

1 [Minor Sidewalk Encroachment Permit Appeals]

2 AMENDING SECTION 723.2 OF THE SAN FRANCISCO PUBLIC WORKS CODE TO
3 PROVIDE THAT THE BOARD OF SUPERVISORS SHALL MAKE A DECISION REGARDING
4 A MINOR SIDEWALK ENCROACHMENT PERMIT APPEAL WITHIN 30 DAYS OF THE TIME
5 SET FOR THE HEARING ON THE APPEAL, OR THE DECISION OF THE DIRECTOR OF
6 PUBLIC WORKS SHALL STAND AS THE FINAL DECISION; PROVIDING PROCEDURES
7 FOR CONSIDERING AND DECIDING THE APPEAL.

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9 Note: Additions are underlined; deletions are in ((double parentheses)).

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

11 Section 1. Section 723.2 of the San Francisco Public Works Code is hereby amended,
12 to read as follows:

13
14 SEC. 723.2. MINOR SIDEWALK ENCROACHMENTS.

15 The Director of Public Works may grant permission, revocable at his or her will, to an
16 owner of property abutting any court, alley or street to install and maintain minor
17 encroachments such as fences, retaining walls, steps or stairways and other minor structures
18 in the sidewalk fronting such property where such encroachments are desirable or convenient
19 in conjunction with the owner's use and enjoyment of the property, or required for the safety,
20 convenience and comfort of the public using the sidewalk.

21 Such encroachments shall not occupy more than 10 percent of the area of the sidewalk
22 fronting the property nor more than 25 percent of the width of the sidewalk, unless the Director
23 of Public Works determines that such restrictions are not applicable due to the nature of the
24 encroachment. The Director may require further restrictions or modifications and impose such
25 conditions as he or she deems necessary. No advertisement shall be permitted on the

1 encroachments.

2 In considering the issuance of permits under the provisions of this Section, the Director
3 of Public Works shall give due regard to the location, neighborhood pattern, anticipated
4 pedestrian traffic, access requirements of the Fire Department, and to the convenience and
5 necessities of the owners, occupants or tenants of offices, stores or shops in the vicinity.

6 The owner of the real property or the owner's authorized agent applying for a permit
7 under the provisions of this Section shall agree to hold harmless the City and County of San
8 Francisco, its officers, agents, and employees, from any damage or injury caused by reason
9 of the installation or maintenance of the encroachment in the sidewalk, and the owner or
10 owners or subsequent owner or owners of the respective real property shall be solely liable for
11 any damage or loss occasioned by any act or neglect in respect to the installation or
12 maintenance of the encroachments in the sidewalk.

13 Each permit issued under the provisions of this Section shall not become effective until
14 the permit has been signed by the owner or the owner's authorized agent and a copy thereof
15 has been recorded in the office of the Recorder of the City and County of San Francisco;
16 provided, however, that within 15 days following the approval, denial or revocation of a permit
17 by the Director, any person may file a notice of appeal with the Clerk of the Board of
18 Supervisors ((President of the Board of Supervisors)). In the alternative, when the
19 encroachment is related to building construction, rehabilitation or maintenance, any person
20 may appeal the encroachment permit decision to the Building Inspection Commission. A
21 person waives his or her right to appeal to the Building Inspection Commission encroachment
22 permit decisions relating to building construction, rehabilitation or maintenance by instead
23 filing the appeal with the Clerk of the Board of Supervisors ((President of the Board of
24 Supervisors)). No encroachment permit decision may be appealed to both bodies.

25 For purposes of this Section, an encroachment permit is related to building

1 construction, rehabilitation or maintenance when the object of the encroachment permit
2 affects the applicant's ability to construct, repair or maintain the building. Upon filing the
3 appeal to the Board of Supervisors, the appeal shall be referred to the full Board for hearing.
4 The Clerk of the Board shall set a time and place for hearing such appeal, which shall be not
5 less than 10 nor more than 30 days after such filing.

6 Pending decision by the Board of Supervisors or the Building Inspection Commission,
7 the permit approval by the Director shall be suspended. The Board of Supervisors may
8 disapprove the appeal only by a vote of not less than 2/3 of all members of the Board. In the
9 event that one or more of the full membership of the Board is disqualified or excused from
10 voting because of an interest prohibited by general law or the San Francisco Charter, any
11 such disapproval shall be by a vote of all members of the Board that are not disqualified or
12 excused. The Board of Supervisors must decide such appeal within 30 days of the time set
13 for the hearing thereon, provided that, if the full membership of the Board is not present on the
14 last day on which said appeal is set or continued for hearing within said period, the Board may
15 postpone said hearing and decision thereon until, but not later than, the full membership of the
16 Board is present; provided further, that the latest date to which said hearing and decision may
17 be so postponed shall be not more than 90 days from the date of filing of the appeal. Failure
18 of the Board of Supervisors to act within such time limit shall be deemed to constitute
19 approval by the Board of the action of the Director of Public Works.

20 Before issuance of the permit, the applicant shall be required to pay to the Department
21 of Public Works a fee needed to equal the actual cost of inspection and investigation as
22 determined by the Department of Public Works, not to exceed \$200.

23 All payments received under the provisions of this Section shall be deposited to the
24 Special Engineering Inspection Fund of said Department.

25 Nothing in this Section shall be construed as authorizing the Director of Public Works to

1 grant permit for any encroachment which he or she determines to be inimical to the health,
2 welfare, safety and best interest of the general public, or in violation of the Charter or laws of
3 the City and County of San Francisco or laws of the State of California.

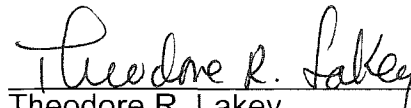
4 The Board of Supervisors or the Building Inspection Commission may affirm, reverse or
5 modify any permit decision made by the Director of Public Works under the provisions of this
6 Section. The decision by the Board of Supervisors or the Building Inspection Commission is
7 final.

8 The Board of Supervisors reserves the right to exact a license fee or rental for the use
9 of the sidewalk space permitted under the provisions of this Section.

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11 APPROVED AS TO FORM:

12 LOUISE H. RENNE, City Attorney

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14 By:


Theodore R. Lakey
Deputy City Attorney

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SUPERVISOR KAUFMAN
BOARD OF SUPERVISORS



City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 001354

Date Passed:

Ordinance amending Section 723.2 of the San Francisco Public Works Code to provide that the Board of Supervisors shall make a decision regarding a minor sidewalk encroachment permit appeal within 30 days of the time set for the hearing on the appeal, or the decision of the Director of Public Works shall stand as the final decision; providing procedures for considering and deciding the appeal.

July 31, 2000 Board of Supervisors — SUBSTITUTED

October 10, 2000 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng,
Yaki, Yee

Absent: 1 - Katz

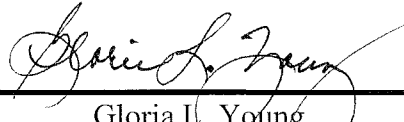
October 16, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng,
Yaki, Yee

Absent: 1 - Katz

File No. 001354

I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on October 16, 2000
by the Board of Supervisors of the City and
County of San Francisco.



Gloria L. Young
Clerk of the Board

OCT 27 2000

Date Approved



Mayor Willie L. Brown Jr.