

LEGISLATIVE DIGEST

(2/05/2018)

[Public Works, Administrative Codes - Street Encroachment Permits and Maintenance Fund for Certain Permits]

Ordinance amending the Public Works Code to update provisions on street encroachment permits, establish appeals procedures and fees for such appeals, waive the annual public right-of-way occupancy assessment fee in lieu of the waiver for permit fee payment for certain permits, modify the street encroachment permit process for governmental entities, and create a temporary street encroachment permit for a maximum period of 30 months; amending the Administrative Code to establish an encroachment maintenance fund for permits where the permittee is not an adjacent property owner; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Public Works Code Sections 786 et seq. establish the procedures for Public Works review and approval of street encroachment permits, also commonly referred to as major encroachment permits. Section 786 allows the Board of Supervisors to waive Public Works permit processing fees for certain types of permits. Section 786.7 establishes an annual public right-of-way occupancy fee, and exempts only those permits required to implement improvements necessary to satisfy the City Better Streets Plan as set forth in Planning Code Section 138.1.

Amendments to Current Law

This ordinance would update and clarify Public Works Code Sections 786 et seq. so that they reflect Public Works current administrative practice regarding a street encroachment permit ("Permit"), including those types of improvements that necessitate a Permit. The legislation would establish an explicit process for appeals to the Board of Supervisors for Permit denial or revocation of certain Permits, including an appeal fee, appeals to the Board of Supervisors subscribed by 5 members of the Board after a specific resident petition process, and appeals to the Board of Appeals for Public Works administrative decisions on a different category of Permits. The ordinance would adopt a process to address large multi-phase projects where the Board of Supervisors could approve a master Permit for the entire project at the initial phase of development and Public Works would administratively annex subsequent phases of the development into the master Permit and/or issue subsequent individual Permits for distinct areas of the development. The legislation would delete the existing fee waiver possibility for Public Works processing fees and instead would waive the annual occupancy assessment fee for specified projects whose Permit relates to City-approved or required public amenities. The ordinance would create an encroachment maintenance endowment fund for Permits issued or

assigned to permittees that are not the property owner(s) adjacent to the Permit area. These permittees would pay into the fund the equivalent of 2 years' worth of annual Permit maintenance costs over the course of 10 years. If a Permit triggers the maintenance endowment provision and its construction cost is \$1 million or more, then the Board of Supervisors would require the permittee to post a bond or other form of security or pay into the endowment fund for the cost of restoring the permit area to a condition satisfactory to the Public Works Director. The fund, which would be established in the Administrative Code, would allow Public Works to use it to address maintenance, repairs, replacement, or other type of City abatement action at the location of the Permit where the permittee is paying the fee or for any other street encroachment permit area in the City that needs maintenance, repairs, replacement, or other type of City abatement. The fund would allow Public Works to use any restoration deposit to restore the permit area at the location for which a permittee paid it and to refund any remaining deposit to the permittee if it is not necessary for the restoration. The legislation also would create a new Public Works administratively approved street encroachment permit to address two different situations:

- a) Permits requested from City agencies or the State or federal government; and
- b) Temporary Permits that are City department authorized/co-sponsored and are in place for no more than 2 years with a single discretionary 6-month extension for a total of 30 months.

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