

File No. 191091 Committee Item No. 4  
Board Item No. \_\_\_\_\_

**COMMITTEE/BOARD OF SUPERVISORS**  
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Committee: Land Use and Transportation Committee Date December 16, 2019

Board of Supervisors Meeting Date \_\_\_\_\_

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Completed by: Erica Major Date December 12, 2019  
Completed by: Erica Major Date \_\_\_\_\_

1 [Public Works Code - Personal Wireless Service Facility Site Permits]

2  
3 **Ordinance amending the Public Works Code to modify certain of the requirements for**  
4 **obtaining Personal Wireless Service Facility Site Permits, including the requirements**  
5 **for public notice and adjustment of permit fees; and affirming the Planning**  
6 **Department's determination under the California Environmental Quality Act.**

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

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

15 Section 1. The Planning Department has determined that the actions contemplated in  
16 this ordinance comply with the California Environmental Quality Act (California Public  
17 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
18 Board of Supervisors in File No. 190598 and is incorporated herein by reference.

19 Section 2. Article 25 of the Public Works Code is hereby amended by revising  
20 Sections 1500, 1501, 1502, 1506, 1507, 1508, 1509, 1510, 1511, 1514, 1521, 1522, and  
21 1527, and deleting sections 1512 and 1513, to read as follows:

22  
23 **SEC. 1500. PERSONAL WIRELESS SERVICE FACILITY SITE PERMIT.**  
24  
25

1 (a) **Personal Wireless Service Facility Site Permit Required.** The Department  
2 shall require any Person seeking to construct, install, or maintain a Personal Wireless  
3 Service Facility in the Public Rights-of-Way to obtain a Personal Wireless Service Facility  
4 Site Permit.

5 (b) **Minimum Permit Requirements.**

6 (1) The Department shall not issue a Personal Wireless Service Facility Site  
7 Permit if the Application for a Personal Wireless Service Facility Site Permit does not comply  
8 with all of the requirements of this Article 25.

9 (2) The Department shall require an Applicant for a Personal Wireless  
10 Service Facility Site Permit to demonstrate to the satisfaction of the Department that:

11 (A) The Department has issued the Applicant a Utility Conditions  
12 Permit as required by San Francisco Administrative Code Section 11.9;

13 (B) The pole owner has authorized the Applicant to use or replace the  
14 Utility or Street Light Pole identified in the Application; and

15 (C) The Applicant has obtained any approvals that may be required  
16 under the California Environmental Quality Act (California Public Resources Code Section  
17 21000 et seq.) to construct, install, and maintain the proposed Personal Wireless Service  
18 Facility.

19 (c) **Permit Prohibited.** The Department shall not issue a Personal Wireless  
20 Service Facility Site Permit if the Applicant seeks to:

21 (1) Install a new Utility, Transit, or Street Light Pole on a Public Right-of-  
22 Way where there presently are no overhead utility facilities; or

23 (2) Add a Personal Wireless Service Facility on a Utility or Street Light Pole  
24 for which a Personal Wireless Service Facility Site Permit has already been approved.  
25

1 (d) **Permit Conditions.** The Department may include in a Personal Wireless  
2 Service Facility Site Permit such conditions, in addition to those already set forth in this  
3 Article 25 and other Applicable Law, as may be required to govern the construction,  
4 installation, or maintenance of Personal Wireless Service Facilities in the Public Rights-of-  
5 Way, and to protect and benefit the public health, safety, welfare, and convenience, provided  
6 that no such conditions may concern the particular technology used for a Personal Wireless  
7 Service Facility.

8 (e) **Installation of Cabinets or Vaults in the Public Rights-of-Way.** The  
9 Department shall not include in a Personal Wireless Service Facility Site Permit an  
10 authorization for the Permittee to install a surface-mounted equipment cabinet or  
11 underground equipment vault in the Public Rights-of-Way. In order to install such an  
12 equipment cabinet or vault in the Public Rights-of-Way for use with a Personal Wireless  
13 Service Facility, a Permittee must fully comply with any other City permitting requirements  
14 related to the installation of such facilities.

15 (f) **Other Provisions Inapplicable.** Notwithstanding the requirements of San  
16 Francisco Business and Tax Code Sections 5, 6, and 26(a), the provisions of this Article 25  
17 shall govern all actions taken by the City with respect to the approval or denial of an  
18 Application for a Personal Wireless Service Facility Site Permit under this Article 25.

19 **SEC. 1501. DEPARTMENT ORDERS AND REGULATIONS.**

20 (a) The Department may adopt such orders or regulations as it deems necessary  
21 to implement the requirements of this Article 25, or to otherwise preserve and maintain the  
22 public health, safety, welfare, and convenience, as are consistent with this requirements of  
23 this Article 25 and Applicable Law.

24 (b) The Department shall work with the Planning Department and Recreation and Park  
25 Department to adopt regulations or orders establishing initial Objective Standards for the Department

1 to use to determine whether a proposed Personal Wireless Service Facility satisfies the applicable  
2 Tier A, B, or C Compatibility Standard. The Department may by order or regulation modify the initial  
3 Objective Standards when necessary to, among other things, approve additional or different  
4 equipment, designs, or configurations that the Department determines also satisfy the applicable Tier  
5 A, B, or C Compatibility Standards.

6 **SEC. 1502. DEFINITIONS.**

7 For purposes of this Article 25, the following terms, phrases, words, abbreviations,  
8 their derivations, and other similar terms, when capitalized, shall have the meanings given  
9 herein. When not inconsistent with the context, words used in the present tense include the  
10 future tense; words in the plural number include the singular number; and words in the  
11 singular number include the plural number.

12 "Adjacent" means:

13 (a) On the same side of the street and in front of the building or the next building  
14 on either side, when used in connection with a national historic landmark, California  
15 landmark, San Francisco landmark, structure of merit, architecturally significant building, or  
16 locally significant building; and

17 (b) On front of and on the same side of the street, when used in connection with a  
18 City park or open space.

19 "Applicable Law" means all applicable federal, state, and City laws, ordinances, codes,  
20 rules, regulations, and orders, as the same may be amended or adopted from time to time.

21 "Applicant" means any Person submitting an Application for a Personal Wireless  
22 Service Facility Site Permit or Modification Permit under this Article 25.

23 "Application" means an application for a Personal Wireless Service Facility Site Permit  
24 or Modification Permit under this Article 25.

1 "Base Station" shall have the meaning determined by the Department in an order or  
2 regulation, provided that the Department's definition shall be consistent with the definition of that  
3 term: (a) as it is used in Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of  
4 2012, codified at 47 U.S.C. § 1455(a) as may be amended from time to time; and (b) as it is  
5 defined by the FCC in any decision addressing that section or any regulation implementing that  
6 section.

7 "City" means the City and County of San Francisco.

8 "Conditions" means any additional requirements that a City department reviewing an  
9 Application for a Personal Wireless Service Facility Site Permit determined are necessary for the  
10 Application to meet those requirements of this Article 25 that are within that department's  
11 purview.

12 "Department" means the Department of Public Works.

13 "Director" means the Director of Public Works.

14 "Disfavored Design" means any design for a Personal Wireless Service Facility that is identified  
15 in the Objective Standards as disfavored.

16 "Eligible Facilities Request" shall have the meaning determined by the Department in an  
17 order or regulation, provided that the Department's definition shall be consistent with the  
18 definition of that term:(a) as it is used in Section 6409(a) of the Middle Class Tax Relief and Job  
19 Creation Act of 2012, codified at 47 U.S.C. § 1455(a) as may be amended from time to time; and  
20 (b) as it is defined by the FCC in any decision addressing that section or any regulation  
21 implementing that section.

22 "FCC" means the Federal Communications Commission.

23 "Immediate Vicinity" means:

24 (a) Within one (1) block in any direction from the boundary of a Planning Protected Location  
25 that is a national historic landmark district, listed or eligible national register historic district, listed or

1 ~~eligible California register historic district, San Francisco landmark district, local historic or conservation~~  
2 ~~district, or locally significant district;~~

3 ~~(b) Within twenty five (25) feet of the property lines from the properties that are Adjacent to a~~  
4 ~~Planning Protected Location that is a national historic landmark, California landmark, San Francisco~~  
5 ~~landmark, structure of merit, architecturally significant building, or locally significant building, or across~~  
6 ~~the street from the above boundary lines;~~

7 ~~(c) Within one (1) block in any direction from the boundary of a Zoning Protected Location;~~  
8 ~~and~~

9 ~~(d) Within one (1) block in any direction from the boundary of a Park Protected Location.~~

10 "Modification Permit" means a Permit issued by the Department pursuant to Section 1522  
11 below, authorizing a Permittee to modify equipment installed on a Utility, ~~Transit, or Street Light~~  
12 Pole by the Permittee pursuant to a Personal Wireless Service Facility Site Permit.

13 "Objective Standards" means standards to determine whether a proposed Personal Wireless  
14 Service Facility satisfies the applicable Tier A, B, or C Compatibility Standard based on factors that are  
15 quantifiable, measurable, and verifiable.

16 "Park Protected Location" means a proposed location for a Personal Wireless Service  
17 Facility in the Public Rights-of-Way that is Adjacent to a City park or open space.

18 "Park Protected Location Compatibility Standard" means whether a Personal Wireless  
19 Service Facility that is proposed to be located in a Park Protected Location would significantly  
20 impair the views of a City park or open space or significantly degrade or detract from the aesthetic  
21 or natural attributes that define the City park or open space.

22 "Permittee" means a Person issued a Personal Wireless Service Facility Site Permit.

23 "Person" means any individual, group, company, partnership, association, joint stock  
24 company, trust, corporation, society, syndicate, club, business, or governmental entity.

25 "Person" shall not include the City.

1 "Personal Wireless Service" means commercial mobile services provided under a  
2 license issued by the FCC.

3 "Personal Wireless Service Facility" or "Facility" means antennas and related facilities  
4 used to provide or facilitate the provision of Personal Wireless Service.

5 "Personal Wireless Service Facility Site Permit" or "Permit" means a permit issued by  
6 the Department pursuant to this Article 25 authorizing a Permittee to construct, install, and  
7 maintain a Personal Wireless Service Facility.

8 "Planning Protected Location" means any of the following proposed locations for a  
9 Personal Wireless Service Facility:

10 (a) On an historic, historically or architecturally significant, decorative, or specially  
11 designed ~~Street Light Utility~~ Pole located in the Public Rights-of-Way;

12 (b) On a Utility, ~~Transit, or Street Light~~ Pole that is on a Public Right-of-Way that is  
13 within a national historic landmark district, listed or eligible national register historic district,  
14 listed or eligible California register historic district, San Francisco landmark district, local  
15 historic or conservation district, or locally significant district, as more specifically described  
16 and cataloged in materials prepared and maintained by the Planning Department;

17 (c) On a Utility, ~~Transit, or Street Light~~ Pole that is on a Public Right-of-Way that is  
18 Adjacent to a national historic landmark, California landmark, San Francisco landmark,  
19 structure of merit, architecturally significant building, or locally significant building, as more  
20 specifically described and cataloged in materials prepared and maintained by the Planning  
21 Department;

22 (d) On a Utility, ~~Transit, or Street Light~~ Pole that is on a Public Right-of-Way that the  
23 General Plan has designated as being most significant to City pattern, defining City form, or  
24 having an important street view for orientation; or  
25

1 (e) On a Utility, ~~Transit, or Street Light~~ Pole that is on a Public Right-of-Way that the  
2 General Plan has designated as having views that are rated "excellent" or "good."

3 "Planning Protected Location Compatibility Standard" means whether an Applicant for  
4 a Personal Wireless Service Facility Site Permit demonstrates that a proposed Personal  
5 Wireless Service Facility would be compatible with any of the Planning Protected Locations:

6 (a) For a historic, historically or architecturally significant, decorative, or specially  
7 designed ~~Street Light~~ Utility Pole, the applicable standard is whether a proposed Personal  
8 Wireless Service Facility would significantly degrade or detract from the aesthetic attributes  
9 that distinguish the ~~Street Light~~ Utility Pole as historic, historically significant, architecturally  
10 significant, decorative, or specially designed.

11 (b) For a Public Right-of-Way that is within a national historic landmark district,  
12 listed or eligible national register historic district, listed or eligible California register historic  
13 district, San Francisco landmark district, local historic or conservation district, or locally  
14 significant district, the applicable standard is whether a proposed Personal Wireless Service  
15 Facility would significantly degrade or detract from the aesthetic attributes that were the basis  
16 for the special designation of the district.

17 (c) For a Utility, ~~Transit, or Street Light~~ Pole that is Adjacent to a national historic  
18 landmark, California landmark, San Francisco landmark, structure of merit, architecturally  
19 significant building, or locally significant building, the applicable standard is whether a  
20 proposed Personal Wireless Service Facility would significantly degrade or detract from the  
21 aesthetic attributes that were the basis for the special designation of the building.

22 (d) For a Public Right-of-Way that the General Plan has designated as being most  
23 significant to City pattern, defining City form, or having an important street view for  
24 orientation, the applicable standard is whether a proposed Personal Wireless Service Facility  
25

1 would significantly degrade or detract from the aesthetic attributes that were the basis for the  
2 designation of the street for special protection under the General Plan.

3 (e) For a Public Right-of-Way that the General Plan has designated as having  
4 views that are rated "excellent" or "good," the applicable standard is whether a proposed  
5 Personal Wireless Service Facility would significantly impair the views of any of the important  
6 buildings, landmarks, open spaces, or parks that were the basis for the designation of the  
7 street as a view street.

8 "Public Health Compliance Standard" means whether: (a) any potential human  
9 exposure to radio frequency emissions from a proposed Personal Wireless Service Facility  
10 described in an Application is within the FCC guidelines; and (b) noise at any time of the day  
11 or night from the proposed Personal Wireless Service Facility described in an Application is  
12 not greater than ~~forty five~~ (45) dBA as measured at a distance three (3) feet from any  
13 residential building facade.

14 "Public Rights-of-Way" means the area in, on, upon, above, beneath, within, along,  
15 across, under, and over the public streets, sidewalks, roads, lanes, courts, ways, alleys,  
16 spaces, and boulevards within the geographic area of the City in which the City now or  
17 hereafter holds any property interest, which is dedicated to public use and which, consistent  
18 with the purposes for which it was dedicated, may be used for the purpose of installing and  
19 maintaining Personal Wireless Service Facilities to provide Personal Wireless Service to  
20 customers.

21 "Replace" means to remove previously permitted equipment and install new  
22 equipment at a permitted Personal Wireless Service Facility that is identical in size or smaller  
23 than the previously permitted equipment.

24 ~~"Street Light Pole" means a pole used solely for street lighting and which is located in the~~  
25 ~~Public Right-of-Way.~~

1           “Substantially Change the Physical Dimensions” shall have the meaning determined  
2 by the Department in an order or regulation, provided that the Department’s definition shall  
3 be consistent with the definition of that term: (a) as it is used in Section 6409(a) of the Middle  
4 Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. § 1455(a) as may be  
5 amended from time to time; and (b) as it is defined by the FCC in any decision addressing  
6 that section or any regulation implementing that section.

7           “Tier A Compatibility Standard” means that an Applicant for a Personal Wireless  
8 Service Facility on a Public Right-of-Way that is within an Unprotected Location has  
9 demonstrated that the proposed Personal Wireless Service Facility would not significantly  
10 detract from any of the defining characteristics of the neighborhood.

11           “Tier A Personal Wireless Service Facility” means a Personal Wireless Service Facility  
12 where the proposed location for the facility is in an Unprotected Location.

13           “Tier B Compatibility Standard” means that an Applicant for a Personal Wireless  
14 Service Facility on a Public Right-of-Way that is either within or Adjacent to a Planning  
15 Protected Location or Zoning Protected Location has demonstrated that the proposed  
16 Personal Wireless Service Facility *would not significantly detract from any of the defining*  
17 *characteristics of the* satisfies the applicable Planning Protected Location Compatibility Standard  
18 or Zoning Protected Location Compatibility Standard.

19           “Tier B Personal Wireless Service Facility” means a Personal Wireless Service Facility  
20 where the proposed location for the facility is in a Planning Protected Location or Zoning  
21 Protected Location.

22           “Tier C Compatibility Standard” means that an Applicant for a Personal Wireless  
23 Service Facility on a Public Right-of-Way that is either within or Adjacent to a Park Protected  
24 Location has demonstrated that the proposed Personal Wireless Service Facility satisfies the  
25

1 ~~applicable would not significantly detract from any of the defining characteristics of the~~ Park  
2 Protected Location Compatibility Standard.

3 "Tier C Personal Wireless Service Facility" means a Personal Wireless Service Facility  
4 where the proposed location for the facility is in a Park Protected Location.

5 ~~"Transit Pole" means a pole used to support Municipal Transportation Agency transit~~  
6 ~~overhead traction power cables and which is located in the Public Rights-of-Way.~~

7 "Transmission Equipment" shall have the meaning determined by the Department in  
8 an order or regulation, provided that the Department's definition shall be consistent with the  
9 definition of that term:(a) as it is used in Section 6409(a) of the Middle Class Tax Relief and  
10 Job Creation Act of 2012, codified at 47 U.S.C. § 1455(a) as may be amended from time to  
11 time; and (b) as it is defined by the FCC in any decision addressing that section or any  
12 regulation implementing that section.

13 "Unprotected Location" means a proposed location for a Personal Wireless Service  
14 Facility that is neither a Planning Protected Location, Zoning Protected Location, nor a Park  
15 Protected Location.

16 "Utility Pole" means a power pole, telephone pole, or other similar pole subject to  
17 California Public Utilities Commission General Order 95, and located within the Public Rights-of-  
18 Way.

19 "Zoning Protected Location" means on a Utility, ~~Transit, or Street Light~~ Pole that is on a  
20 Public Right-of-Way that is within a Residential or Neighborhood Commercial zoning district  
21 under the Planning Code.

22 "Zoning Protected Location Compatibility Standard" means that an Applicant for a  
23 Personal Wireless Service Facility Site Permit on a Public Right-of-Way that is within a  
24 Zoning Protected Location has demonstrated that the proposed Personal Wireless Service  
25

1 Facility would not significantly detract from any of the defining characteristics of the  
2 Residential or Neighborhood Commercial zoning district.

3  
4 **SEC. 1506. STREET TREE.**

5 (a) **Condition of Approval.** When reviewing an application for a Personal  
6 Wireless Service Facility Site Permit, the Department, the Planning Department, and/or  
7 Recreation and Park Department (as appropriate) may require as a Condition of approval  
8 that the Permittee plant and maintain an appropriate street tree adjacent to the Utility,  
9 ~~Transit, or Street Light Pole~~ so as to provide a screen for a permitted Personal Wireless  
10 Service Facility Site Permit.

11 (b) **Implementation of Street Tree Requirement.** When installation of a street  
12 tree is required by the Department, the Planning Department, and/or Recreation and Park  
13 Department, the Department shall implement the requirement as follows:

14 (1) The Department shall require the Permittee to install a street tree that is  
15 a minimum of twenty-four (24)-inch box size. The Department's Bureau of Urban Forestry  
16 shall work with the Permittee to select the appropriate species and location for the required  
17 tree.

18 (2) In any instance in which the Department cannot require the Permittee to  
19 install a street tree, on the basis of inadequate sidewalk width, interference with utilities, or  
20 other reasons regarding the public health, safety, or welfare, the Department shall instead  
21 require the Permittee to make an "in-lieu" payment into the Department's "Adopt-A-Tree"  
22 fund. This payment shall be in the amount specified in Public Works Code Section 807(f),  
23 and shall be payable prior to the Department's issuance of the Personal Wireless Service  
24 Facility Site Permit.

1 (c) **Care and Maintenance of Street Trees.** The Permittee shall be responsible  
2 for the care and maintenance of any street tree required to be installed in the Public Rights-  
3 of-Way under this Section 1506. In this regard, the Permittee shall assume the duty of a  
4 "property owner" as set forth in Public Works Code Section 805.

5 **SEC. 1507. DEPARTMENT OF PUBLIC HEALTH REVIEW.**

6 (a) **Department of Public Health Referral.** The Department shall refer every  
7 Application for a Personal Wireless Service Facility Site Permit to the Department of Public  
8 Health for review of the proposed Personal Wireless Service Facility under the Public Health  
9 Compliance Standard.

10 (b) **Department of Public Health Determination.** The Department of Public  
11 Health shall make a determination whether the Application satisfies the Public Health  
12 Compliance Standard. The determination of the Department of Public Health shall be in  
13 writing and shall set forth the reasons therefor. The Department of Public Health shall  
14 transmit its determination to the Department within ~~twenty (20)~~ 10 business days of receipt of  
15 the Application from the Department. With the concurrence of the Applicant, the Department  
16 of Public Health may extend this review period beyond ~~twenty (20)~~ 10 business days.

17 (c) **Affirmative Determination Required.** The Department shall not approve an  
18 Application for a Personal Wireless Service Facility Site Permit unless the Department of  
19 Public Health makes a determination that the Application satisfies the Public Health  
20 Compliance Standard.

21 **SEC. 1508. DEPARTMENT REVIEW OF A PERSONAL WIRELESS SERVICE FACILITY**  
22 **SITE PERMIT APPLICATION.**

23 The Department shall review an Application for a Personal Wireless Service Facility  
24 Site Permit to determine whether the Application:  
25

1 (a) Receives an affirmative determination from the Department of Public Health  
2 under the Public Health Compliance Standard; and

3 (b) Meets ~~Receives an affirmative determination from the Planning Department or the~~  
4 ~~Recreation and Park Department (or both if required)~~ under the applicable Tier A, Tier B, or Tier C  
5 Compatibility Standard based on the Department's application of the Objective Standard; or

6 (c) Must be referred to the Planning Department and/or the Recreation and Park  
7 Department for additional review because: (1) the Objective Standards have not been adopted; (2) the  
8 proposed Personal Wireless Service Facility is a Disfavored Design; or (3) the Application did not  
9 meet the applicable Tier A, Tier B, or Tier C Compatibility Standard based on the Department's  
10 application of the Objective Standards, but the Application may still comply with the applicable Tier A,  
11 Tier B, or Tier C Compatibility Standard.

12 **SEC. 1509. PLANNING DEPARTMENT REVIEW OF A TIER A OR TIER B PERSONAL**  
13 **WIRELESS SERVICE FACILITY SITE PERMIT APPLICATION.**

14 (a) **Referral to Planning Department.**

15 (1) Until such time as the Department has adopted Objective Standards, the ~~The~~  
16 Department shall refer an Application for a Tier A or Tier B Personal Wireless Service Facility  
17 Site Permit to the Planning Department for a review of the proposed Personal Wireless  
18 Service Facility under the applicable Tier A or Tier B Compatibility Standard.

19 (2) After the Department has adopted Objective Standards, the Department shall  
20 refer an Application for a Tier A or Tier B Personal Wireless Service Facility Site Permit to the  
21 Planning Department for additional review under the applicable Tier A or Tier B Compatibility  
22 Standard if: (A) the proposed Personal Wireless Service Facility does not meet the Tier A or Tier B  
23 Compatibility Standard based on the Department's application of the Objective Standards; or (B) the  
24 proposed Personal Wireless Service Facility is a Disfavored Design.

25 (b) **Planning Department Determination.**

1                   (1) ~~If the Department has referred an Application for a Tier A or Tier B Personal~~  
2 ~~Wireless Service Facility Site Permit to the Planning Department, the~~ The Planning Department  
3 shall make a determination whether ~~the an~~ Application for a Tier A or Tier B Personal Wireless  
4 ~~Service Facility Site Permit~~ satisfies the applicable Tier A or Tier B Compatibility Standard.  
5 The Planning Department's determination shall be in writing and shall set forth the reasons  
6 therefor. The Planning Department shall transmit its determination to the Department within  
7 ~~10 twenty~~ (20) business days of receipt of the Application from the Department. With the  
8 concurrence of the Applicant, the Planning Department may extend this review period  
9 beyond ~~10 twenty~~ (20) business days.

10                   (2) ~~The Planning Department's determination that an Application for a Tier B~~  
11 ~~Personal Wireless Service Facility Site Permit satisfies the Tier B Compatibility Standard for a Zoning~~  
12 ~~Protected Location may include a Condition that the Personal Wireless Service Facility not obstruct~~  
13 ~~the view from or the light into any adjacent residential window.~~

14                   (c) **Affirmative Determination Required.** The Department shall not approve an  
15 Application for a Tier A or Tier B Personal Wireless Service Facility Site Permit ~~that has been~~  
16 ~~referred to the Planning Department~~ unless the Planning Department makes a determination  
17 that the Application satisfies the applicable Tier A or Tier B Compatibility Standard.

18 **SEC. 1510. RECREATION AND PARK DEPARTMENT REVIEW OF A TIER C**  
19 **PERSONAL WIRELESS SERVICE FACILITY SITE PERMIT APPLICATION.**

20                   (a) **Referral to Recreation and Park Department Required.**

21                   (1) ~~Until such time as the Department has adopted Objective Standards, the~~ The  
22 Department shall refer an Application for a Tier C Personal Wireless Service Facility Site  
23 Permit to the Recreation and Park Department for a review of the proposed Personal  
24 Wireless Service Facility under the Tier C Compatibility Standard.  
25

1                   (2) After the Department has adopted Objective Standards, the Department shall  
2 refer an Application for a Tier C Personal Wireless Service Facility Site Permit to the Recreation and  
3 Park Department for additional review under the Tier C Compatibility Standard if: (A) the proposed  
4 Personal Wireless Service Facility does not meet the Tier C Compatibility Standard based on the  
5 Department's application of the Objective Standards; or (B) the proposed Personal Wireless Service  
6 Facility is a Disfavored Design.

7           (b) **Recreation and Park Department Determination.** If the Department has  
8 referred an Application for a Tier C Personal Wireless Service Facility Site Permit to the Recreation  
9 and Park Department, the The Recreation and Park Department shall make a determination  
10 whether ~~the an~~ Application for a Tier C Personal Wireless Service Facility Site Permit satisfies the  
11 Tier C Compatibility Standard. The Recreation and Park Department's determination shall be  
12 in writing and shall set forth the reasons therefor. The Recreation and Park Department shall  
13 transmit its determination to the Department within 10 ~~twenty (20)~~ business days of receipt of  
14 the Application from the Department. With the concurrence of the Applicant, the Recreation  
15 and Park Department may extend this review period beyond 10 ~~twenty (20)~~ business days.

16           (c) **Affirmative Determination Required.** The Department shall not approve an  
17 Application for a Tier C Personal Wireless Service Facility Site Permit that has been referred to  
18 the Recreation and Park Department unless the Recreation and Park Department makes a  
19 determination that the Application satisfies the Tier C Compatibility Standard.

20 **SEC. 1511. DEPARTMENT FINAL DETERMINATION.**

21           (a) **Determination in Writing.**

22                   (1) ~~— Tentative Approval. A Department tentative approval of an Application for a~~  
23 ~~Personal Wireless Service Facility Site Permit shall be in writing and shall set forth the reasons~~  
24 ~~therefor. If a Department tentative approval contains any Conditions, the Conditions shall also be in~~  
25 ~~writing.~~

1           ~~(2) Final Determination. A~~ The Department's final determination to approve or  
2 deny an Application for a Personal Wireless Service Facility Site Permit shall be in writing and  
3 shall set forth the reasons therefor. ~~If a~~ the Department's final determination to approve an  
4 Application contains any Conditions imposed by any City department that reviewed the Application, the  
5 Conditions shall also be in writing.

6           (b) **Denial.** The Department shall issue a final determination denying an Application  
7 for a Personal Wireless Service Facility Site Permit within three ~~(3)~~ business days of any of the  
8 following events:

9           (1) The Department's receipt of a determination from the Department of Public  
10 Health that the Application does not ~~comply with~~ satisfy the Public Health Compliance Standard;

11           (2) ~~(A) The Department's receipt of a determination from the Planning Department~~  
12 ~~or the Recreation and Park Department (or both if required)~~ that the Application does not meet the  
13 applicable Tier A, B, or C Compatibility Standard based on the Department's application of the  
14 Objective Standards; or (B) where applicable, the Department's receipt of a determination from the  
15 Planning Department or the Recreation and Park Department that the Application does not meet the  
16 applicable Tier A, B, or C Compatibility Standard; or

17           (3) If any City department reviewing the Application adds any Conditions to its  
18 approval of the Application, the Department's receipt of a notice from the Applicant that it rejects  
19 any of those Conditions.

20           ~~(c) Approval Without Conditions.~~

21           ~~(1) Tentative Approval. If no City department reviewing an Application for a Personal~~  
22 ~~Wireless Service Facility Site Permit adds any Conditions to its approval of the Application, the~~  
23 ~~Department shall issue a tentative approval of an Application for a Personal Wireless Service Facility Site~~  
24 ~~Permit without Conditions within three (3) business days of the occurrence of the last of the following~~  
25 ~~events:~~

1                    ~~\_\_\_\_\_ (A) — The Department's receipt of a determination from the Department of Public~~  
2 ~~Health that the Application complies with the Public Health Compliance Standard; and~~

3                    ~~\_\_\_\_\_ (B) — The Department's receipt of a determination from the Planning Department~~  
4 ~~or the Recreation and Park Department (or both if required) that the Application meets the applicable~~  
5 ~~Compatibility Standard.~~

6                    (2) — ~~Final Approval. Following the Department's tentative approval of an Application~~  
7 ~~for a Personal Wireless Service Facility Site Permit without any Conditions, the Department shall issue a~~  
8 ~~final determination as follows:~~

9                    ~~(A) — The Department shall require the Applicant to give notice of the tentative~~  
10 ~~approval as required by Section 1512 below; and~~

11                   ~~(B) — If no protest is timely submitted, the Department shall issue a final~~  
12 ~~determination approving the Application within a reasonable time after the time to file a protest has~~  
13 ~~expired; or~~

14                   ~~(C) — If a protest is timely submitted, the Department shall issue a final~~  
15 ~~determination approving or denying the Application within a reasonable time after the Director issues a~~  
16 ~~decision under Section 1513(g) below.~~

17                   ~~(c)(d) Approval with Conditions.~~

18                   ~~(1) — Tentative Approval. If any City department reviewing an Application for a Personal~~  
19 ~~Wireless Service Facility Site Permit adds any Conditions to its approval of the Application, the The~~  
20 ~~Department shall issue a tentative final approval of the an Application ~~with Conditions~~ within three~~  
21 ~~{3} business days of the occurrence of the last of the following events:~~

22                    ~~\_\_\_\_\_ (A1) The Department's receipt of a determination from the Department of Public~~  
23 ~~Health that the Application complies with the Public Health Compliance Standard;~~

24                    ~~\_\_\_\_\_ (B2) (A) The Department's receipt of a determination from the Planning~~  
25 ~~Department or the Recreation and Park Department (or both if required) that the Application meets~~

1 the applicable Tier A, B, or C Compatibility Standard based on the Department's application of the  
2 Objective Standards; or (B) where applicable, the Department's receipt of a determination from the  
3 Planning Department or the Recreation and Park Department that the Application meets the  
4 applicable Tier A, B, or C Compatibility Standard; ~~or and~~

5 ~~——(C3) If applicable, the The Department's receipt of a notice from the Applicant~~  
6 ~~that it accepts all of those any Conditions imposed by any City department that reviewed the~~  
7 ~~Application.~~

8 ~~(2) — Final Approval. Following the Department's tentative approval of an~~  
9 ~~Application for a Personal Wireless Service Facility Site Permit with Conditions, the Department shall~~  
10 ~~issue a final determination as follows:~~

11 ~~(A) — The Department shall require the Applicant to give notice of the~~  
12 ~~tentative approval as required by Section 1512 below; and~~

13 ~~(B) — If no protest is timely submitted, the Department shall issue a final~~  
14 ~~determination approving the Application within a reasonable time after the time to file a protest has~~  
15 ~~expired; or~~

16 ~~(C) — If a protest is timely submitted, the Department shall issue a final~~  
17 ~~determination approving or denying the Application within a reasonable time after the Director issues~~  
18 ~~a decision under Section 1513(g) below.~~

19 ~~**SEC. 1512. NOTICE OF TENTATIVE APPROVAL OF A PERSONAL WIRELESS SERVICE**~~  
20 ~~**FACILITY SITE PERMIT APPLICATION.**~~

21 ~~(a) — Notice Required. The Department shall require an Applicant for a Wireless Service~~  
22 ~~Facility Site Permit to notify the public of a tentative approval of the Application under Sections~~  
23 ~~1511(e)(1) or 1511(d)(1) above, and to provide the Department with evidence, as the Department may~~  
24 ~~require, of compliance with this requirement.~~

25 ~~(b) — Types of Notice Required.~~

1                   (1) ~~Notice by Mail. The Applicant shall mail a copy of the notice to:~~

2                   (A) ~~Any Person owning property or residing within one hundred and fifty~~  
3 ~~(150) feet of the proposed location of the Personal Wireless Service Facility; and~~

4                   (B) ~~Any neighborhood association identified by the Planning Department~~  
5 ~~for any neighborhood within three hundred (300) feet of the proposed Personal Wireless Service~~  
6 ~~Facility.~~

7                   (2) ~~Notice by Posting. The Applicant shall post a copy of the notice in conspicuous~~  
8 ~~places throughout the block face where the proposed Personal Wireless Service Facility is to be~~  
9 ~~located.~~

10                  (c) ~~Contents and Form of Notice. The notice shall contain such information, and be in~~  
11 ~~such form, as the Department reasonably requires in order to inform the general public as to the~~  
12 ~~nature of the Application for a Personal Wireless Service Facility Site Permit. At a minimum, the~~  
13 ~~notice shall:~~

14                   (1) ~~Provide a description and a photo-simulation of the proposed Personal~~  
15 ~~Wireless Service Facility;~~

16                   (2) ~~Summarize the determinations of any City departments that were necessary for~~  
17 ~~the tentative approval of the Application;~~

18                   (3) ~~Identify any Conditions added by any City departments that have been accepted~~  
19 ~~by the Applicant and are now part of the Application;~~

20                   (4) ~~State that any Person seeking to protest the Application must submit a protest to~~  
21 ~~the Department within twenty (20) days of the date the notice was mailed and posted;~~

22                   (5) ~~Describe the procedure for submitting a timely protest;~~

23                   (6) ~~Specify the applicable grounds for protesting the Application under this Article 25;~~

24                   (7) ~~Explain how any interested Person may obtain additional information and~~  
25 ~~documents related to the Application; and~~

1                   (8) ~~State whether the Applicant intends to file an Application for a Modification Permit~~  
2 ~~at any time during the term of the Personal Wireless Service Facility Site Permit and, if so, identify: (A)~~  
3 ~~the time frame the Applicant anticipates applying for a Modification Permit; and (B) the nature of any~~  
4 ~~modifications the Applicant anticipates including in the Application for a Modification Permit.~~

5 **~~SEC. 1513. PROTEST OF A PERSONAL WIRELESS FACILITY SITE PERMIT.~~**

6                   (a) ~~Protest Allowed. Any Person may protest a tentative approval of an Application for a~~  
7 ~~Personal Wireless Service Facility Site Permit. A protest must be in writing and must be submitted to the~~  
8 ~~Department within twenty (20) days of the date the notice was mailed and posted as required under Section~~  
9 ~~1512 above.~~

10                   (b) ~~Hearing Required. If a protest is timely submitted, the Department shall hold a hearing.~~  
11 ~~The Department shall set a date for the hearing that is at least fifteen (15) days, but no more than forty five~~  
12 ~~(45) days, after the Department's receipt of the protest, unless the Applicant and any Person submitting a~~  
13 ~~protest agree to a later hearing date.~~

14                   (c) ~~Notice of Hearing Date. At least ten (10) days before the hearing, the Department shall~~  
15 ~~notify in writing any Person submitting a protest, the Applicant, and any City department that reviewed the~~  
16 ~~Application of the date set for the hearing. The Department shall follow its regular procedures for~~  
17 ~~notifying the general public of the hearing.~~

18                   (d) ~~Hearing Officer. The Department shall appoint an impartial hearing officer to conduct a~~  
19 ~~public hearing on a protest.~~

20                   (e) ~~Hearing Record. The hearing record shall include:~~

21                         (1) ~~The Application and the Department's tentative approval of the Application;~~

22                         (2) ~~Any written determination from the Department, the Planning Department, the~~  
23 ~~Recreation and Park Department, and the Department of Public Health (as applicable);~~

24                         (3) ~~Any further written evidence from any City departments submitted either prior to or~~  
25 ~~during the hearing;~~

1                   (4) — ~~Any written submissions from the Applicant, any Person submitting a protest, or~~  
2 ~~any other interested Person submitted either prior to or during the hearing; and~~

3                   (5) — ~~Any oral testimony from any City departments, the Applicant, any Person~~  
4 ~~submitting a protest, or any interested Person taken during the hearing.~~

5                   (f) — ~~Hearing Officer's Report. The hearing officer shall issue a written report and~~  
6 ~~recommendation within ten (10) days of the close of evidence. The hearing officer shall include in the~~  
7 ~~report a summary of the evidence and a recommendation to the Director to either grant or deny the protest~~  
8 ~~of an Application.~~

9                   (g) — ~~Director's Decision. The Director shall issue a written decision adopting, modifying, or~~  
10 ~~rejecting the hearing officer's written report and recommendation within seven (7) days of receipt of the~~  
11 ~~report.~~

12                   (h) — ~~Grounds for Granting a Protest. The Director may grant a protest of a tentative approval~~  
13 ~~of Application for a Personal Wireless Service Facility Site Permit only if the Director finds that the~~  
14 ~~evidence at the hearing supports any one of the following findings:~~

15                   (1) — ~~The Department of Public Health incorrectly determined that the Application~~  
16 ~~complies with the Public Health Compliance Standard;~~

17                   (2) — ~~In the case of an Application for a Tier A or Tier B Personal Wireless Service~~  
18 ~~Facility Site Permit, the Planning Department incorrectly determined that the Application meets the~~  
19 ~~applicable Tier A or Tier B Compatibility Standard;~~

20                   (3) — ~~In the case of an Application for a Tier C Personal Wireless Service Facility~~  
21 ~~Site Permit, the Recreation and Park Department incorrectly determined that the Application meets~~  
22 ~~the Tier C Compatibility Standard;~~

23                   (4) — ~~The Application does not comply with any other requirement for obtaining a~~  
24 ~~Personal Wireless Service Facility Site Permit; or~~

1                   (5) ~~The evidence shows that the Applicant intends to apply for a Modification~~  
2 ~~Permit after the Permit is issued and that the proposed modification(s) would not comply with any~~  
3 ~~applicable Compatibility Standard.~~

4       **SEC. 1514. NOTICE OF FINAL DETERMINATION OF A PERSONAL WIRELESS**  
5 **SERVICE FACILITY SITE PERMIT APPLICATION.**

6           (a) Notice of Approval. The Applicant Department shall provide notice to the general  
7 public of a final determination to approve an Application for a Personal Wireless Service  
8 Facility Site Permit.

9                   (1) Types of Notice Required.

10                   (A) ~~The Department shall promptly mail a notice of final determination to~~  
11 ~~approve an Application for a Personal Wireless Service Facility Site Permit to both the Applicant and~~  
12 ~~to any neighborhood association identified by the Planning Department for any neighborhood within~~  
13 ~~three hundred (300) feet of the approved Personal Wireless Service Facility. The Applicant shall~~  
14 ~~promptly mail a copy of the Department's final determination to approve an Application for a~~  
15 ~~Personal Wireless Service Facility Site Permit to: (i) any Person who owns property that is within 300~~  
16 ~~feet of the approved location for the Personal Wireless Service Facility; (ii) any Person who is a~~  
17 ~~tenant in any residential property that is within 300 feet of the approved location for the Personal~~  
18 ~~Wireless Service Facility; (iii) any neighborhood association identified by the Planning Department~~  
19 ~~for any neighborhood that is within 600 feet of the approved location for the Personal Wireless~~  
20 ~~Service Facility; and (iv) the member of the Board of Supervisors who represents the district in which~~  
21 ~~the approved Personal Wireless Service Facility would be located.~~

22                   (B) ~~If a hearing was held, the Department shall promptly mail a notice of~~  
23 ~~final determination to approve an Application for a Personal Wireless Service Facility Site Permit to~~  
24 ~~any Person who either filed a protest, submitted evidence, or appeared at the hearing, and whose~~  
25 ~~name and address are known to the Department.~~

1                    ~~(C)~~(B) The ~~Department shall require an Applicant shall for a Personal~~  
2 ~~Wireless Service Facility Site Permit to~~ promptly post notice of a ~~the~~ Department's final  
3 determination to approve an Application for a Personal Wireless Service Facility Site Permit  
4 ~~on the Utility Pole to be used for the proposed Personal Wireless Service Facility and in on a~~  
5 ~~minimum of four other Utility Poles, other poles, or other~~ conspicuous places ~~throughout the block~~  
6 ~~face located within 300 feet of the where the~~ approved ~~location for the~~ Personal Wireless Service  
7 Facility. ~~The Applicant shall is to be located and to~~ provide the Department with ~~such~~ evidence,  
8 ~~as the Department may require,~~ of compliance with this requirement; as the Department may  
9 require.

10                    (2)    **Contents and Form of Notice.** A notice of final determination to  
11 approve an Application for a Personal Wireless Service Facility Site Permit shall contain such  
12 information, and be in such form, as the Department reasonably requires in order to inform  
13 the general public of the approved Application. At a minimum, the notice of final  
14 determination shall:

15                    (A)    Provide a description and a photo-simulation of the approved  
16 Personal Wireless Service Facility;

17                    (B)    Summarize the determinations of the City departments that were  
18 necessary for the approval of the Application, including any Conditions added by any City  
19 departments that were accepted by the Applicant;

20                    (C)    State that any Person may file an appeal of the approval of the  
21 Application with the Board of Appeals within ~~fifteen~~ (15) days after the date that all notices  
22 required by Section 1514(a) above have been provided;

23                    (D)    Describe the procedure for submitting a timely appeal;

24                    (E)    Specify the applicable grounds for appealing the approval of the  
25 Application ~~under this Article 25 set forth in Section 1530 below;~~ and

1 (F) Explain how any interested Person may obtain additional  
2 information and documents related to the *Application Permit*; and

3 ~~(G) — State whether the Applicant intends to submit an Application for a~~  
4 ~~Modification Permit during the term of the Permit and, if so, identify: (i) the time frame the Applicant~~  
5 ~~anticipates applying for a Modification Permit; and (ii) the nature of any modifications the Applicant~~  
6 ~~anticipates including in the Application for a Modification Permit.~~

7 (b) **Notice of Denial.** The Department shall provide notice of a final determination  
8 to deny an Application for a Personal Wireless Service Facilities Site Permit.

9 (1) **Type of Notice Required.** The Department shall promptly mail a notice of  
10 final determination to deny an Application for a Personal Wireless Service Facility Site Permit  
11 to the Applicant.

12 (2) **Contents of Notice.** A notice of final determination to deny an  
13 Application for a Personal Wireless Service Facility Site Permit shall at a minimum:

14 (A) Summarize the determinations of any City departments that were  
15 necessary for the denial of the Application, including any Conditions added by any City  
16 departments that were rejected by the Applicant.

17 (B) State that the Applicant may file an appeal of the denial of the  
18 Application with the Board of Appeals within ~~fifteen~~ (15) days of the Department's mailing of  
19 the notice.

20 (C) Describe the procedure for submitting a timely appeal; and

21 (D) Specify the applicable grounds for appealing the denial of the  
22 Application ~~under this Article 25 set forth in Section 1530 below.~~

23  
24 **SEC. 1521. REPLACEMENT OR REMOVAL OF EQUIPMENT.**

1           (a)    **Replacement.** During the term of a Personal Wireless Service Facility Site  
2 Permit, a Permittee may Replace equipment that is part of a permitted Personal Wireless  
3 Service Facility without obtaining a Modification Permit.

4           (b)    **Removal.** During the term of a Personal Wireless Service Facility Site Permit, a  
5 Permittee may remove equipment that is part of a permitted Personal Wireless Service  
6 Facility without obtaining a Modification Permit.

7           (c)    **Department Procedures.**

8               (1)    Permittee's Notification. A Permittee shall notify the Department in  
9 writing that it intends to Replace or remove equipment at a permitted Personal Wireless  
10 Service Facility as permitted by this Section 1521. In the notice, the Permittee shall at a  
11 minimum:

12                       (A)    Identify the use and size of each piece of equipment that the  
13 Permittee is seeking to remove from the Utility, ~~Transit, or Street Light Pole~~;

14                       (B)    Identify the use and size of the equipment that the Permittee is  
15 seeking to install on the Utility, ~~Transit, or Street Light Pole~~ to Replace existing equipment;  
16 and

17                       (C)    If any new equipment will Replace existing equipment, provide  
18 drawings and photo-simulations of the existing and new equipment the Permittee is seeking  
19 to install on the Utility, ~~Transit, or Street Light Pole~~.

20               (2)    Department Notification. Within five (5) business days of receipt of the  
21 Permittee's request to Replace or remove equipment as described above, the Department  
22 shall notify the Permittee in writing whether the Department has determined that the request  
23 complies with the requirements of this Section 1521.

1 (3) Permittee Replacement or Removal. Upon receipt of a Department  
2 notice that the request complies with this Section 1521, the Permittee may Replace or  
3 remove the equipment identified in the request.

4 (4) Compliance with Other Requirements. Nothing in this Section 1521 shall  
5 be construed to relieve the Permittee of its duty to comply with any City regulations or  
6 permitting requirements when removing equipment from or Replacing Equipment on a Utility,  
7 ~~Transit, or Street Light Pole.~~

8 **SEC. 1522. MODIFICATION PERMIT.**

9 (a) **Modification Permit Required.** A Permittee seeking to add equipment to a  
10 permitted Personal Wireless Service Facility that does not comply with the requirements of  
11 Section 1521 above, because the replacement equipment is not is identical in size or smaller  
12 than the previously permitted equipment, must obtain a Modification Permit.

13 (b) **Department Procedures.**

14 (1) **Application.** In an Application for a Modification Permit, the Applicant  
15 shall at a minimum:

16 (A) State whether the permitted Personal Wireless Service Facility is  
17 a Base Station;

18 (B) Identify the use and size of any piece of equipment that the  
19 Applicant is seeking to remove from the Utility, ~~Transit, or Street Light Pole;~~

20 (C) Identify the use and size of any equipment that the Applicant is  
21 seeking to add to the Utility, ~~Transit, or Street Light Pole;~~

22 (D) State whether any piece of equipment the Applicant is seeking to  
23 add to the Utility, ~~Transit, or Street Light Pole~~ is Transmission Equipment and, if so, explain  
24 why it meets the definition of Transmission Equipment;  
25

1 (E) Provide drawings and photo-simulations of the existing and new  
2 equipment the Permittee is seeking to install on the Utility, ~~Transit, or Street Light Pole~~; and

3 (F) State whether the proposed modification will result in a  
4 Substantial Change to the Physical Dimensions of the Utility, ~~Transit, or Street Light Pole~~.

5 (2) **Time for Department Determination.** The Department shall by order or  
6 regulation establish the appropriate time frame for the Department to review an Application  
7 for a Modification Permit that is consistent with the requirements of Section 6409(a) of the  
8 Middle Class Tax Relief and Job Creation Act of 2012, codified at 47 U.S.C. § 1455(a), as  
9 may be amended from time to time, and with any FCC decision addressing that section or  
10 any FCC regulation implementing that section.

11 (c) **Approval of Modification Permits at Base Stations.**

12 (1) **No Substantial Change to the Physical Dimension.** The Department  
13 shall approve an Eligible Facilities Request for a Modification Permit if the installation of the  
14 modified Transmission Equipment would not Substantially Change the Physical Dimensions  
15 of the Utility, ~~Transit, or Street Light Pole~~ where the permitted Base Station equipment has  
16 been installed.

17 (2) **Substantial Change to the Physical Dimensions.** The Department  
18 may approve an Eligible Facilities Request for a Modification Permit if the installation of the  
19 modified Transmission Equipment would Substantially Change the Physical Dimensions of  
20 the Utility, ~~Transit, or Street Light Pole~~ where the permitted Base Station equipment has been  
21 installed, provided the Application complies with the requirements of Section 1522(e)(2)  
22 below.

23 (3) **Equipment Other than Transmission Equipment.** The Department  
24 may approve an Application for a Modification Permit at a Personal Wireless Service Facility  
25 that is a Base Station if the Application seeks to modify equipment other than Transmission

1 Equipment, provided the Application complies with the requirements of Section 1522(e)(2)  
2 below.

3 (d) **Approval of Modification Permits at Other Types of Facilities.** The  
4 Department may approve an Application for a Modification Permit at a Personal Wireless  
5 Service Facility that is not a Base Station, provided the Application complies with the  
6 requirements of Section 1522(e)(2) below.

7 (e) **Applicability of Other Provisions of this Article.**

8 (1) **No Substantial Change to the Physical Dimension.** The other  
9 provisions of this Article 25 related to approval of an Application for a Personal Wireless  
10 Service Facility Site Permit shall not apply to the Department's review of an Application for a  
11 Modification Permit that complies with the requirements of Section 1522(c)(1) above. These  
12 provisions include, but are not limited to, Notice of Final Determination (Section 1514 above)  
13 and Appeals (Section 1515 above).

14 (2) **Other Types of Modifications.** Before approving an Application for a  
15 Modification Permit under Sections 1522(c)(2), (c)(3), and (d) above, the Department shall  
16 refer the Application to: (A) the Department of Public Health to determine compliance with the  
17 Public Health Compliance Standard; and (B) the Planning Department and/or Recreation and  
18 Park Department to determine compliance with any applicable Compatibility Standards. The  
19 Department may not approve the Modification Permit if any City department determines the  
20 Application does not comply with the appropriate standard. In addition, the Department may  
21 determine that compliance with other provisions of this Article 25, including Notice of Final  
22 Determination (Section 1514 above) and Appeals (Section 1515 above), shall be required.

23 (f) **Generally Applicable Laws.** Nothing in this Section 1522 shall prohibit the  
24 Department from denying an Application for a Modification Permit (even where the  
25 Application consists of an Eligible Facilities Request) where the Department determines that

1 the proposed modified Personal Wireless Service Facility would violate any generally  
2 applicable building, structural, electrical, or safety code provision, or any Applicable Law  
3 codifying objective standards reasonably related to health and safety.

4 **SEC. 1527. FEES AND COSTS.**

5 (a) **Application Fees.** City departments shall impose fees for review of an  
6 Application for a Personal Wireless Service Facility Site Permit. The purpose of these fees is  
7 to enable City departments to recover their costs related to reviewing an Application for a  
8 Personal Wireless Service Facility Site Permit.

9 (1) **Department Application Fee.** Each Applicant for a Personal Wireless  
10 Service Facility Site Permit shall pay to the Department a non-refundable *Application* fee of  
11 *four hundred fifty dollars (\$450.00)* for each *application for a* Personal Wireless Service Facility  
12 *Site Permit proposed in the Application.*

13 (2) **Other City Department Application Fees.** Where, as required under  
14 this Article 25, the Department has referred an Application for a Personal Wireless Service  
15 Facility Site Permit to the Planning Department, the Recreation and Park Department, or the  
16 Department of Public Health, an Applicant shall pay the following additional fees for each  
17 Personal Wireless Service Facility contained in an Application for a Personal Wireless  
18 Service Facility Site Permit.

19 (A) A Planning Department non-refundable Application fee of *one*  
20 *hundred ninety dollars (\$190.00)* plus time and materials for any review that takes more than  
21 *thirty (30)* minutes.

22 (B) A Recreation and Park Department non-refundable Application  
23 fee of *one hundred twenty five dollars (\$125.00)* plus time and materials for any review that  
24 takes more than *thirty (30)* minutes.

1 (C) A Department of Public Health non-refundable Application fee of  
2 ~~one hundred eighty-one dollars (\$181.00)~~ plus time and materials for any review that takes more  
3 than ~~sixty (60)~~ minutes.

4 ~~(b) — Hearing Fees. If a hearing is required following a protest of a tentative approval of an~~  
5 ~~Application for a Personal Wireless Service Facility Site Permit or Modification Permit, the Applicant~~  
6 ~~shall pay the Department a non-refundable hearing fee of three hundred sixty dollars (\$360.00) for the~~  
7 ~~first protest and seventy-five dollars (\$75.00) for each additional protest.~~

8 ~~(e)(b)~~ **Renewal Fees.** A Permittee seeking to renew a Personal Wireless Service  
9 Facility Site Permit shall pay to: (1) the Department a non-refundable fee of ~~two hundred~~  
10 ~~twenty-five dollars (\$225.00)~~; and (2) the Department of Public Health ~~the fees~~ set forth in  
11 Section 1527(a)(2)(C) above.

12 ~~(d)(c)~~ **Modification Permit Fees.** Each Applicant for a Modification Permit shall pay  
13 to: (1) the Department a non-refundable fee of ~~three hundred thirty-eight dollars (\$338.00)~~; and  
14 ~~(2) any the Department of Public Health other City department reviewing the Application the fees~~  
15 set forth in Section 1527(a)(2) above.

16 ~~(e)(d)~~ **Inspection Fees.** The Department and the Department of Public Health shall  
17 impose fees for the inspection of a permitted Personal Wireless Service Facility. The purpose  
18 of these fees is to enable these City departments to recover their costs related to inspecting  
19 a permitted Personal Wireless Service Facility.

20 (1) Department Inspection Fee. Each Permittee shall pay the Department a  
21 non-refundable time and materials inspection fee not to exceed ~~one hundred fifty dollars~~  
22 ~~(\$150.00)~~ to inspect a permitted Personal Wireless Service Facility as required under Section  
23 1516(b) above.

24 (2) Department of Public Health Inspection Fee. Each Permittee shall pay  
25 the Department of Public Health a non-refundable time and materials inspection fee to

1 inspect a permitted Personal Wireless Service Facility where such inspection is required or  
2 requested under Section 1516(b) above.

3 ~~(e)~~ **Adjustment of Fees for CPI.**

4 (1) CPI Adjustments. Beginning with fiscal year 2011-2012, the fees  
5 established herein may be adjusted each year, without further action by the Board of  
6 Supervisors, to reflect changes in the relevant Consumer Price Index ("CPI") (as determined  
7 by the Controller). No later than April 15~~th~~ of each year, the Director shall submit the current  
8 fee schedule to the Controller, who shall apply the CPI adjustment to produce a new fee  
9 schedule for the following year. No later than May 15~~th~~ of each year, the Controller shall file a  
10 report with the Board of Supervisors reporting the new fee and certifying that the fees  
11 produce sufficient revenue to support the costs of providing the services for which the Permit  
12 fee is charged, and that the fees do not produce revenue that exceeds the costs of providing  
13 the services for which each Permit fee is charged. The operation of this subsection (e)(1) shall  
14 terminate after the CPI adjustment for fiscal year 2019-2020.

15 (2) Controller Adjustments. Beginning with fiscal year 2020-2021, the fees  
16 established herein, including as adjusted through fiscal year 2019-2020 under Section 1527(e)(1)  
17 above, may be adjusted each year on July 1 without further action by the Board of Supervisors, to  
18 reflect changes in City department costs to provide the services required herein. Not later than April 1  
19 of each year the Controller will determine whether the current fees have produced or are projected to  
20 produce revenues sufficient to enable City departments to recover the costs of the permitting services  
21 required by this Article 25, and that the fees will not produce revenue that is significantly more than  
22 the costs of providing such services. If necessary, the Controller will adjust the fees upward or downward  
23 for the upcoming fiscal year as appropriate to ensure that City departments recover their costs without  
24 producing revenue that is significantly more than such costs. The adjusted fees shall become operative on  
25 July 1.

1            ~~(g)~~ **Discretion to Require Additional Fees.** In instances where the review of an  
2 Application for a Personal Wireless Service Facility Site Permit is or will be unusually costly to the  
3 Department or to other City departments, the Director, in ~~his or her~~ the Director's discretion, may,  
4 after consulting with other applicable City departments, agencies, boards, or commissions,  
5 require an Applicant for a Personal Wireless Service Facility Site Permit to pay a sum in excess  
6 of the amounts charged pursuant to this Section 1527. This additional sum shall be sufficient to  
7 recover actual costs incurred by the Department and/or other City departments, agencies,  
8 boards, or commissions, in connection with an Application for a Personal Wireless Service  
9 Facility Site Permit and shall be charged on a time and materials basis. Whenever additional fees  
10 are charged, the Director, upon request, shall provide in writing the basis for the additional fees  
11 and an estimate of the additional fees.

12            ~~(h)~~ **Deposit of Fees.** All fees paid to the Department for Personal Wireless Service  
13 Facility Site Permits shall be deposited in the Public Works Excavation Fund established by  
14 Administrative Code Section 10.100-230. All other fees shall go directly to the appropriate City  
15 department.

16            ~~(i)~~ **Reimbursement of City Costs.** A City department may determine that it requires  
17 the services of an expert in order to evaluate an Application for a Personal Wireless Service  
18 Facility. In such case, the Department shall not approve the Application unless the Applicant  
19 agrees to reimburse the applicable City department for the reasonable costs incurred by that  
20 department for the services of a technical expert.

21  
22            Section 3. Effective Date. This ordinance shall become effective 30 days after  
23 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
24 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
25 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10  
11 By:   
12 WILLIAM K. SANDERS  
13 Deputy City Attorney

14 n:\legana\as2019\1900538\01372850.doc



City and County of San Francisco  
Tails  
Ordinance

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

File Number: 190598

Date Passed: July 30, 2019

Ordinance amending the Public Works Code to modify certain of the requirements for obtaining Personal Wireless Service Facility Site Permits, including the requirements for public notice and adjustment of permit fees; and affirming the Planning Department's determination under the California Environmental Quality Act.

July 15, 2019 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 15, 2019 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

July 23, 2019 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

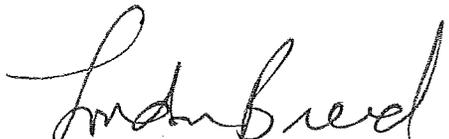
July 30, 2019 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Brown, Fewer, Haney, Mandelman, Mar, Peskin, Ronen, Safai, Stefani and Yee  
Excused: 1 - Walton

File No. 190598

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/30/2019 by the Board of Supervisors of the City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
London N. Breed  
Mayor

8.9.19  
Date Approved

BOARD of SUPERVISORS



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

## MEMORANDUM

TO: Mohammed Nuru, Director, Public Works  
FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee  
DATE: October 30, 2019  
SUBJECT: HEARING MATTER INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following hearing request, introduced by Supervisor Peskin on October 22, 2019:

**File No. 191091**

**Hearing on the implementation of Ordinance No. 190-19, Personal Wireless Service Facility Site Permits; and requesting Public Works to report.**

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  
Jeremy Spitz, Public Works  
Jennifer Blot, Public Works  
John Thomas, Public Works  
Lena Liu, Public Works

# Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2019 OCT 22 PM 4:20  
Time stamp  
or meeting date  
BY \_\_\_\_\_

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Peskin, Safai, Brown

Subject:

Hearing on the implementation of Ordinance No. 190-19, Board File 190598 [Public Works Code - Personal Wireless Service Facility Site Permits].

The text is listed:

Hearing on the implementation of Ordinance No. 190-19, Board File 190598 [Public Works Code - Personal Wireless Service Facility Site Permits].

Signature of Sponsoring Supervisor:

*[Handwritten Signature]*

For Clerk's Use Only