

1 [Public Works Code – Banners on the Path of Gold]

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3 **Ordinance amending Public Works Code Section 184.78 to allow city neighborhood**
4 **banners, as defined in Section 184.78, to be posted on the Path of Gold lamp posts**
5 **lining Market Street, and adopting environmental findings.**

6 Note: Additions are single-underline italics Times New Roman;
7 deletions are ~~strikethrough italics Times New Roman~~.
8 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The Planning Department has determined that the actions contemplated in
11 this Ordinance are in compliance with the California Environmental Quality Act (California
12 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of
13 the Board of Supervisors in File No. _____ and is incorporated herein by reference.

14 Section 2. The San Francisco Public Works Code is hereby amended by amending
15 Section 184.78, to read as follows:

16 **SEC. 184.78. BANNERS.**

17 (a) **Findings.** The Board of Supervisors hereby finds that:

18 (1) Banners placed on the upper portion of City-owned utility poles are an important
19 medium for providing notice to San Francisco residents, as well as those who work in and visit
20 San Francisco, about City-sponsored, City-funded, and City-wide special events, City-
21 convention facility events, and the locations of the City's diverse neighborhoods.

22 (2) Because of the significant economic benefits that the City gains from tourism, San
23 Francisco has a strong interest in fostering tourism by promoting City-sponsored, City-funded
24 and City-wide special events, and in providing notice of the locations of the City's varied and
25 distinct neighborhoods.

1 (3) Because of the significant economic benefits that the City gains from the events
2 held at the City's convention facilities, San Francisco has a strong interest in fostering,
3 promoting and identifying those events conducted at the City's convention facilities.

4 (4) Increasing awareness of City-sponsored City-funded and City-wide special events,
5 and San Francisco's diverse neighborhoods also fosters civic pride.

6 (5) By adopting this section the Board does not intend to create a public forum on the
7 upper portion of City-owned utility poles, it has decided to make the upper portion of City-
8 owned utility poles available for the installation of banners that announce City-sponsored
9 events, City-funded events, City-wide special events, City convention facility events, or City
10 neighborhoods in order to achieve its goals of promoting tourism and civic pride, and
11 providing public notice.

12 (b) Subject to the conditions and limitations imposed by this Section, the Department is
13 authorized to adopt rules and regulations governing the posting of banners consistent with the
14 terms of this Article. In enacting such rules and regulations, the Department shall consider the
15 need to protect the safety of pedestrians, vehicles and other property and the need to promote
16 aesthetics on the City's streets and sidewalks. With respect to City-wide special event
17 banners or City convention facility banners, the Department of Public Works shall not
18 discriminate on the basis of the viewpoint in a banner in its administration and interpretation of
19 this Section and any rules or regulations adopted under this Section.

20 (c) Only the following banners may be posted on City-owned utility poles: City-
21 sponsored banners, City-funded event banners, City-wide event banners, City convention
22 facility banners, and City neighborhood banners.

1 (1) A "city-sponsored banner" is a banner announcing an event or series of related
2 events conducted by the City or any of its departments, boards, commissions or agencies, or
3 announcing a facility operated by the City or any of its departments, boards, commissions.

4 (2) A "city-funded event banners is a banner announcing an event or series of related
5 events which event or series of events have received funding of \$5,000 or more from the City
6 or any of its departments, boards, commissions or agencies.

7 (3) A "city-wide special event banner" is a banner announcing an event or series of
8 related events of interest to a significant portion of the residents of San Francisco and/or
9 tourists, which is not a purely commercial enterprise, and where (a) the proceeds, if any, will
10 directly benefit either a federal, state, or local government agency or a charitable non-profit
11 organization that maintains tax-exempt status under Internal Revenue Code Section 501(c)(3)
12 or (b) the event or series of events will take place on City-owned property and further a public
13 purpose.

14 (4) A "city convention facility banner" is a banner installed on any City-owned utility
15 pole located on streets proximate to the City's convention center facilities that announces an
16 event currently being held at a City-owned convention center facility. Those streets are: Third
17 Street between Folsom and Mission (west side only), Folsom Street between Third and Fourth
18 (north side only), Howard Street between Third and Fifth (both sides), Mission Street between
19 Third and Fourth (south side only), Fourth Street between Mission and Howard (both sides),
20 Fourth Street between Howard and Folsom (east side only), and Grove Street between Polk
21 and Larkin (both sides). A "city convention facility banner" may only be installed proximate to
22 the City-owned convention center facility at which the event the banner announces is currently
23 being held. A "city convention facility banner" may only be installed 10 days prior an event,
24 and may not remain posted for more than 10 days after an event. The Department shall give
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1 requests for a "city convention facility banner" priority over other requests for banners on City-
2 owned utility poles directly adjacent to any part of the City's convention center facilities.

3 (5) A "city neighborhood banner" is a banner demarking a neighborhood in San
4 Francisco, placed in that neighborhood, and identifying the neighborhood's name, such as, for
5 example: the Tenderloin, or Pacific Heights.

6 (6) For the purposes of this Section, an "event or series of related events of interest to
7 a significant portion of the residents of San Francisco" is any event or series of related events
8 that take place in the City and that reasonably expect an in-person attendance of 500 or more
9 people for a single event or 1000 or more people for a series of events. Expected attendance
10 may be demonstrated by attendance at that same event or series of related events in previous
11 years, attendance at a similar event or series of related events in previous years, by
12 attendance projections for an event or series of events based on sales of tickets or
13 subscriptions to the event or series of related events or, for an event or series of events that is
14 being organized for the first time, by another reasonable measure of expected in-person
15 attendance to be determined by the Department of Public Works.

16 (d) Under the findings made in Section 184.58, no banner may be posted on the
17 historic and decorative lamp posts listed in Section 184.58, with the exception of those historic
18 and decorative lamp posts in the "Mission Street Corridor" located on Mission Street between
19 Sixteenth and Twenty-Fourth Streets, where banners may be posted.

20 (e) No banner shall be affixed to more than one structure so that it spans the area
21 between two or more structures or spans a street unless and until the party responsible for the
22 posting of such banner first obtains a permit from the Department for the purpose of enabling
23 that Department to ensure that the banner is posted in a safe manner and that the party has
24 obtained adequate insurance coverage for any risk posed by such posting, according to
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1 guidelines established by the Director; and provided that, if any part of the banner is to be
2 attached to non-City property, upon filing the permit application, the party shall be notified that
3 the consent of the private owner should be obtained before posting the banner.

4 (f) Notwithstanding anything in this Code that may be to the contrary, the Director is
5 authorized to permit the posting of banners on the historic lamp posts lining Market Street, an
6 area known as the "Path of Gold," and more fully described in Section 184.58, for city
7 neighborhood banners as defined in Subsection (c)(5) or subject to the following conditions:

8 (1) The Director may issue a permit only for an event: (A) that results in the closure of
9 all or a portion of Market Street's Path of Gold and (B) for which the event sponsor has
10 already obtained the necessary City approvals for such closure; and

11 (2) Banners shall not be posted for longer than 30 days prior to the event, nor remain
12 posted for longer than 10 days after the event.

13 (g) The following shall apply to all Banners:

14 (1) Banners identifying the name of a commercial sponsor must limit that identification
15 to a logo or business name only, located in the top or bottom portion of the banner, and
16 comprising no more than 15% of the total area of the banner.

17 (2) Banners shall not be installed for longer than 30 days prior to the event or series of
18 events, nor remain posted for longer than 10 days after the event or series of events.

19 (3) Banners shall be limited in size to 36 inches in width by 72 inches in length.

20 (4) An application for a banner permit may be submitted to the Department no earlier
21 than 90 days prior to the first day for which the banner permit is sought.

22 (h) No banners may be installed in R (residential) districts, excepting RM-4
23 (residential-mixed high density) districts as defined in the San Francisco Planning Code,
24 Article 2 and excepting the R (residential) districts contained within the area defined as the
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1 North of Market/Tenderloin Community Benefit District in Board of Supervisors Resolution No.
2 584-05, Clerk of the Board of Supervisors File No. 051192, including the street face opposite
3 the boundaries of this District.

4 (i) All banners shall bear the name of the installer of the banner and a local or toll-free
5 phone number, labeled "Service Number," where citizens may contact or leave word for the
6 installer of the banner regarding maintenance or repair problems with any banner bearing the
7 installer's service phone number. This required text shall be imprinted and maintained on the
8 face or edge of the banner and shall be a minimum of 2 inches in height.

9 (j) Each applicant for a banner permit shall pay to the Department of Public Works a
10 processing fee of \$65 for the first 20 banners sought to compensate the Department for the
11 cost of processing and administering the permit. An applicant shall pay a fee of \$65 for each
12 20 additional banners sought per application. Processing fees for banner requests under 20
13 banners shall be prorated.

14 (k) Each applicant for a banner permit shall pay to the Department of Public Works an
15 inspection fee of \$130 for the first 20 banners approved to compensate the Department for the
16 cost of enforcing the banner permits. Applicants shall pay an inspection fee of \$130 for each
17 20 additional banners, or fraction thereof, approved.

18 (l) The procedures to review and adjust the fees specified in Section 184.78(k) and
19 Section 184.78(l) shall be the procedures for fee review and adjustment set forth in Section
20 2.1.2 of the Public Works Code.

21 (m) Any person violating the provisions of this Section or any regulations promulgated
22 by the Department of Public Works pursuant to this Section, shall be guilty of an infraction.
23 Each banner determined to be an infraction is punishable by (1) a fine of \$100 for a first
24 violation; (2) a fine not exceeding \$200 for a second violation within one year; (3) a fine not
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1 exceeding \$500 and revocation of the permittee's banner permits for a third violation within
2 one year.

3 (n) In addition, a fee equal to the cost of the time and materials expended by the
4 Department of Public Works may be imposed by the Department of Public Works for
5 investigation of banners being maintained without or in violation of a valid permit. Payment of
6 the fees shall be directly to the Department of Public Works.

7 (1) The person responsible for payment of the fee may appeal the amount of the
8 investigation fee to the Board of Appeals, subject to its filing fees and rules.

9 (2) The nonpayment of such fee or fine, or the continued existence of a condition in
10 violation of this Section, shall be grounds for the Director of Public Works to deny a permit for
11 a banner to the responsible owner or applicant until such penalty has been paid and the
12 condition corrected.

13 (o) At his or her discretion, the Director of the Department of Public Works may require
14 that a performance bond, not to exceed \$25,000 be posted before a banner permit is granted
15 to any permittee who has violated this Section, or any of the regulations promulgated by the
16 Department of Public Works pursuant to this Section, more than three times within the year
17 preceding the banner permit request.

18 (p) Six months after the effective date of this legislation an appropriate committee of
19 the Board of Supervisors shall hold a hearing to review the status of the City's banner
20 program.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By:

24 John D. Malamut
25 Deputy City Attorney

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