

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Carla Short, Interim Director, Public Works

FROM: Brent Jalipa, Assistant Clerk, Budget and Finance Committee

DATE: May 19, 2023

SUBJECT: PROPOSED ORDINANCE INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed Ordinance, introduced by Supervisor Connie Chan:

File No. 230312

Ordinance waiving the public right-of-way occupancy assessment fee under Public Works Code, Section 786.7, for a major encroachment permit associated with the Seal Rock Inn at 545 Point Lobos Avenue; modifying a condition of Seal Rock Inn's major encroachment permit; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: David Steinberg, Public Works
Ian Schneider, Public Works
Lena Liu, Public Works

1 [Public Works Code - Waiver of Annual Occupancy Assessment Fee - Seal Rock Inn]

2

3 **Ordinance waiving the public right-of-way occupancy assessment fee under Public**
 4 **Works Code, Section 786.7, for a major encroachment permit associated with the Seal**
 5 **Rock Inn at 545 Point Lobos Avenue; modifying a condition of Seal Rock Inn’s major**
 6 **encroachment permit; and affirming the Planning Department’s determination under**
 7 **the California Environmental Quality Act.**

8

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

12

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

14

15 Section 1. Findings.

16

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

21

b) The Seal Rock Inn is located at 545 Point Lobos Avenue next to the quiet, scenic
 22 surroundings of Sutro Heights Park. During the COVID-19 pandemic, the restaurant at the
 23 Seal Rock Inn shut down due to a lack of patronage at the hotel, causing the neighborhood to
 24 lose the restaurant’s welcoming, family-friendly environment, great food, and spectacular

25

///

1 views. The patio of this restaurant and planting on the opposite side of the hotel entrance are
2 encroachments on the Point Lobos Avenue public right-of-way.

3 c) The Seal Rock Inn is critical to the economic vitality of the scenic Sutro Heights
4 area, and without the restaurant the area is empty and desolate.

5 d) Re-opening the Seal Rock Inn restaurant is essential to revitalizing the area,
6 bringing the Sutro Heights area back to life, and attracting new visitors to this destination near
7 the Golden Gate National Recreation Area, the Cliff House, and Golden Gate Park.

8 e) In 1961, the Board of Supervisors adopted Resolution No. 631-61, which granted a
9 major encroachment permit to the Seal Rock Inn (Public Works Permit 19MSE-00476) for use
10 of the sidewalk area on Point Lobos Avenue. This Resolution is on file with the Clerk of the
11 Board of Supervisors in File No. 759-60 and incorporated herein by reference. The permit
12 covers what now is an enclosed dining area/terrace with a glass windbreak and other
13 encroachments, including a retaining wall and landscaping.

14 f) Public Works Code Section 786.7 imposes an annual public right-of-way occupancy
15 assessment fee on major encroachments based on the square footage of area occupied. The
16 annual fee for the Seal Rock Inn major encroachment is approximately \$3,700.00.

17 g) On February 28, 2023, the Board of Supervisors adopted Resolution No. 089-23 to
18 facilitate the revitalization of this valuable City destination by declaring its intent to waive the
19 major encroachment annual occupancy assessment permit fee among other actions, so that
20 the restaurant may open for business, unencumbered by payment of the annual fee. A copy
21 of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 230174, and
22 is incorporated herein by reference.

23
24 Section 2. Waiver of Annual Public Right-of-Way Occupancy Assessment Fee and
25 Modification of Encroachment Permit Condition for Seal Rock Inn.

1 a) In recognition of the benefits to the community of the Seal Rock Inn’s publicly
2 accessible patio and its landscaped area, the annual assessment fee set forth in Public Works
3 Code Section 786.7 (estimated at approximately \$3,700 per year) is hereby waived to partially
4 offset the costs of re-opening the restaurant and its publicly accessible patio. This waiver
5 applies to any outstanding annual assessment fee and all future annual assessment fee
6 payments under Public Works Code Section 786.7.

7 (b) In addition, the Board of Supervisors hereby modifies the major encroachment
8 permit conditions to delete the condition requiring abatement of the commercial appearance of
9 the encroachment. The Board of Supervisors finds that this condition no longer reflects
10 current City policy regarding food service use encroachments on the public right-of-way.
11

12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor’s veto of the ordinance.
16

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

19 By: /s/ John D. Malamut
20 JOHN D. MALAMUT
21 Deputy City Attorney

22 n:\legana\as2023\2300255\01673061.docx
23
24
25

LEGISLATIVE DIGEST

[Public Works Code - Waiver of Annual Occupancy Assessment Fee - Seal Rock Inn]

Ordinance waiving the public right-of-way occupancy assessment fee under Public Works Code, Section 786.7 for a major encroachment permit associated with the Seal Rock Inn at 545 Point Lobos Avenue; modifying a condition of Seal Rock Inn’s major encroachment permit; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

In 1961, the Board of Supervisors (the “Board”) adopted Resolution No. 631-61 that granted a major encroachment permit to the Seal Rock Inn at 545 Point Lobos Avenue to occupy portions of the sidewalk area. Subsequently, the Board adopted Public Works Code Section 786.7 that imposes an annual public right-of-way occupancy assessment fee on major encroachments based on the square footage of area occupied. The annual fee for the Seal Rock Inn major encroachment, which includes a restaurant patio and planting area, is approximately \$3,700.00. On February 28, 2023, the Board adopted Resolution No. 089-23 to facilitate the revitalization of this valuable City destination by declaring its intent to waive the major encroachment annual occupancy assessment permit fee, among other actions.

Amendments to Current Law

The uncodified ordinance would waive all past and future annual occupancy assessment fees under Public Works Code Section 786.7 for the Seal Rock Inn major encroachment permit. The legislation also would modify a permit condition to remove a requirement that prohibits the commercial appearance of the encroachment.

n:\legana\as2023\2300255\01676979.docx

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor inquires..."
- 5. City Attorney Request
- 6. Call File No. from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission Youth Commission Ethics Commission
 Planning Commission Building Inspection Commission Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Chan

Subject:

[Public Works Code - Waiver of Annual Occupancy Assessment Fee - Seal Rock Inn]

Long Title or text listed:

Ordinance waiving the public right-of-way occupancy assessment fee under Public Works Code to 786.7 for a major encroachment permit associated with the Seal Rock Inn at 545 Point Lobos Avenue; modifying a condition of Seal Rock Inn's major encroachment permit; and affirming the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor:

