STREET PLAQUE APPLICATION, DESIGN,**
20 **PLACEMENT, AND INSTALLATION PROCEDURES.**

21 This Section 789.2 shall govern the procedures ~~governing~~ for commemoration of
22 historical sites, events, and persons in locations upon a public street or place as defined in
23 Section 244 of this Code.

1 (a) The Board of Supervisors may, by resolution, designate a ~~specific~~ location on a
2 public street or place to commemorate a site, event, or person of historical interest to San
3 Francisco, subject to the requirements of subsection (b) below.

4 (b) Any person seeking to commemorate a site, event, or person of historical interest
5 to San Francisco by placement and installation of a commemorative plaque on a specific location
6 on a public ~~sidewalk~~street or place shall file an application with the Department of Public
7 Works, shall obtain all necessary permits and approvals for the commemorative plaque, including any
8 applicable major or minor sidewalk encroachment permits, and shall provide the Department with any
9 security and/or evidence of insurance, as may be required by the Department following the
10 Department's review of the application. Such application shall be filed upon forms prescribed by
11 the Department, include all information required by the Department including, but not limited to,
12 the applicant's preferred locations for plaque installation and alternative locations for plaque
13 installation, and be accompanied by all required fees set by the Department.

14
15 **SEC. 789.4. DESIGNATION BY BOARD OF SUPERVISORS.**

16 (a) Within 30 days after close of the Department's hearing, the Department shall
17 forward the application, and its own report and recommendation to the Clerk of the Board of
18 Supervisors. The record of the hearing thereon and a list of all parties notified of the hearing
19 shall be attached to the Department's recommendation.

20 (b) The Board of Supervisors shall hold a public hearing on any proposal so
21 transmitted. The Board may approve, disapprove, or modify and approve, the designation of a
22 specific location on a public street or place to commemorate a site, event, or person of
23 historical interest to San Francisco.

24 (c) In the alternative, notwithstanding subsections (a) and (b), the Board of Supervisors may
25 elect to hold a hearing on a proposal to commemorate a site, event, or person of historical interest to

1 San Francisco, prior to the submittal of a complete application to the Department, and may elect to
2 pass a resolution approving the commemoration of a site, event, or person, and authorizing the
3 Director, following the Arts Commission's approval of the plaque design and the Director's review of
4 all permit application materials, to approve the installation of commemorative plaques at precise
5 locations that comply with the applicable engineering, installation, safety, and siting criteria, and to
6 designate these precise locations for commemoration of a site, event, or person.
7

8 **SEC. 789.5. ENGINEERING, INSTALLATION, SAFETY, AND SITING CRITERIA;**
9 **AND DESIGN REQUIREMENTS AND GUIDELINES.**

10 The Department shall develop engineering, installation, safety, and siting criteria for the
11 commemorative plaques and may adopt such criteria through departmental orders and/or
12 regulations. The Department shall also develop design requirements and guidelines for the
13 commemorative plaques after consulting with the Arts Commission.
14

15 * * * *

16 **SEC. 791. PUBLIC IMPROVEMENTS GIFT ACCEPTANCE AND PUBLIC**
17 **DEDICATION.**

18 (a) Definitions.

19 "Furnishing Zone" shall be defined in the Better Streets Plan as defined in
20 Administrative Code Section 98.1.

21 "Immediate Property Frontage" refers to that portion of the public right-of-way
22 from the back of curb to the adjacent property line for the length of the entire property.

23 "Public Improvements" shall be defined as physical improvements to the public
24 right-of-way intended to promote pedestrian and bicycle safety, to provide increased sidewalk
25 area for pedestrians, and to promote environmentally sound street design, and to enhance the

1 aesthetic appeal of streets. Such improvements include, but shall not be limited to, sidewalk
2 widening, sidewalk widening at corners, medians, raised pedestrian crossings, and bicycle
3 facilities, and are generally described in the Better Streets Plan or its successor document,
4 Neighborhood Plans, or neighborhood streetscape plans. In addition, Public Improvements shall
5 include commemorative plaques installed in the Furnishing Zone according to a Tier 2 Love Our
6 Neighborhoods Permit.

7 (b) Gift Acceptance of Public Improvements. Notwithstanding the limit on
8 administrative acceptance of public gifts in Administrative Code Section 10.100-305, the
9 Director of Public Works is authorized to accept as gifts on behalf of the City and County of
10 San Francisco certain Public Improvements within the Department's permitting and
11 maintenance jurisdiction subject to the limitations as set forth in this Section 791. Such gift
12 acceptance is subject to all other laws, rules, and regulations governing acceptance of public
13 gifts. All such gifts shall be made by an irrevocable offer of dedication.

14 (c) Location of Public Improvements and Consistency with Applicable Plans.

15 (1) The subject Public Improvements shall be located on the public right-of-way
16 outside of the Immediate Property Frontage of the property owner and be consistent with the
17 Better Streets Plan or applicable Neighborhood Plan or neighborhood streetscape plan.
18 Generally, such Public Improvements shall be within 500 feet of the Immediate Property
19 Frontage.

20 (2) Notwithstanding the locational requirement of Subsection (c)(1) above, a gift
21 of Public Improvements also may be made if the owner constructs a sidewalk bulb-out within
22 the Immediate Property Frontage. Such sidewalk bulb-out shall satisfy all other provisions of
23 this Section. Any such gift shall be applicable only to that additional portion of sidewalk
24 necessary to construct the sidewalk bulb-out in relation to the: (a) then existing official
25 sidewalk width if the sidewalk width remains unchanged within the Immediate Property

1 Frontage or (b) new official sidewalk width if the sidewalk width within the Immediate Property
2 Frontage has been expanded. With the exception of that additional portion of sidewalk
3 necessary to construct the sidewalk bulb-out as set forth above, the property owner shall be
4 solely responsible for such Improvements in accordance with Public Works Code Section 706.
5 In such instances, the Department of Public Works official maps shall delineate the division of
6 responsibility between the City and the property owner.

7 (3) Notwithstanding the locational requirement of Subsection (c)(1) above, a gift of
8 Public Improvements also may be made if the owner constructs a commemorative plaque within the
9 Furnishing Zone in accordance with a Tier 2 Love Our Neighborhoods Permit.

10 * * * *

11
12 (g) Gift to Include Cost of Maintenance. The gift for such Public Improvements shall
13 be accompanied by a maintenance endowment of at least 20% of the estimated cost of
14 construction of the Improvements as determined by the City Engineer; provided however, that
15 the Director may reduce the cost of this endowment, but in no case shall the reduction be less
16 than 10% of the cost of construction of the Improvements except that the Director may waive the
17 cost of this endowment entirely with respect to a commemorative plaque that is installed in the
18 Furnishing Zone according to a Tier 2 Love Our Neighborhoods Permit. The Department shall
19 deposit all required ~~such~~ maintenance funds into a public improvement gift maintenance
20 account.

21
22 **SEC. 2.1.1. FEES.**

23 * * * *

24 (g) [Reserved] ~~Pipe Barrier Permit pursuant to Section 723.1~~

25 ~~—(i) Standard Permit: \$969.30 permit fee; and~~

1 —~~(ii) Security Bollard Barrier: \$1,943.80 permit fee;~~

2 (h) Minor Sidewalk Encroachment Permits (also known as ~~a~~Minor Encroachment
3 Permits) pursuant to Section 723.2

4 (i) Standard Minor Encroachment Permit: \$938.39 permit fee, and, if applicable
5 pursuant to Section 723.2(~~nm~~), the annual public right-of-way occupancy assessment fee;

6 (ii) Underground Storage Tank Abandonment: \$275.80 permit fee; ~~and~~

7 (iii) Underground Vault, which shall be comprised of (A) a permit fee of \$973.80
8 and (B) an annual public right-of-way occupancy assessment fee of \$12.58 per square foot of
9 occupied space;

10 (iv) Inspection Fee: \$314 conformity and safety inspection fee; and

11 (v) Permits for Tier 1 Love Our Neighborhoods Projects pursuant to Section 723.1: \$200
12 permit application fee for a permit applicant that is a community-based organization, nonprofit
13 organization, community benefits district, or merchants association.

14 (vi) Permits for Tier 2 Love Our Neighborhoods Projects pursuant to Section 723.1: \$500
15 permit application fee for a permit applicant that is a community-based organization, nonprofit
16 organization, community benefits district, or merchants association.

17 (vii) Pipe Barrier Permit pursuant to Section 723.1

18 (A) Standard Permit: \$969.30 permit fee; and

19 (B) Security Bollard Barrier: \$1,943.80 permit fee;

20 * * * *

21 (j) Street Encroachment Permit (also known as a Major Encroachment Permit)
22 pursuant to Section 786:

23 (i) \$3,643.66 permit fee and the annual public right-of-way occupancy
24 assessment fee in Section 786.7; and

1 (ii) Permits for Tier 3 Love Our Neighborhoods Projects pursuant to Section 723.1:
2 \$1,000 permit application fee for a permit applicant that is a community-based organization, nonprofit
3 organization, community benefits district, or merchants association.

4 * * * *

5 Section 4. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
11 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
12 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
13 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
14 additions, and Board amendment deletions in accordance with the "Note" that appears under
15 the official title of the ordinance.

16
17 APPROVED AS TO FORM:
18 DAVID CHIU, City Attorney

19 By: /s/ Christopher T. Tom
20 CHRISTOPHER T. TOM
21 Deputy City Attorney

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