

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

15 (b) On December 15, 2010, at a duly noticed public hearing, the Historic Preservation
16 Commission considered this Ordinance. Documents associated with that hearing are on file
17 with the Clerk of the Board of Supervisors in File No. _____ and are incorporated herein by
18 reference.

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

21 **SEC. 184.78. BANNERS.**

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

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

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

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

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

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

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

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

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

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

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

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

8 (5) A "city neighborhood banner" is a banner demarking a neighborhood in San
9 Francisco, placed in that neighborhood, and (A) identifying the neighborhood's name, such
10 as, for example: the Tenderloin, or Pacific Heights, or (B) symbolically representing the
11 neighborhood, such as the rainbow flags in and adjacent to the Castro neighborhood starting
12 at Church Street and ending at Castro Street.

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

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

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

11 (f) Notwithstanding anything in this Code that may be to the contrary, the Director is
12 authorized to permit the posting of banners on the historic lamp posts lining Market Street, an
13 area known as the "Path of Gold," City Landmark #200, and more fully described in Section
14 184.58, for:

15 (1) city neighborhood banners as defined in Subsection (c)(5); or. The "Path of Gold" is City
16 Landmark #200. As such, all attachments must be made with fasteners that are completely
17 reversible and cause no damage. Pursuant to Planning Code Section 1006, any
18 modifications, even temporary, shall be sent to the Historic Preservation Commission for a
19 Certificate of Appropriateness. Banners that do not qualify as city neighborhood banners are
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21 (2) subject to the following conditions:

22 (4A) The Director may issue a permit only for an event: (A) that results in the closure
23 of all or a portion of Market Street's Path of Gold and (B) for which the event sponsor has
24 already obtained the necessary City approvals for such closure; and
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1 (2B) Banners shall not be posted for longer than 30 days prior to the event, nor remain
2 posted for longer than 10 days after the event.

3 (3) All banners permitted under this Subsection shall be attached with fasteners that
4 are completely reversible and cause no damage.

5 (4) Prior to issuance of a permit under this Subsection (f), including any permit
6 modification or a temporary permit, the Historic Preservation Commission shall have approved
7 a Certificate of Appropriateness pursuant to Planning Code Section 1006.

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

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

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

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

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

17 (h) No banners may be installed in R (residential) districts, excepting RM-4
18 (residential-mixed high density) districts as defined in the San Francisco Planning Code,
19 Article 2 and excepting the R (residential) districts contained within the area defined as the
20 North of Market/Tenderloin Community Benefit District in Board of Supervisors Resolution No.
21 584-05, Clerk of the Board of Supervisors File No. 051192, including the street face opposite
22 the boundaries of this District.

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

4 (j) Each applicant for a banner permit shall pay to the Department of Public Works a
5 processing fee of \$65 for the first 20 banners sought to compensate the Department for the
6 cost of processing and administering the permit. An applicant shall pay a fee of \$65 for each
7 20 additional banners sought per application. Processing fees for banner requests under 20
8 banners shall be prorated.

9 (k) Each applicant for a banner permit shall pay to the Department of Public Works an
10 inspection fee of \$130 for the first 20 banners approved to compensate the Department for the
11 cost of enforcing the banner permits. Applicants shall pay an inspection fee of \$130 for each
12 20 additional banners, or fraction thereof, approved.

13 (l) The procedures to review and adjust the fees specified in Section 184.78(k) and
14 Section 184.78(l) shall be the procedures for fee review and adjustment set forth in Section
15 2.1.2 of the Public Works Code.

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

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

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

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

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

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

17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By: _____
20 John D. Malamut
21 Deputy City Attorney
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