

1 [Public Works Code - Requirements for Surface-Mounted Facility Site Permits]

2

3 **Ordinance amending the Public Works Code to modify the exceptions to the Surface-**
 4 **Mounted Facility Site Permit requirement; to allow a permittee to choose to pay an “in-**
 5 **lieu” fee instead of installing a street tree; to allow a permittee to choose to pay an “in-**
 6 **lieu” fee instead of permitting the installation of a mural on its Surface-Mounted**
 7 **Facility; to repeal the requirements that a permittee install landscaping or pay an “in-**
 8 **lieu” fee and maintain the required landscaping; to repeal the requirement that an**
 9 **applicant for a Surface-Mounted Facility Site Permit make reasonable efforts to locate**
 10 **the facility on private property before submitting an application; to require Public**
 11 **Works to submit a report to the Board of Supervisors every two years on the number of**
 12 **applications for Surface-Mounted Facility Site Permits submitted and issued and on**
 13 **maintenance and graffiti abatement activities at existing Surface-Mounted Facilities;**
 14 **and to amend the requirement that a permittee maintain any required street tree.**

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16 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 17 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 18 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 19 **Board amendment additions** are in double-underlined Arial font.
 20 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 21 **Asterisks (* * * *)** indicate the omission of unchanged Code
 22 subsections or parts of tables.

20

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

22

23 Section 1. The Public Works Code is hereby amended by revising Article 27, Sections
 24 2700, 2710, 2711, 2712, 2713, 2722, 2726, and 2727, and adding Section 2732, to read as
 25 follows:

1 **SEC. 2700. SURFACE-MOUNTED FACILITY SITE PERMIT.**

2 (a) **Surface-Mounted Facility Site Permit Required.** It shall be unlawful for any
3 Person to construct or install a Surface-Mounted Facility in any Public Right-of-Ways that are
4 under the jurisdiction of the Department without first obtaining from the Department a Surface-
5 Mounted Facility Site Permit under this Article 27 authorizing such construction or installation.

6 (b) **Minimum Permit Requirements.** The Department shall require an Applicant for
7 a Surface-Mounted Facility Site Permit to demonstrate to the satisfaction of the Department
8 that:

9 (1) The City has granted Applicant the authority to construct, install, and
10 maintain the proposed Surface-Mounted Facility in the Public Right-of-Ways; and

11 (2) The Director has approved the proposed location for the Surface-
12 Mounted Facility pursuant to the requirements of this Article 27.

13 (c) **Permit Conditions.** The Department may include in a Permit such Conditions,
14 in addition to those already set forth in this Article 27 and other Applicable Law, as may be
15 required to govern the construction, installation, removal, or maintenance of Surface-Mounted
16 Facilities in the Public Right-of-Ways, and to protect and benefit the public health, safety,
17 welfare, and convenience.

18 (d) **Authority Granted.** A Permit shall authorize the Permittee to perform any
19 excavation that is required to install the Surface-Mounted Facility in the Public Right-of-Ways.

20 (e) **Exceptions to Permit Requirement.** The requirements of this Article 27 shall
21 not apply to the following:

22 (1) The replacement of an existing Surface-Mounted Facility at the
23 same location; provided the replacement Surface-Mounted Facility would be installed on the
24 existing foundation and would not be substantially larger in height or volume ~~be the same size or~~
25 ~~smaller~~ than the existing Surface-Mounted Facility.

1 (2) The installation of any equipment in the Public Right-of-Ways
2 pursuant to an encroachment permit issued by the Department pursuant to Article 15 of the
3 Public Works Code.

4 (f) **Other Provisions Inapplicable.** This Article shall govern all actions taken by
5 the City with respect to the approval or denial of an Application for a Surface-Mounted Facility
6 Site Permit under this Article 27. The requirements of ~~San Francisco~~ Business and Tax
7 Regulations Code Sections 5, 6, and 26(a) shall not apply to this Article 27 to the extent those
8 provisions are in conflict with the provisions of this Article 27.

9
10 **SEC. 2710. STREET TREE LANDSCAPING.**

11 (a) **Required for Permit.**

12 (1) The Department shall require every Permittee to install a suitable street
13 trees ~~and landscaping~~ in order to minimize any negative effects on the Aesthetic Character of
14 the streetscape resulting from Permittee's construction, installation and maintenance of the
15 permitted Surface-Mounted Facility. ~~The Department shall determine the number of required street~~
16 ~~trees and the total area of the landscaped area. Generally, the Department shall require the installation~~
17 ~~of at least one street tree and sidewalk landscaping of approximately 100 square feet with each~~
18 ~~permitted Surface-Mounted Facility.~~

19 (b) **"In-Lieu" Fee.**

20 (2)(1) In any instance in which the Department cannot require the Permittee to
21 install ~~either an~~ appropriate street trees ~~or landscaping~~ in the vicinity of the permitted Surface-
22 Mounted Facility, including on the basis of inadequate sidewalk width, interference with
23 utilities, or other reasons regarding the public health, safety, or welfare, the Department shall
24 instead require the Permittee to ~~pay~~ make an "in-lieu" ~~fee. payment into the Department's "Adopt-~~
25 ~~A-Tree" fund. This payment shall be in the amount specified in Public Works Code Sections 802(h) and~~

1 ~~807(f) for the installation of one street tree in addition to a payment of \$7,500 for sidewalk~~
2 ~~landscaping, and shall be payable prior to the Department's issuance of the Permit. These on-lieu fees~~
3 ~~may be adjusted to reflect changes in the relevant Consumer Price Index, subject to the requirements of~~
4 ~~Section 2729(e).~~

5 (2) An Applicant may elect to pay the "in-lieu" fees described in subsection (b)(1)
6 instead of installing any required street tree. The Applicant shall notify the Department of its election
7 in the Notice of Intent required under Section 2712 of this Article 27.

8 (3) The "in-lieu" fee required by this subsection (b) shall be in the amount specified
9 in Public Works Code Sections 802(h) and 807(f) for the installation of one street and shall be paid into
10 the "Public Works Adopt-A-Tree Fund" established under Administrative Code Section 10.100-227.

11 **(bc) Care and Maintenance of Street Trees ~~and Landscaping~~.** ~~The Permittee shall be~~
12 ~~responsible for the~~ care and maintenance of any street trees ~~and landscaping~~ required to be
13 installed in the Public Right-of-Ways under this Section shall be in accordance with the terms and
14 conditions of: In this regard, the Permittee shall assume the duty of a "property owner" Article 16 of
15 the as set forth in Public Works Code, Section 800, et seq. Section 805(a).

16 **(ed) No Separate Permit Required.** Where required, the installation of a ~~The~~ street tree
17 ~~and landscaping requirements set forth subsection (a) above~~ shall be incorporated into the Surface-
18 Mounted Facility Site Permit issued by the Department under this Article 27. No separate
19 permit will be required under Section 810B of the Public Works Code.

21 **SEC. 2711. MURALS.**

22 **(a) Required for Permit.** Any Person or group of Persons may propose to the
23 Department and the Permittee that the permitted Surface-Mounted Facility be used for a
24 mural that is appropriate for the location. The Department shall require every Permittee to
25 work with any Person or group of Persons selected by the San Francisco Arts Commission in

1 consultation with the Department and the Permittee to facilitate the installation of the mural at
2 Permittee's sole expense and at no cost to the City. No mural shall be allowed unless it is
3 approved by the San Francisco Arts Commission. No mural may contain any product
4 advertising of any kind. The Department may establish by order or regulation the process for
5 placing a mural on a permitted Surface-Mounted Facility.

6 (b) **Maintenance.** The Permittee shall at Permittee's expense work with the Person
7 or Persons that installed the mural to ensure that the mural is properly maintained. The
8 requirements of this subsection (b) shall be in addition to Permittee's responsibilities under
9 this Article 27 to maintain any permitted Surface-Mounted Facilities and remove any Graffiti
10 from its permitted Surface-Mounted Facilities.

11 (c) **"In-Lieu" Fee.**

12 (1) An Applicant may elect to pay an "in-lieu" fee instead of permitting the
13 installation of a mural on its Surface-Mounted Facility. The Applicant shall notify the Department of
14 its election in the Notice of Intent required under Section 2712 of this Article 27.

15 (2) The "in-lieu" fee required by this subsection (c) shall be in the amount of
16 ~~\$5002,000~~ and shall be paid into the "Public Works Excavation Fund" established under
17 Administrative Code section 10.100-230. The in-lieu fee may be adjusted to reflect changes in the
18 relevant Consumer Price Index, subject to the requirements of Section 2729(e) of this Article 27.

19
20 **SEC. 2712. NOTICE OF INTENT TO SUBMIT APPLICATION.**

21 (a) **Submission to the Department.** As part of the Pre-Application Approval
22 Process, within ~~±~~ one day after the Preferred Location List has been reviewed and approved
23 by all applicable City departments, the Applicant may submit a Notice of Intent to the
24 Department for its review. An Applicant may request additional time to submit a Notice of
25 Intent.

1 (b) **Form and Contents.** The Notice of Intent shall be in the form approved by the
2 Department by order or regulation, but at a minimum shall contain the information required in
3 Section 2713(c)(1)-~~(9)~~(11).

4 (c) **Department Approval.** If the Department determines that a Notice of Intent is
5 complete, the Department will approve the Notice of Intent and authorize the Applicant to post
6 and mail the Notice of Intent as required in Section 2713.

7 (d) **Completion Requirements.** The Notice of Intent shall not be complete unless
8 the Department determines that the Applicant has complied with the following requirements:

9 (1) The Applicant has satisfactorily conducted the community meeting
10 required in Section 2705.

11 (2) The Applicant has submitted to the Department plans showing all of the
12 sizes and shapes of the cabinets proposed to be used for its Surface-Mounted Facilities,
13 including the dimensions of any ancillary equipment. For Applicants that conduct business in
14 jurisdictions other than San Francisco, the Applicant shall certify that the cabinets proposed
15 for San Francisco are no larger than the smallest used in any other jurisdiction for similar
16 services.

17 (3) If the Applicant is seeking approval of a larger cabinet on an existing
18 Surface-Mounted Facility site, the Applicant has sufficiently demonstrated to the Department
19 the reasons the larger cabinet is necessary.

20 ~~(4) — The Applicant has surveyed the vicinity of the Preferred Locations for its~~
21 ~~Surface Mounted Facility to identify locations outside of the Public Right of Ways (including City-~~
22 ~~owned property) that may be appropriate for the installation of the Surface Mounted Facility and the~~
23 ~~Applicant has made reasonable efforts to determine whether the owners of any and all suitable~~
24 ~~properties would be willing to allow the Applicant to use their property for Applicant's proposed~~
25 ~~Surface Mounted Facility. For purposes of this subsection, the term "reasonable efforts" includes~~

1 ~~offering the owners of any suitable property market rate compensation for the use of the property for~~
2 ~~the Applicant's Surface-Mounted Facility. The Department shall by order or regulation establish~~
3 ~~guidelines defining "reasonable efforts" and "market rate compensation."~~

4 ~~(5)(4)~~ The Applicant attempted to place the Surface-Mounted Facility (or parts
5 thereof) underground where such underground placement is technologically or economically
6 feasible. An Applicant may satisfy the requirement contained in this subsection ~~(d)(4)~~ by
7 demonstrating to the satisfaction of the Director that it is not technologically or economically
8 feasible for the Applicant to place the Surface-Mounted Facility (or parts thereof)
9 underground. At a minimum, the Applicant shall demonstrate to the Director that it conducted
10 a thorough search for adequate underground technology and provide a report from a licensed
11 engineer certifying the information.

12 ~~(6)(5)~~ Where it is not technologically or economically feasible to underground
13 the entire Surface-Mounted Facility, the Applicant has agreed: (A) to underground part of the
14 Surface-Mounted Facility; (B) to limit the height and footprint of the Surface-Mounted Facility
15 to the maximum extent feasible; (C) either to use stainless steel or to paint the Surface-
16 Mounted Facility the color used for City structures in the vicinity, unless otherwise specified by
17 the Department, and added a Graffiti-proof coating; ~~(D) to screen the Surface-Mounted Facility~~
18 ~~by landscaping the Public Right-of-Ways in the area around the Surface-Mounted Facility or~~
19 ~~camouflaging or camouflage the Surface-Mounted Facility where requested by any City~~
20 ~~department; and (E) to comply with any Conditions imposed by any City department that~~
21 reviewed the Applicant's Preferred Location List.

22 ~~(7)(6)~~ The Applicant has explored reasonable opportunities to co-locate the
23 Surface-Mounted Facility with any other Surface-Mounted Facility installed or to be installed in
24 the Public Right-of-Ways by other entities including City departments.

1 ~~(8)~~(7) The Applicant has explored reasonable opportunities for its Surface-
2 Mounted Facility to serve a dual function such as a bench or other amenity. The Department
3 shall have the authority to require that a Surface-Mounted Facility serve a dual function,
4 where the Department determines that such dual function is technologically and economically
5 feasible.

6 ~~(9)~~(8) The Applicant has notified the Department whether the Applicant could
7 remove an existing Surface-Mounted Facility from the Public Right-of-Ways because it would
8 no longer be used or useful to the Applicant once the proposed Surface-Mounted Facility has
9 been installed.

10 ~~(10)~~(9) The Applicant has submitted a plan to the Department, in a format
11 specified by the Department, showing all of the Surface-Mounted Facilities the Applicant
12 expects to install in the City within five years of the Application date. Any Applicant that does
13 not anticipate installing any other Surface-Mounted Facilities in the next five years may satisfy
14 this requirement by submitting a statement to that effect instead of a five-year plan.

15 ~~(11)~~(10) The Department has determined that at least two of the Applicant's
16 Preferred Locations for the Surface-Mounted Facility are acceptable or the Notice of Intent will
17 include additional proposed locations identified by the Department or another City department
18 that reviewed the Applicant's Preferred Location List, unless the Department has determined
19 that there is only one feasible location for the proposed Surface-Mounted Facility.

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21 **SEC. 2713. PUBLIC NOTICE OF NOTICE OF INTENT TO SUBMIT APPLICATION.**

22 (a) **Public Notice Required.** As part of the Pre-Application Approval Process, the
23 Department shall require an Applicant to notify the public that the Applicant has submitted a
24 Notice of Intent to the Department.

25 (b) **Notice Requirements.**

1 (1) The Applicant shall send a copy of the Notice of Intent to all Persons
2 owning or occupying any property located within 300 feet along either side of the fronting
3 streets of any of the Preferred Locations for the Surface-Mounted Facility.

4 (2) The Applicant shall post a copy of the Notice of Intent in conspicuous
5 places along the Public Right-of-Ways within 300 feet of either side of the fronting streets of
6 any of Applicant's Preferred Locations for the Surface-Mounted Facility.

7 (3) The Applicant shall send a copy of the Notice of Intent to any
8 neighborhood planning association identified by the Planning Department for any
9 neighborhood within 300 feet of any of the Applicant's Preferred Locations for the Surface-
10 Mounted Facility.

11 (c) **Form of Notice of Intent.** The Notice of Intent shall be in a form to be approved
12 by the Department by order or regulation. At a minimum, the Notice of Intent shall contain the
13 following information:

14 (1) The fronting address for each of the Preferred Locations and photo-
15 simulations of the Surface-Mounted Facility at each of the Preferred Locations. Such photo-
16 simulations shall accurately depict the proposed Surface-Mounted Facility and any *proposed*
17 *required* street trees ~~or landscaping~~.

18 (2) The Applicant's order of preference for the Preferred Locations.

19 (3) A brief description of the nature of the use of the proposed Surface-
20 Mounted Facility and the consequences of not installing the facility.

21 (4) Any assessment made of the Applicant's Preferred Locations by the
22 Planning Department and/or Recreation and Park Department.

23 (5) Any Conditions on the installation of the proposed Surface-Mounted
24 Facility at each of the Preferred Locations imposed by any City department that reviewed the
25

1 Applicant's Preferred Location List (including a statement indicating whether the Applicant has
2 accepted the Conditions).

3 (6) Any additional proposed locations for the Surface-Mounted Facility
4 identified by any City department that reviewed the Applicant's Preferred Location List
5 (including a statement indicating whether the Applicant has accepted the proposed locations).

6 (7) The procedure for protesting any or all of the Preferred Locations
7 contained in the Notice of Intent.

8 (8) The Applicant's contact information for obtaining information related to
9 the Notice of Intent and/or the technical requirements for the proposed Surface-Mounted
10 Facility.

11 (9) A statement that more information about the proposed Notice of Intent
12 can be obtained from the Applicant and more information about submitting a protest can be
13 obtained from the Department.

14 (10) If applicable, a statement that the Applicant will elect to pay an "in-lieu" fee
15 rather than installing a street tree.

16 (11) If applicable, a statement that the Applicant will elect to pay an "in-lieu" fee
17 rather than permitting the installation of a mural on its permitted Surface-Mounted Facility.

18 ~~(d)(10)~~ **Language Requirement.** The Department may require an Applicant to translate
19 the Notice of Intent into such language(s) that the Department determines are appropriate
20 based on the locations for the proposed Surface-Mounted Facility contained in the Notice of
21 Intent. Prior to issuing the Notice of Intent, the Applicant shall inquire of the Department as to
22 whether translation is required, and if so, into which language or languages such translation
23 shall be offered.

24 ~~(d)(e)~~ **Filing with the Department.** The Applicant shall file with the Department proof
25 that the Applicant has complied with the notice requirements contained herein.

1 **SEC. 2722. POST-INSTALLATION OBLIGATIONS.**

2 (a) **Required Signage.** A Permittee shall place a sign on a permitted Surface-
3 Mounted Facility that shall contain the Permittee's name and provide a telephone number for
4 people to call to notify the Permittee that there is damage to or Graffiti on a Surface-Mounted
5 Facility or that an associated street tree landscaping is in need of maintenance. A telephone call
6 to that number will be considered notice to the Permittee. Such sign shall be displayed in a
7 conspicuous manner and shall be maintained and/or replaced as necessary.

8 (b) **Surface-Mounted Facility Maintenance.** A Permittee shall be solely
9 responsible for maintaining a Surface-Mounted Facility installed in the Public Right-of-Ways in
10 a clean and safe condition. A Permittee shall repair any damage to a Surface-Mounted Facility
11 within 30 days after discovering or being notified of such damage to a Surface-Mounted
12 Facility.

13 ~~(c) — *Landscaping Maintenance. A Permittee shall be solely responsible for the maintenance*~~
14 ~~*of any installed landscaping or street tree installed by the Permittee as a Condition of the Department's*~~
15 ~~*issuance of a Surface-Mounted Facility Site Permit for so long as the permitted Surface-Mounted*~~
16 ~~*Facility remains at the location. Such landscaping shall be kept in a state of good visual quality, with*~~
17 ~~*any dead or diseased material promptly removed and replaced. The Permittee shall remove any litter*~~
18 ~~*accumulating within the landscaped area within 72 hours after discovering or being notified of such*~~
19 ~~*litter accumulation. —*~~

20 ~~(d)~~(c) **Graffiti Removal.** A Permittee shall be solely responsible for the removal of any
21 Graffiti from a Surface-Mounted Facility installed in the Public Right-of-Ways. A Permittee
22 shall remove all Graffiti from a Surface-Mounted Facility within 72 hours after discovering or
23 being notified that there is Graffiti on a Surface-Mounted Facility.

24 ~~(e)~~(d) **Inspection Required.** A Permittee shall regularly inspect each Surface-
25 Mounted Facility installed in the Public Right-of-Ways to determine whether any of its Surface-

1 Mounted Facilities are damaged, in need ~~of a landscaping~~ street tree maintenance, or have
2 been tagged with Graffiti.

3 ~~(f)(e)~~ **Records.** A Permittee shall maintain written records of all inspections, repairs
4 to, and maintenance of any permitted Surface-Mounted Facilities in the Public Right-of-Ways
5 in such form as may be required by the Department. The Department may require that a copy
6 of these written records be sent to the Department on a regular basis.

7

8 **SEC. 2726. LIABILITY.**

9 As a condition of a Surface-Mounted Facility Site Permit, each Permittee agrees on
10 behalf of itself and any agents, successors, or assigns to be wholly responsible for the
11 construction, installation, and maintenance of any permitted Surface-Mounted Facility ~~and any~~
12 and the installation of any required street trees ~~or landscaping~~. Each Permittee and its agents
13 are jointly and severally liable for all consequences of such construction, installation, and
14 maintenance of a permitted Surface-Mounted Facility and the installation of any required
15 street trees ~~or landscaping~~. The issuance of any Permit, inspection, repair suggestion,
16 approval, or acquiescence of any Person affiliated with the City shall not excuse any
17 Permittee or its agents from such responsibility or liability.

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19 **SEC. 2727. INDEMNIFICATION AND DEFENSE OF CITY.**

20 (a) **Indemnification of City.** As a condition of a Surface-Mounted Facility Site
21 Permit, each Permittee agrees on behalf of itself and its agents, successors, or assigns, to
22 indemnify, defend, protect, and hold harmless the City from and against any and all claims of
23 any kind allegedly arising directly or indirectly from the following:

24 (1) Any act, omission, or negligence of a Permittee or its ~~any~~ agents,
25 successors, or assigns while engaged in the construction, installation, or maintenance of any

1 Surface-Mounted Facility authorized by a Permit, or while in or about the Public Right-of-Ways
2 that are subject to the Permit, for any reason connected in any way whatsoever with the
3 performance of the work authorized by the Permit, or allegedly resulting directly or indirectly
4 from the construction, installation, or maintenance of any Surface-Mounted Facility authorized
5 under the Permit or any required street trees ~~or landscaping~~;

6 (2) Any accident, damage, death, or injury to any of a Permittee's contractors
7 or subcontractors, or any officers, agents, or employees of either of them, while engaged in
8 the performance of the construction, installation, or maintenance of any Surface-Mounted
9 Facility authorized by a Permit or any required street trees ~~or landscaping~~, or while in or about
10 the Public Right-of-Ways that are subject to the Permit, for any reason connected with the
11 performance of the work authorized by the Permit, including from exposure to radio frequency
12 emissions;

13 (3) Any accident, damage, death, or injury to any Person or accident,
14 damage, or injury to any real or personal property in, upon, or in any way allegedly connected
15 with the construction, installation, or maintenance of any Surface-Mounted Facility authorized
16 by a Permit or any required street trees ~~or landscaping~~, or while in or about the Public Right-of-
17 Ways that are subject to the Permit, from any causes or claims arising at any time, including
18 any causes or claims arising from exposure to radio frequency emissions; and

19 (4) Any release or discharge, or threatened release or discharge, of any
20 hazardous material caused or allowed by a Permittee or its agents about, in, on, or under the
21 Public Right-of-Ways.

22 (b) **Defense of City.** Each Permittee agrees that, upon the request of the City, the
23 Permittee, at no cost or expense to the City, shall indemnify, defend, and hold harmless the
24 City against any claims as set forth in subsection (a) above, regardless of the alleged
25 negligence of City or any other party, except only for claims resulting directly from the sole

1 negligence or willful misconduct of the City. Each Permittee specifically acknowledges and
2 agrees that it has an immediate and independent obligation to defend the City from any claims
3 that actually or potentially fall within the indemnity provision, even if the allegations are or may
4 be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered
5 to the Permittee or its agent by the City and continues at all times thereafter. Each Permittee
6 further agrees that the City shall have a cause of action for indemnity against the Permittee for
7 any costs the City may be required to pay as a result of defending or satisfying any claims that
8 arise from or in connection with a Permit, except only for claims resulting directly from the sole
9 negligence or willful misconduct of the City. Each Permittee further agrees that the
10 indemnification obligations assumed under a Permit shall survive expiration of the Permit or
11 completion of installation of any Surface-Mounted Facility authorized by the Permit.

12 (c) **Additional Requirements.** The Department may specify in a Permit such
13 additional indemnification requirements as are necessary to protect the City from risks of
14 liability associated with the Permittee's construction, installation, and maintenance of a
15 Surface-Mounted Facility or any required street trees ~~or landscaping~~.

16
17 **SEC. 2732. DEPARTMENT OF PUBLIC WORKS REPORTING REQUIREMENT.**

18 (a) Beginning on September 1, 2019, and by September 1 of every other year
19 thereafter, The Department shall submit a report (the "Department Report") to the Board of
20 Supervisors and the Mayor concerning the applications for Surface-Mounted Facility Site
21 Permits submitted during the prior two-year period and maintenance of existing Surface-
22 Mounted Facilities.

23 (b) For each application, the Department Report shall contain the following
24 information: (1) the number of applications submitted by applicant; (2) the proposed location
25 of the Surface-Mounted Facility set forth in each application; (3) whether those applications

1 were protested; (4) the results of all such protests; (5) whether the Department granted or
2 denied those applications; (6) whether any Department determinations were appealed; and
3 (7) the outcome of any such appeals. For each existing Surface-Mounted Facility, the
4 Department Report shall also describe maintenance and graffiti abatement activities by the
5 Permittee during the two-year period.

6
7 Section 2. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
8 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
9 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
10 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
11 additions, and Board amendment deletions in accordance with the “Note” that appears under
12 the official title of the ordinance.

13
14 Section 3. Severability. If any section, subsection, sentence, clause, phrase, or
15 word of this ordinance, or any application thereof to any person or circumstance, is held to be
16 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
17 shall not affect the validity of the remaining portions or applications of the ordinance. The
18 Board of Supervisors hereby declares that it would have passed this ordinance and each and
19 every section, subsection, sentence, clause, phrase, and word not declared invalid or
20 unconstitutional without regard to whether any other portion of this ordinance or application
21 thereof would be subsequently declared invalid or unconstitutional.

22
23 Section 4. No Conflict with Federal or State Law. Nothing in this ordinance shall be
24 interpreted or applied so as to create any requirement, power, or duty in conflict with any
25 federal or state law.

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Section 5. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

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

By: _____
WILLIAM K. SANDERS
Deputy City Attorney

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