

File No. 190598 Committee Item No. 7
 Board Item No. 44

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 15, 2019

Board of Supervisors Meeting Date July 23, 2019
 Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|-------------------------------------|-------------------------------------|----------------------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PW Ltr 052419</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral CEQA 061919</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI 061919</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Referral FYI 062619</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>CEQA Determination 071119</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Erica Major Date July 11, 2019
 Completed by: Erica Major Date July 18, 2019

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
3 that term: (a) as it is used in Section 6409(a) of the Middle Class Tax Relief and Job Creation
4 Act of 2012, codified at 47 U.S.C. § 1455(a) as may be amended from time to time; and (b)
5 as it is defined by the FCC in any decision addressing that section or any regulation
6 implementing that 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
10 the 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
15 identified in the Objective Standards as disfavored.

16 "Eligible Facilities Request" shall have the meaning determined by the Department in
17 an 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
19 Job Creation Act of 2012, codified at 47 U.S.C. § 1455(a) as may be amended from time to
20 time; and (b) as it is defined by the FCC in any decision addressing that section or any
21 regulation 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
25 Location that is a national historic landmark district, listed or eligible national register historic

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

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

7 (c) *— Within one (1) block in any direction from the boundary of a Zoning Protected*
8 *Location; 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
11 1522 below, authorizing a Permittee to modify equipment installed on a Utility, ~~Transit, or~~
12 ~~Street Light Pole~~ Pole by the Permittee pursuant to a Personal Wireless Service Facility Site
13 Permit.

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

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

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

23 "Permittee" means a Person issued a Personal Wireless Service Facility Site Permit.
24
25

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

3 "Person" shall not include the City.

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

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

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

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

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

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

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

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

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

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

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

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

20 (c) For a Utility, ~~Transit, or Street Light~~ Pole that is Adjacent to a national historic
21 landmark, California landmark, San Francisco landmark, structure of merit, architecturally
22 significant building, or locally significant building, the applicable standard is whether a
23 proposed Personal Wireless Service Facility would significantly degrade or detract from the
24 aesthetic attributes that were the basis for the special designation of the building.
25

1 (d) For a Public Right-of-Way that the General Plan has designated as being most
2 significant to City pattern, defining City form, or having an important street view for
3 orientation, the applicable standard is whether a proposed Personal Wireless Service Facility
4 would significantly degrade or detract from the aesthetic attributes that were the basis for the
5 designation of the street for special protection under the General Plan.

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

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

17 "Public Rights-of-Way" means the area in, on, upon, above, beneath, within, along,
18 across, under, and over the public streets, sidewalks, roads, lanes, courts, ways, alleys,
19 spaces, and boulevards within the geographic area of the City in which the City now or
20 hereafter holds any property interest, which is dedicated to public use and which, consistent
21 with the purposes for which it was dedicated, may be used for the purpose of installing and
22 maintaining Personal Wireless Service Facilities to provide Personal Wireless Service to
23 customers.
24
25

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

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

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

12 "Tier A Compatibility Standard" means that an Applicant for a Personal Wireless
13 Service Facility on a Public Right-of-Way that is within an Unprotected Location has
14 demonstrated that the proposed Personal Wireless Service Facility would not significantly
15 detract from any of the defining characteristics of the neighborhood.

16 "Tier A Personal Wireless Service Facility" means a Personal Wireless Service Facility
17 where the proposed location for the facility is in an Unprotected Location.

18 "Tier B Compatibility Standard" means that an Applicant for a Personal Wireless
19 Service Facility on a Public Right-of-Way that is either within or Adjacent to a Planning
20 Protected Location or Zoning Protected Location has demonstrated that the proposed
21 Personal Wireless Service Facility ~~would not significantly detract from any of the defining~~
22 ~~characteristics of the~~ satisfies the applicable Planning Protected Location Compatibility Standard
23 or Zoning Protected Location Compatibility Standard.

1 "Tier B Personal Wireless Service Facility" means a Personal Wireless Service Facility
2 where the proposed location for the facility is in a Planning Protected Location or Zoning
3 Protected Location.

4 "Tier C Compatibility Standard" means that an Applicant for a Personal Wireless
5 Service Facility on a Public Right-of-Way that is either within or Adjacent to a Park Protected
6 Location has demonstrated that the proposed Personal Wireless Service Facility satisfies the
7 applicable would not significantly detract from any of the defining characteristics of the Park
8 Protected Location Compatibility Standard.

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

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

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

19 "Unprotected Location" means a proposed location for a Personal Wireless Service
20 Facility that is neither a Planning Protected Location, Zoning Protected Location, nor a Park
21 Protected Location.

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

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

4 "Zoning Protected Location Compatibility Standard" means that an Applicant for a
5 Personal Wireless Service Facility Site Permit on a Public Right-of-Way that is within a
6 Zoning Protected Location has demonstrated that the proposed Personal Wireless Service
7 Facility would not significantly detract from any of the defining characteristics of the
8 Residential or Neighborhood Commercial zoning district.

9
10 **SEC. 1506. STREET TREE.**

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

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

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

24 (2) In any instance in which the Department cannot require the Permittee to
25 install a street tree, on the basis of inadequate sidewalk width, interference with utilities, or

1 other reasons regarding the public health, safety, or welfare, the Department shall instead
2 require the Permittee to make an "in-lieu" payment into the Department's "Adopt-A-Tree"
3 fund. This payment shall be in the amount specified in Public Works Code Section 807(f),
4 and shall be payable prior to the Department's issuance of the Personal Wireless Service
5 Facility Site Permit.

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

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

11 (a) **Department of Public Health Referral.** The Department shall refer every
12 Application for a Personal Wireless Service Facility Site Permit to the Department of Public
13 Health for review of the proposed Personal Wireless Service Facility under the Public Health
14 Compliance Standard.

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

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

1 **SEC. 1508. DEPARTMENT REVIEW OF A PERSONAL WIRELESS SERVICE FACILITY**
2 **SITE PERMIT APPLICATION.**

3 The Department shall review an Application for a Personal Wireless Service Facility
4 Site Permit to determine whether the Application:

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

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

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

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

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

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

23 (2) After the Department has adopted Objective Standards, the Department shall
24 refer an Application for a Tier A or Tier B Personal Wireless Service Facility Site Permit to the
25 Planning Department for additional review under the applicable Tier A or Tier B Compatibility

1 Standard if: (A) the proposed Personal Wireless Service Facility does not meet the Tier A or Tier B
2 Compatibility Standard based on the Department's application of the Objective Standards; or (B) the
3 proposed Personal Wireless Service Facility is a Disfavored Design.

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

5 (1) If the Department has referred an Application for a Tier A or Tier B Personal
6 Wireless Service Facility Site Permit to the Planning Department, the ~~The~~ Planning Department
7 shall make a determination whether ~~the an~~ Application for a Tier A or Tier B Personal Wireless
8 Service Facility Site Permit satisfies the applicable Tier A or Tier B Compatibility Standard.

9 The Planning Department's determination shall be in writing and shall set forth the reasons
10 therefor. The Planning Department shall transmit its determination to the Department within
11 10 ~~twenty (20)~~ business days of receipt of the Application from the Department. With the
12 concurrence of the Applicant, the Planning Department may extend this review period
13 beyond 10 ~~twenty (20)~~ business days.

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

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

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

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

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

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

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

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

24 **SEC. 1511. DEPARTMENT FINAL DETERMINATION.**

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

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

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

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

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

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

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

25 ~~(e) Approval Without Conditions.~~

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

6 ~~(A) The Department's receipt of a determination from the Department of~~
7 ~~Public Health that the Application complies with the Public Health Compliance Standard; and~~

8 ~~(B) The Department's receipt of a determination from the Planning~~
9 ~~Department or the Recreation and Park Department (or both if required) that the Application meets~~
10 ~~the applicable Compatibility Standard.~~

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

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

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

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

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

23 ~~(1) Tentative Approval. If any City department reviewing an Application for a Personal~~
24 ~~Wireless Service Facility Site Permit adds any Conditions to its approval of the Application, the The~~

1 Department shall issue a *tentative final* approval of the *an* Application *with Conditions* within
2 three ~~(3)~~ business days of the occurrence of the last of the following events:

3 ~~——(A1)~~ The Department's receipt of a determination from the Department of
4 Public Health that the Application complies with the Public Health Compliance Standard;

5 ~~——(B2)~~ (A) The Department's receipt of a determination from the Planning
6 Department or the Recreation and Park Department (or both if required) that the Application meets
7 the applicable Tier A, B, or C Compatibility Standard based on the Department's application of the
8 Objective Standards; or (B) where applicable, the Department's receipt of a determination from the
9 Planning Department or the Recreation and Park Department that the Application meets the
10 applicable Tier A, B, or C Compatibility Standard; or and

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

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

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

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

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

1 *SEC. 1512. — NOTICE OF TENTATIVE APPROVAL OF A PERSONAL WIRELESS SERVICE*
2 *FACILITY SITE PERMIT APPLICATION.*

3 (a) — *Notice Required.* The Department shall require an Applicant for a Wireless Service
4 Facility Site Permit to notify the public of a tentative approval of the Application under Sections
5 1511(c)(1) or 1511(d)(1) above, and to provide the Department with evidence, as the Department may
6 require, of compliance with this requirement.

7 (b) — *Types of Notice Required.*

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

9 (A) — *Any Person owning property or residing within one hundred and fifty*
10 *(150) feet of the proposed location of the Personal Wireless Service Facility; and*

11 (B) — *Any neighborhood association identified by the Planning Department*
12 *for any neighborhood within three hundred (300) feet of the proposed Personal Wireless Service*
13 *Facility.*

14 (2) — *Notice by Posting.* The Applicant shall post a copy of the notice in conspicuous
15 places throughout the block face where the proposed Personal Wireless Service Facility is to be
16 located.

17 (c) — *Contents and Form of Notice.* The notice shall contain such information, and be in
18 such form, as the Department reasonably requires in order to inform the general public as to the
19 nature of the Application for a Personal Wireless Service Facility Site Permit. At a minimum, the
20 notice shall:

21 (1) — *Provide a description and a photo-simulation of the proposed Personal*
22 *Wireless Service Facility;*

23 (2) — *Summarize the determinations of any City departments that were necessary for*
24 *the tentative approval of the Application;*

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

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

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

6 (6) — ~~Specify the applicable grounds for protesting the Application under this Article~~
7 ~~25;~~

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

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

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

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

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

24 (c) — ~~Notice of Hearing Date. At least ten (10) days before the hearing, the Department shall~~
25 ~~notify in writing any Person submitting a protest, the Applicant, and any City department that~~

1 reviewed the Application of the date set for the hearing. The Department shall follow its regular
2 procedures for notifying the general public of the hearing.

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

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

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

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

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

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

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

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

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

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

1 (1) — *The Department of Public Health incorrectly determined that the Application*
2 *complies with the Public Health Compliance Standard;*

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

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

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

11 (5) — *The evidence shows that the Applicant intends to apply for a Modification*
12 *Permit after the Permit is issued and that the proposed modification(s) would not comply with any*
13 *applicable Compatibility Standard.*

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

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

19 (1) **Types of Notice Required.**

20 (A) *The Department shall promptly mail a notice of final determination to*
21 *approve an Application for a Personal Wireless Service Facility Site Permit to both the Applicant and*
22 *to any neighborhood association identified by the Planning Department for any neighborhood within*
23 *three hundred (300) feet of the approved Personal Wireless Service Facility. The Applicant shall*
24 *promptly mail a copy of the Department's final determination to approve an Application for a*
25 *Personal Wireless Service Facility Site Permit to: (i) any Person who owns property that is within 300*

1 feet of the approved location for the Personal Wireless Service Facility; (ii) any Person who is a
2 tenant in any residential property that is within 300 feet of the approved location for the Personal
3 Wireless Service Facility; (iii) any neighborhood association identified by the Planning Department
4 for any neighborhood that is within 600 feet of the approved location for the Personal Wireless
5 Service Facility; and (iv) the member of the Board of Supervisors who represents the district in which
6 the approved Personal Wireless Service Facility would be located.

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

11 ~~(C)(B) The Department shall require an Applicant shall for a Personal~~
12 ~~Wireless Service Facility Site Permit to promptly post notice of a the Department's final~~
13 ~~determination to approve an Application for a Personal Wireless Service Facility Site Permit~~
14 ~~on the Utility Pole to be used for the proposed Personal Wireless Service Facility and in on a~~
15 ~~minimum of four other Utility Poles, other poles, or other conspicuous places throughout the block~~
16 ~~face located within 300 feet of the where the approved location for the Personal Wireless Service~~
17 ~~Facility. The Applicant shall is to be located and to provide the Department with such evidence,~~
18 ~~as the Department may require, of compliance with this requirement, as the Department may~~
19 ~~require.~~

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

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

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

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

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

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

12 (F) Explain how any interested Person may obtain additional
13 information and documents related to the ~~Application Permit; and~~

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

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

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

23 (2) **Contents of Notice.** A notice of final determination to deny an
24 Application for a Personal Wireless Service Facility Site Permit shall at a minimum:
25

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

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

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

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

10
11 **SEC. 1521. REPLACEMENT OR REMOVAL OF EQUIPMENT.**

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

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

18 (c) **Department Procedures.**

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

23 (A) Identify the use and size of each piece of equipment that the
24 Permittee is seeking to remove from the Utility, Transit, or Street Light Pole;
25

1 (B) Identify the use and size of the equipment that the Permittee is
2 seeking to install on the Utility, Transit, or Street Light Pole to Replace existing equipment;
3 and

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

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

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

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

18 **SEC. 1522. MODIFICATION PERMIT.**

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

23 (b) **Department Procedures.**

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

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

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

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

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

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

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

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

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

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

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

7 (3) **Equipment Other than Transmission Equipment.** The Department
8 may approve an Application for a Modification Permit at a Personal Wireless Service Facility
9 that is a Base Station if the Application seeks to modify equipment other than Transmission
10 Equipment, provided the Application complies with the requirements of Section 1522(e)(2)
11 below.

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

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

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

23 (2) **Other Types of Modifications.** Before approving an Application for a
24 Modification Permit under Sections 1522(c)(2), (c)(3), and (d) above, the Department shall
25 refer the Application to: (A) the Department of Public Health to determine compliance with the

1 Public Health Compliance Standard; and (B) the Planning Department and/or Recreation and
2 Park Department to determine compliance with any applicable Compatibility Standards. The
3 Department may not approve the Modification Permit if any City department determines the
4 Application does not comply with the appropriate standard. In addition, the Department may
5 determine that compliance with other provisions of this Article 25, including Notice of Final
6 Determination (Section 1514 above) and Appeals (Section 1515 above), shall be required.

7 (f) **Generally Applicable Laws.** Nothing in this Section 1522 shall prohibit the
8 Department from denying an Application for a Modification Permit (even where the
9 Application consists of an Eligible Facilities Request) where the Department determines that
10 the proposed modified Personal Wireless Service Facility would violate any generally
11 applicable building, structural, electrical, or safety code provision, or any Applicable Law
12 codifying objective standards reasonably related to health and safety.

13 **SEC. 1527. FEES AND COSTS.**

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

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

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

1 Personal Wireless Service Facility contained in an Application for a Personal Wireless
2 Service Facility Site Permit.

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

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

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

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

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

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

24 ~~(e)(d)~~ **Inspection Fees.** The Department and the Department of Public Health shall
25 impose fees for the inspection of a permitted Personal Wireless Service Facility. The purpose

1 of these fees is to enable these City departments to recover their costs related to inspecting
2 a permitted Personal Wireless Service Facility.

3 (1) Department Inspection Fee. Each Permittee shall pay the Department a
4 non-refundable time and materials inspection fee not to exceed ~~one hundred fifty dollars~~
5 ~~(\$150.00)~~ to inspect a permitted Personal Wireless Service Facility as required under Section
6 1516(b) above.

7 (2) Department of Public Health Inspection Fee. Each Permittee shall pay
8 the Department of Public Health a non-refundable time and materials inspection fee to
9 inspect a permitted Personal Wireless Service Facility where such inspection is required or
10 requested under Section 1516(b) above.

11 ~~(f)(e)~~ **Adjustment of Fees for CPI.**

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

23 (2) Controller Adjustments. Beginning with fiscal year 2020-2021, the fees
24 established herein, including as adjusted through fiscal year 2019-2020 under Section 1527(e)(1)
25 above, may be adjusted each year on July 1 without further action by the Board of Supervisors, to

1 reflect changes in City department costs to provide the services required herein. Not later than April 1
2 of each year the Controller will determine whether the current fees have produced or are projected to
3 produce revenues sufficient to enable City departments to recover the costs of the permitting services
4 required by this Article 25, and that the fees will not produce revenue that is significantly more than
5 the costs of providing such services. If necessary, the Controller will adjust the fees upward or
6 downward for the upcoming fiscal year as appropriate to ensure that City departments recover their
7 costs without producing revenue that is significantly more than such costs. The adjusted fees shall
8 become operative on July 1.

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

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

24 **(i)(h) Reimbursement of City Costs.** A City department may determine that it
25 requires the services of an expert in order to evaluate an Application for a Personal Wireless

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:\egana\as2019\1900538\01372850.doc

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/15/2019)

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

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.

Existing Law

Among other things, Article 25 of the Public Works Code allows the City and County of San Francisco ("City") to regulate the location and design of a personal wireless service facility ("Wireless Facility"). Article 25 requires a permit issued by Public Works to install a Wireless Facility on a utility, transit or street light pole in the public right-of-way ("Wireless Permit").

Article 25 requires other City departments to review applications for Wireless Permits. Public Works may not issue a Wireless Permit without the approval of these other departments:

- The Planning Department and/or the Recreation Park Department must review an application for a Wireless Permit in specified locations based on the aesthetic standards contained in Article 25.
- The Department of Public Health must review an application for a Wireless Permit to determine whether: (i) any potential human exposure to radio frequency ("RF") emissions from a proposed Wireless Facility would comply with the Federal Communications Commission ("FCC") regulations¹; and (ii) potential noise from the proposed Wireless Facility would be not greater than 45 dBA as measured at a distance three feet from any residential building facade.

Article 25 requires public notice that Public Works has issued a tentative approval an application for a Wireless Permit and allows local residents and business owners to protest the issuance of the proposed Wireless Permit. If a protest is filed, Public Works will conduct a hearing before issuing a Wireless Permit. Public Works will only issue the Wireless Permit if the Director of Public Works determines after the

¹ Under federal law, the City cannot impose standards related to the "environmental effects" of RF emissions that exceed those contained in the FCC's regulations. See 47 U.S.C. § 332(c)(7)(B)(iv).

hearing that the applicant complied with all of the requirements of Article 25. The Wireless Permit may then be appealed to the Board of Appeals.

Amendments to Current Law

The proposed Ordinance would amend Article 25 to expedite the permitting process in order that: (1) wireless carriers in San Francisco will be able to timely deploy the facilities necessary to improve their services and provide 5G service; and (2) the City will comply with federal law as recently interpreted by the Federal Communications Commission ("FCC"). The proposed Ordinance accomplishes those goals by doing three things.

First, the proposed Ordinance would repeal those provisions that require tentative approvals of Wireless Permit applications and allow for protests and public hearings if protests are submitted. The FCC has interpreted federal law to require a final determination on these types of applications within 60 days. Under present law, Public Works cannot meet the 60-day requirement. The tentative approval, protest, and public hearing requirements are the major reasons the permitting process takes longer than 60 days.

Second, the proposed Ordinance would require Public Works to work with the Planning Department and the Recreation and Park Department to develop objective standards to determine whether an application for a Wireless Permit satisfies Article 25's aesthetic criteria. Article 25's aesthetic standards are subjective. The FCC has interpreted federal law to require the use of objective standards. In addition, using objective standards to review Permit applications—rather than subjective ones—will expedite the permitting process. Once Public Works has adopted objective standards, neither the Planning Department nor the Recreation and Park Department will have to review any applications for Wireless Permits that meet those standards.

Third, the proposed Ordinance would repeal those provisions that require Wireless Permits to install Wireless Facilities on San Francisco Public Utilities Commission ("SFPUC")-owned streetlight poles and San Francisco Municipal Transportation Agency ("SFMTA")-owned transit poles. Because the SFPUC and SFMTA own these poles, they can impose the City's aesthetic standards through their pole licenses. Through their license agreements, these agencies can also require wireless carriers to demonstrate compliance with the FCC's RF emissions regulations. Finally, the FCC has interpreted federal law to require that both the license and Wireless Permit be issued within 60 days. If a Wireless Permit is required for City-owned poles, it will be difficult for the City to issue both the license and Wireless Permit in 60 days.

Background Information

One of the purposes of the proposed Ordinance is to ensure that the City's permitting process for Wireless Facilities complies with federal laws. In its *Declaratory Ruling and Third Report and Order in the Wireless and Wireline Proceedings* (Sept. 26, 2018) ("*FCC Order*")², the FCC construed two federal laws limiting state and local government authority to regulate telecommunications services³ that implicate Article 25's requirements.

The *FCC Order* finds that those federal laws did not prohibit state and local governments from addressing aesthetic concerns when issuing permits for small wireless facilities on utility poles. But, the FCC ruled that any such aesthetic requirements must be reasonable, objective, publicly available, and applied to other entities in similar situations.

The *FCC Order* also finds that under federal law state and local governments must issue final determinations on applications for permits to small wireless facilities on utility poles within 60 days of receipt of the application.

n:\egana\as2019\1900538\01353312.doc

² San Francisco and other local governments have sought federal court review of the *FCC Order*. While those petitions were filed in different appeals courts, they have all been consolidated and will be heard by the Ninth Circuit Court of Appeals in San Francisco. The Ninth Circuit has ordered the briefing in those appeals be completed by September 18, 2019. No date has been set for oral argument.

³ See 47 U.S.C. §§ 253, 332(c)(7).

BOARD of SUPERVISORS



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

June 19, 2019

File No. 190598

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 4, 2019, Public works submitted the proposed legislation:

File No. 190598

Ordinance amending the Public Works Code to modify the requirements for obtaining Personal Wireless Service Facility Site Permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment. Any future physical changes would require environmental review.

joy
navarrete

Digitally signed by joy navarrete
DN: dc=org, dc=sfgov, dc=cityplanning,
ou=CityPlanning, ou=Environmental
Planning, cn=joy navarrete,
email=joy.navarrete@sfgov.org
Date: 2019.07.11 09:13:46 -0700

**ORDINANCE TO AMEND
PUBLIC WORKS CODE, ARTICLE 25 TO IMPROVE
AND EXPEDITE PERMITTING PROCESS**



4172

Land Use Committee Hearing
July 2019

presented in committee
7/15/2019
190598

Purpose of Amendment to Public Works Code, Article 25

- State and federal laws give wireless carriers the “right” to install wireless facilities in the public right of way.
- September 2018 FCC order requires that permits to install wireless facilities be issued within 60 days of receipt of application. Current requirement under federal law is 90 days. Current City process is 90-180 days and can involve as many as five agencies.
- Proposed amendment allows the City to meet the 60-day shot clock and establish objective design standards for wireless facilities that all carriers must meet.

4173



What does the FCC's Order Do?

On September 26, 2018, the FCC issued a decision that significantly limits local authority to manage installation of wireless infrastructure in the public right of way:

Establishes a **60-day shot clock** for wireless facilities added to existing structures, such as utility and streetlight poles, and **90 days** for facilities using a new structure.

Aesthetic requirements must be (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

Price caps of \$270 per wireless facility per year (can be higher if cost-based). Caps apply to any permit fees and license fees for attachment to municipally-owned structures in the right of way. The City's permitting and licensing fees exceed these caps.

IMMEDIATE IMPACT: Local governments are challenging the ruling in federal court. San Francisco has joined that challenge. While that appeal is pending, the FCC's order is in effect.

Wireless Program Strategy

STRATEGY: Comply with FCC order, while protecting the public interest, assets and public right of way.

Process Amendments Approach:

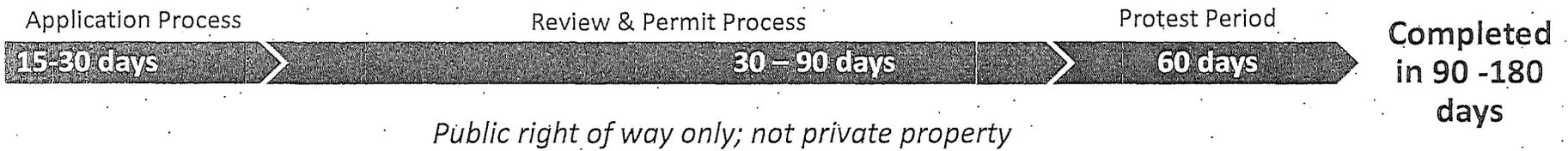
1. Reduce the time and simplify the permitting process.
2. Require equipment standards that will meet aesthetic criteria.
3. Maintain existing MTA and SFPUC master license agreements with carriers.
4. Clearly communicate the process to providers and the community.

4175

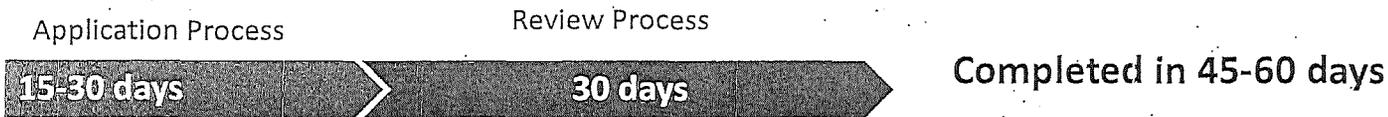


Complying with FCC Shot Clock

Current Article 25 Timeline



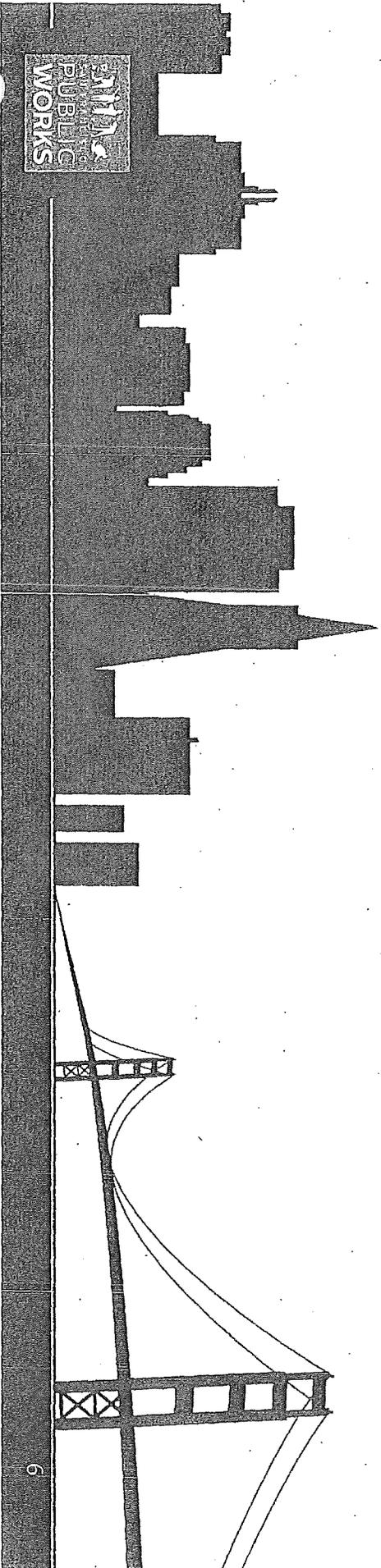
New Timeline



4176



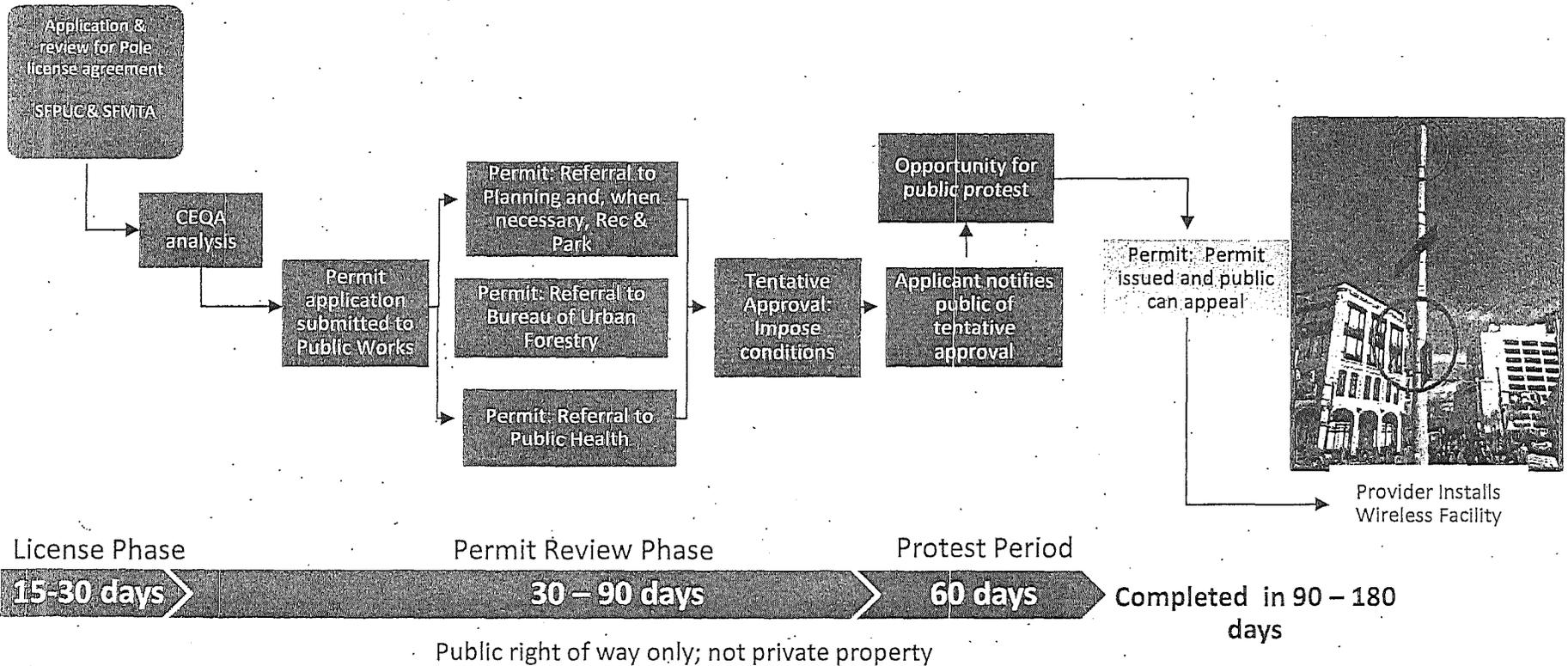
STREAMLINED PERMIT PROCESS



Current Wireless Permit Process

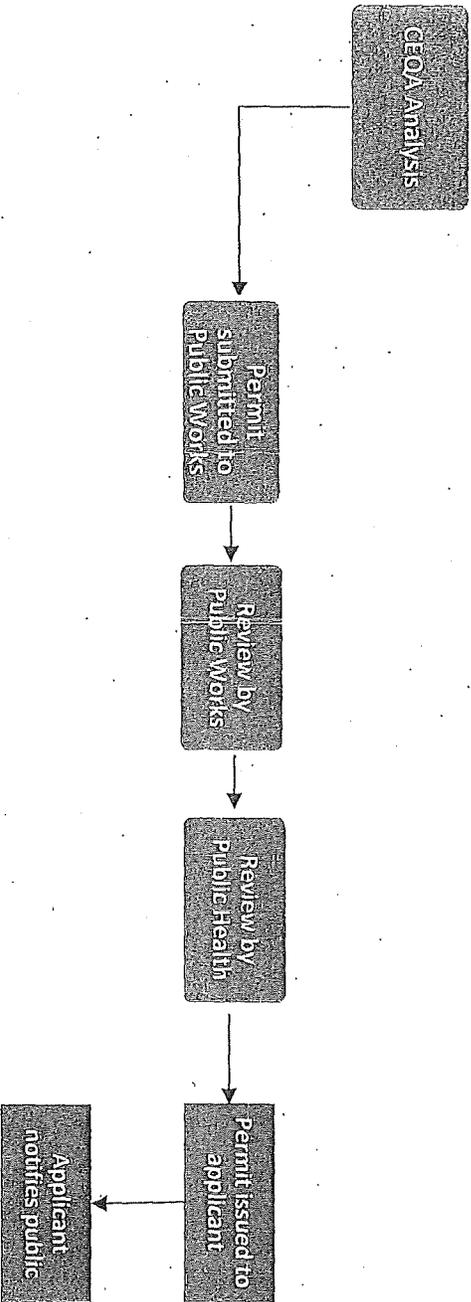
All Poles (SFPUC, SFMTA, PG&E)

4178



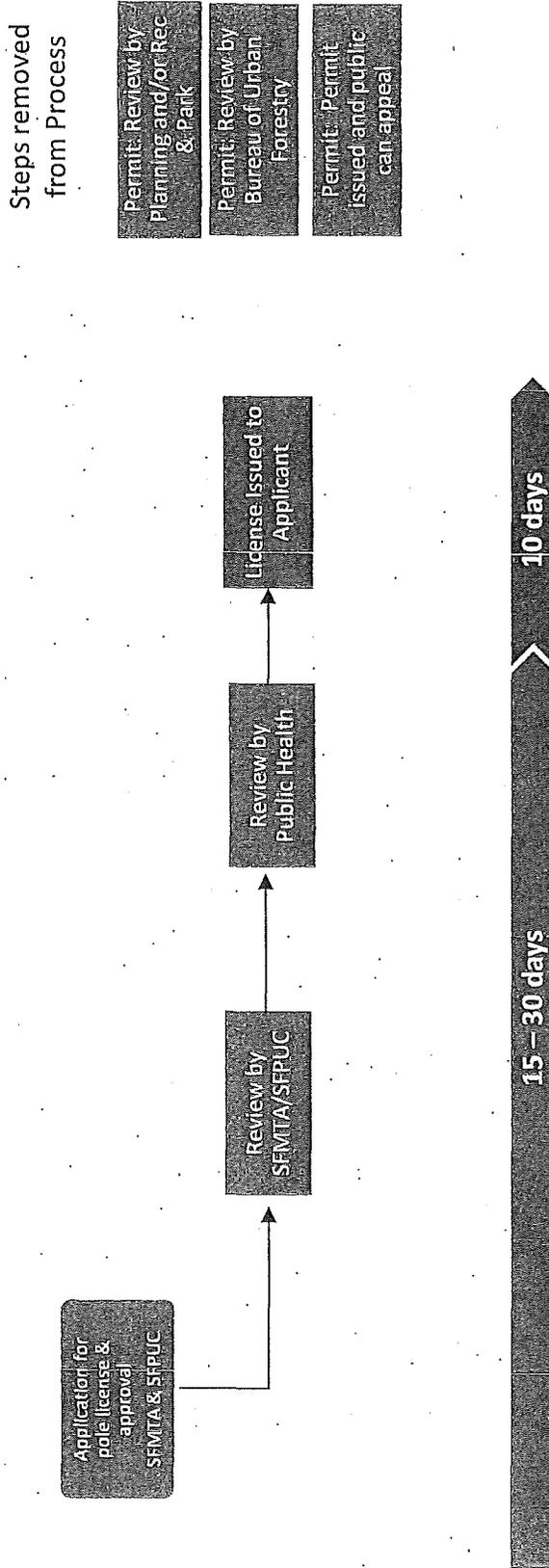
New Wireless Permit Process

Public Poles (PG&E)

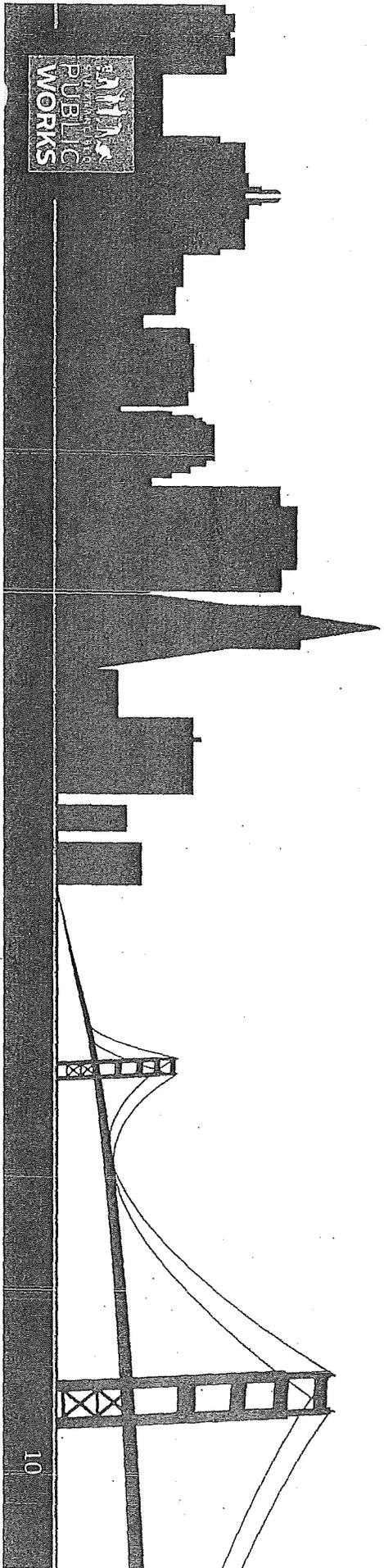


New Wireless Permit Process

Municipal Owned Poles (PUC/SFMTA)

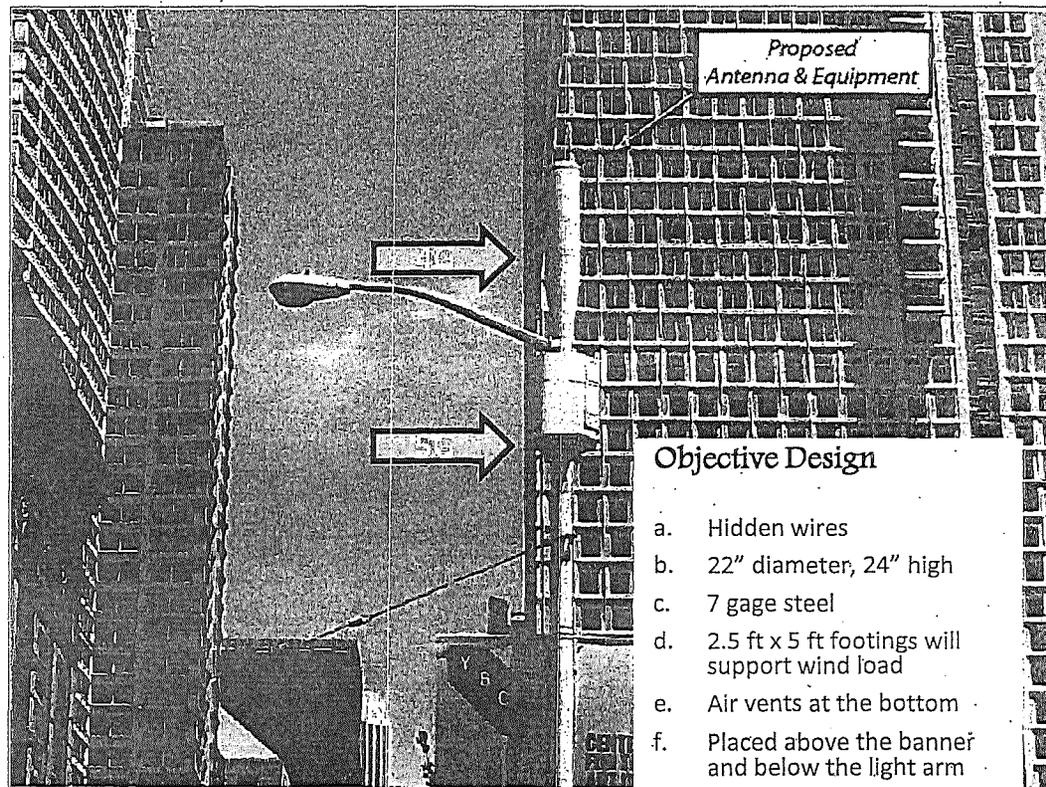


OBJECTIVE DESIGN STANDARD



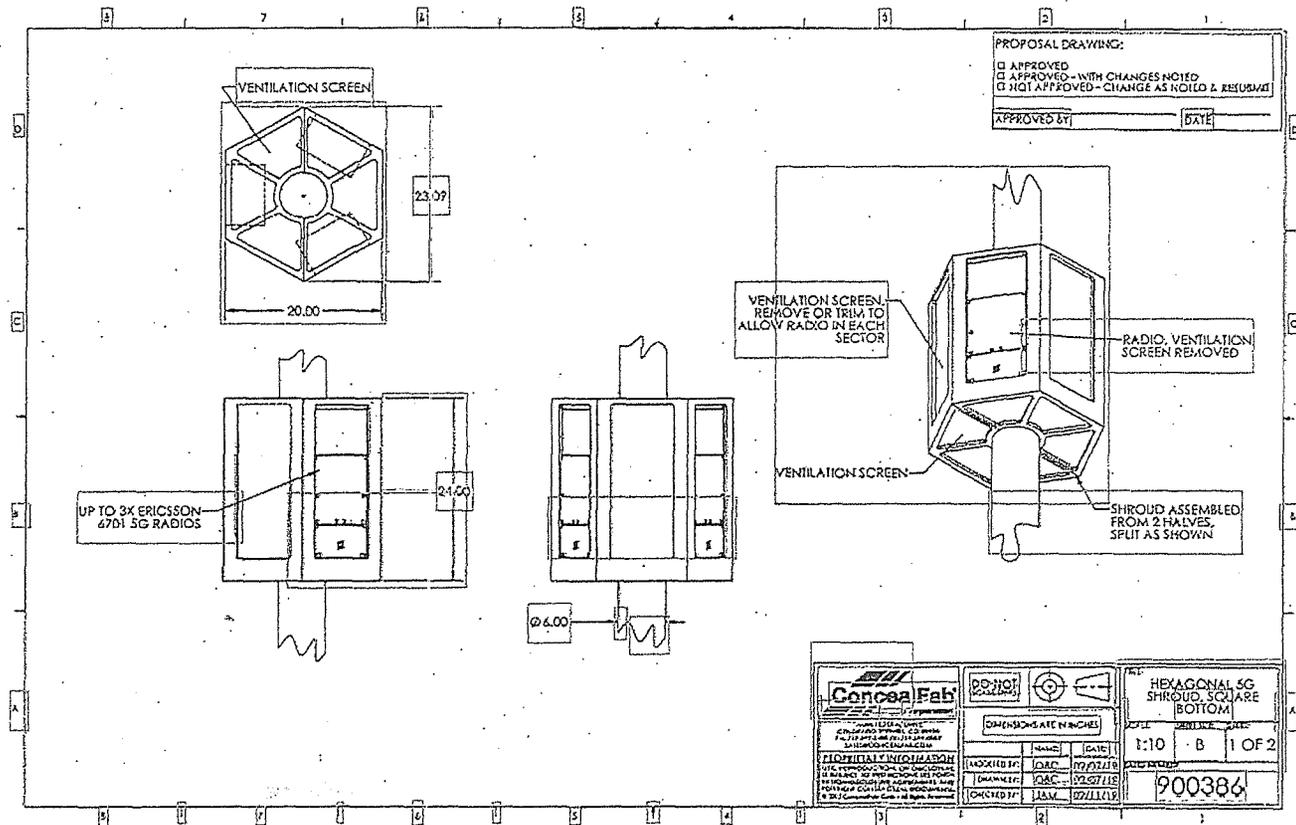
PURPOSE OF THE OBJECTIVE STANDARD

1. In 2015, the Planning Department established a design standard for 4G wireless facilities on SFPUC and SFMTA poles. Planning Department conducts subjective review of wireless permit applications on all poles.
2. Recent FCC order allows addressing aesthetic concerns, but it must be reasonable, objective, publicly available and applied to other entities in similar situations.
3. City staff and carriers have been meeting to come to agreement on the objective design standard.
4. The agreed-upon standard will allow different antenna configurations and changes over time.



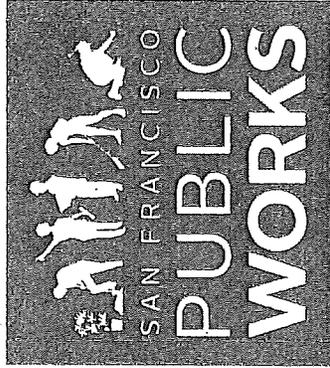
4182

OBJECTIVE DESIGN STANDARD



4183





www.sfpublicworks.org

BOARD of SUPERVISORS



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

June 19, 2019

File No. 190598

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 4, 2019, Public works submitted the proposed legislation:

File No. 190598

Ordinance amending the Public Works Code to modify the requirements for obtaining Personal Wireless Service Facility Site Permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

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: Julie Rosenberg, Executive Director, Board of Appeals
Ben Rosenfield, Controller, Office of the Controller

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: June 26, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on June 18, 2019:

File No. 190598

Ordinance amending the Public Works Code to modify the requirements for obtaining Personal Wireless Service Facility Site Permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have 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 or by email at: erica.major@sfgov.org.

c: Gary Cantara, Board of Appeals
Todd Rydstrom, Office of the Controller

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: Phil Ginsburg, General Manager, Recreation and Parks Department
Dr. Grant Colfax, Director, Department of Public Health
John Rahaim, Director, Planning Department

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: June 19, 2019

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Public Works on June 4, 2019:

File No. 190598

Ordinance amending the Public Works Code to modify the requirements for obtaining Personal Wireless Service Facility Site Permits; and affirming the Planning Department's determination under the California Environmental Quality Act.

If you have 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 or by email at: erica.major@sfgov.org.

c: Sarah Madland, Recreation and Parks Department
Greg Wagner, Department of Public Health
Dr. Naveena Bobba, Department of Public Health
Sneha Patil, Department of Public Health
Scott Sanchez, Planning Department
Corey Teague, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
AnMarie Rodgers, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department



London N. Breed
Mayor

Mohammed Nuru
Director

San Francisco Public Works
1 Dr. Carlton B. Goodlett Pl.
Room 348
San Francisco, CA 94102
tel 415-554-6920

sfpublicworks.org
facebook.com/sfpublicworks
twitter.com/sfpublicworks

May 24, 2019

Angela Calvillo, Clerk of the Board
Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

BOARD OF SUPERVISORS
SAN FRANCISCO

2019 MAY 24 AM 11:46

BY

Dear Ms. Calvillo:

Attached please find an original single-sided and two single-sided, black and white copies of the proposed Ordinance for the Board of Supervisors Approval, which updates Article 25 of the Public Works Code to bring the City into compliance with federal law as recently interpreted by the Federal Communications Commission.

The following is a list of accompanying documents (3 sets):

- Proposed Ordinance
- Legislative Digest

The contact person for this proposed legislation is Jeremy Spitz, who can be reached at 415-554-6972 or Jeremy.Spitz@sfdpw.org.

Sincerely,

Mohammed Nuru
Director of Public Works