

LEGISLATIVE DIGEST

[Public Works Code - Surface-Mounted Facility Site Permits.]

Ordinance amending the Public Works Code to establish the requirements for Surface-Mounted Facility Site Permits; to set fees for obtaining such permits; to make the provisions of the Ordinance retroactive; and making environmental findings.

Existing Law

Article 2.4 of the Public Works Code presently requires any person installing a surface-mounted facility (“SMF”) in the public rights-of-way to obtain an excavation permit from the Department of Public Works (“DPW”). SMFs are above-ground utility facilities that are installed in the public rights-of-way both by private entities that are public utilities (e.g., AT&T, Comcast, PG&E) and certain City departments (e.g., the Municipal Transportation Agency).

Amendments to Current Law

Article 27 of the Public Works Code would establish a separate SMF permit, which would be required to install an SMF in the public rights-of-way (instead of an excavation permit). In addition, Article 27 would establish a pre-permitting process, whereby applicants for SMF permits would work with DPW, the Planning Department, the Recreation and Park Department, and local residents, business owners, and community groups to determine the best site for the proposed SMF. While Article 27 envisions a cooperative process, it also allows local residents to protest a proposed location for an SMF. Article 27 would also establish excavation, inspection, and compliance requirements, and permit fees.

Background Information

To provide services to City residents and businesses, many public utilities and City departments install facilities in the public rights-of-way. It is not always possible for these entities to install their facilities underground. The installation of SMFs in the public rights-of-way, however, can impede travel on public streets, inconvenience property owners and local residents, create visual blight, or otherwise impact the use of the public rights-of-way by the public.

Further, the City’s Better Streets Plan recognizes that well-organized utility design and placement can, among other things: (i) minimize streetscape clutter and help achieve a cohesive streetscape design; (ii) maximize space for plantings; (iii) improve utility efficiency of

utilities and integrate alignment with stormwater facilities, street furnishings, and street lighting; and (iv) improve pedestrian safety, and quality of life.¹

For these reasons, the City needs to participate in the siting process to ensure that SMFs are installed in locations that meet the needs of both the applicants and persons living, working in, and generally using the streets in the vicinity of the proposed locations for the SMFs.

The City has been actively engaged in the SMF siting process for nearly nine years now. Following a series of meetings with stakeholders, on August 17, 2005 DPW adopted Director's Order 175,556 to establish a pre-permitting process for SMFs in the public rights-of-way ("Order"). Under the Order, before DPW will issue an excavation permit for an SMF the applicant must follow the process contained in the Order to locate the best site for the proposed SMF. DPW has approved some 325 SMF locations using the process contained in the Order, with most of the permits being issued to AT&T and the Municipal Transportation Agency.

The location siting provisions contained in Article 27 are modeled on the Order. To the extent there are differences between the requirements of Article 27 and the Order those differences represent the City's efforts to improve the process based on DPW's nearly nine years of experience with the process contained in the Order.

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¹ A copy of the Better Streets Plan can be found on the City's website at: <http://www.sf-planning.org/ftp/BetterStreets/index.htm>