


BOARD of SUPERVISORS



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## MEMORANDUM

TO: Mohammed Nuru, Director, Public Works  
Phil Ginsburg, General Manager, Recreation and Parks Commission  
Ivar C. Satero, Airport Director, Airport Commission  
Tom Maguire, Interim Executive Director, Municipal Transportation Agency  
Elaine Forbes, Executive Director, Port Department  
Harlan Kelly, Jr., General Manager, Public Utilities Commission  
Andrico Penick, Director, Real Estate Division  
Julie Rosenberg, Executive Director, Board of Appeals

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

DATE: October 17, 2019

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Yee on October 8, 2019:

**File No. 191033**

**Ordinance amending the Administrative Code to create an Office of Emerging Technology within the Department of Public Works; amending the Public Works Code to require a permit to obstruct the public right-of-way within Public Works' jurisdiction; amending the Administrative Code to codify the Public Works Director's authority to take official actions, as defined herein, including adopting regulations for the pilot operation of emerging technology devices; amending the Public Works Code and Police Code to provide for administrative, civil, and criminal penalties for unlawful obstruction of the public right-of-way, including operation of emerging technology devices without a required permit; 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](mailto:erica.major@sfgov.org).

- c: David Steinberg, Public Works
- Jeremy Spitz, Public Works
- Jennifer Blot, Public Works
- John Thomas, Public Works
- Lena Liu, Public Works
- Sarah Madland, Recreation and Parks Commission
- Margaret McArthur, Recreation and Parks Commission
- Cathy Widener, Airport Commission
- Corina Monzon, Airport Commission
- Kate Breen, Municipal Transportation Agency
- Janet Martinsen, Municipal Transportation Agency
- Joel Ramos, Municipal Transportation Agency
- Daley Dunham, Port Department
- Juliet Ellis, Public Utilities Commission
- Donna Hood, Public Utilities Commission
- John Scarpulla, Public Utilities Commission
- Mona Panchal, Public Utilities Commission
- Katy Sullivan, Board of Appeals

1 [Administrative, Public Works, Police Codes - Establishing Office of Emerging Technology -  
2 Requiring Permits for Using Emerging Technology Devices on Public Right-of-Ways]

3 **Ordinance amending the Administrative Code to create an Office of Emerging**  
4 **Technology within the Department of Public Works; amending the Public Works Code**  
5 **to require a permit to obstruct the public right-of-way within Public Works' jurisdiction;**  
6 **amending the Administrative Code to codify the Public Works Director's authority to**  
7 **take official actions, as defined herein, including adopting regulations for the pilot**  
8 **operation of emerging technology devices; amending the Public Works Code and**  
9 **Police Code to provide for administrative, civil, and criminal penalties for unlawful**  
10 **obstruction of the public right-of-way, including operation of emerging technology**  
11 **devices without a required permit; and affirming the Planning Department's**  
12 **determination under the California Environmental Quality Act.**

13  
14 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
15 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
16 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
17 **Board amendment additions** are in double-underlined Arial font.  
18 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
19 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
20 subsections or parts of tables.

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

22 Section 1. Environmental Findings.

23 The Planning Department has determined that the actions contemplated in this  
24 ordinance comply with the California Environmental Quality Act (California Public Resources  
25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
Supervisors in File No. 170599 and is incorporated herein by reference. The Board affirms  
this determination.

1 Section 2. Background and General Findings.

2 (a) Technology is embedded in San Francisco's social and economic fabric. San  
3 Francisco has long been a center of innovation and technological progress, and City  
4 government has multifaceted and important roles to play in effectively managing the  
5 interaction between innovation, technology, the public, and public spaces and property. In  
6 recent years, numerous new and emerging technology devices were launched in San  
7 Francisco without sufficient time for public review or input, or consideration of new regulatory  
8 requirements to ensure public health, safety, and welfare. As a regulator and a steward of  
9 public right-of-ways and other public spaces and property, the City must develop appropriate  
10 policies and adopt and enforce safety requirements to mitigate risks and impacts new  
11 technologies pose for San Francisco residents and for City resources and infrastructure.

12 (b) In April 2018, the City adopted Resolution No. 102-18, which set forth principles for  
13 the regulation of emerging technology and urged the City Administrator to convene an  
14 emerging technology working group. Resolution No. 102-18 states: "[T]he Board of  
15 Supervisors is committed to investigating and adopting legislation including recommendations  
16 for a dedicated Office of Emerging Technology with appropriate staffing to ensure that City  
17 government is adequately nimble and responsive to address the impacts of emerging  
18 technologies in San Francisco." A copy of Resolution No. 102-18 is on file with the Clerk of  
19 the Board in File No. 171123.

20 (c) In adopting Resolution No. 102-18, the City resolved to use the principles  
21 described below ("Guiding Principles") to guide both the discussions and recommendations of  
22 an Emerging Technology Work Group and the formulation of future legislation:

23 (1) Emerging technology should provide a net common good, with consideration  
24 of whether such emerging technology benefits the few at the expense of the many;  
25

1 (2) The safety, needs, and convenience of humans shall be prioritized over any  
2 emerging technology use;

3 (3) The needs of the most vulnerable members of our community, including  
4 seniors, children, and those with mobility or other limitations, should be adequately  
5 considered;

6 (4) The testing or piloting of any technology should provide the greatest  
7 emphasis on ensuring public safety, including a manual human override as appropriate;

8 (5) Any direct or indirect costs on the use of public infrastructure should be paid  
9 by the owner or operator of the technology and not by the public;

10 (6) Data sharing with relevant public agencies should be a condition of any  
11 authorization to use the public realm;

12 (7) In evaluating the public benefit of any emerging technology, the potential  
13 impact on congestion on roads, sidewalks, and public spaces should be carefully considered;

14 (8) Where appropriate, provide preference to those technologies that support  
15 rather than reduce the labor force in San Francisco;

16 (9) Where appropriate and feasible, technologies should include labeling,  
17 individual permit identifiers, business information, and emergency contact information for  
18 those responsible for the deployment of products;

19 (10) Where technology should protect private information of individuals, such  
20 information should be protected and appropriate informed consent given;

21 (11) Public-Private partnerships in Emerging Technology should be considered  
22 and evaluated to the highest standard, including any benefits, impacts, and costs to the City  
23 or the public infrastructure; and

24 (12) Any regulation should be nimble and responsive to changing conditions  
25 and demands.

1 (d) In June 2018, the City Administrator created the Emerging Technology Open  
2 Working Group (“Working Group”) to inform future legislation on emerging technologies. The  
3 purpose of the Working Group was to assemble a broad and inclusive group of community  
4 members, technology companies, academics, advocates, merchants, and local government  
5 stakeholders to engage in dialogue regarding the impacts of technology and to support the  
6 City Administrator in the formulation of policy recommendations. Specifically, the Working  
7 Group’s objectives were to engage the community and technology experts in the policy  
8 making process; gather feedback on recommendations for a regulatory and permitting  
9 process that addresses the use of emerging technologies on land, in the air and water, inside  
10 buildings and underground; and develop a nimble and responsive governance framework.

11 (e) In January 2019, the City Administrator’s Office issued the Final Report of the  
12 Emerging Technology Open Working Group (“Emerging Technology Report”). The Emerging  
13 Technology Report discussed the following seven cross-cutting issues presented by the  
14 impact of emerging technologies: (1) community engagement and priorities; (2) equitable  
15 benefits; (3) accessibility and safety; (4) agile permitting and accountability; (5) data sharing  
16 and privacy; (6) forecasting; and (7) collaboration and partnerships among the City, the  
17 community, and emerging technology companies.

18 (f) The Emerging Technology Report included five recommendations to the Mayor and  
19 the Board of Supervisors: (1) to create a front door for emerging technology, (2) to improve  
20 communication with the community, (3) to safely test and evaluate new technologies, (4) to  
21 support responsive policy development, and (5) to implement smart forecasting through  
22 expert collaboration.

23 (g) By this ordinance, the City will begin implementing the Guiding Principles and a  
24 portion of the recommendations set forth in the Emerging Technology Report to better serve  
25 San Francisco residents, workers, businesses, and visitors, and to address their interests in or

1 concerns regarding Emerging Technology. All units or components of City government,  
2 including but not limited to boards and commissions, departments, offices, agencies, or  
3 officials (each a “City Department” and collectively “City Departments”) shall, as applicable,  
4 work collaboratively in the implementation of this ordinance, identify and adopt regulations or  
5 protocols aimed at streamlining the review and regulation of Emerging Technologies, and  
6 refer proposals to use Emerging Technologies on City property and right-of-ways to the Office  
7 of Emerging Technology for review and referral to and consultation with other City  
8 Departments with technical expertise or regulatory jurisdiction over the proposed use of  
9 Emerging Technologies.

10 Section 3. The Administrative Code is hereby amended by adding Chapter 22G, to  
11 read as follows:

12 **CHAPTER 22G. OFFICE OF EMERGING TECHNOLOGY**

13 **SEC. 22G.1. PURPOSE OF CHAPTER.**

14 *(a) The purpose of this Chapter 22G is to streamline and coordinate the City’s review and*  
15 *permitting of Emerging Technologies. OET shall monitor Emerging Technologies that are currently*  
16 *used or may one day be used in San Francisco; collaborate with other City Departments on the*  
17 *formulation of best practices, procedures, and requirements for managing the use and testing of*  
18 *Emerging Technologies; facilitate the referral and review of permit applications by appropriate City*  
19 *Departments and the issuance of Testing permits and other permits by City Departments, as may be*  
20 *applicable, to help ensure Emerging Technologies can operate to serve the public good while*  
21 *minimizing harms to public health, safety, welfare, and convenience, and public spaces; and to*  
22 *facilitate the streamlined and consolidated issuance of permits and consideration of appeals, subject to*  
23 *the authority of Special Jurisdiction Agencies and other applicable limitations set forth in state law*  
24 *and/or the Charter.*  
25

1           (b) Notwithstanding subsection (a) or any of its provisions, this Chapter 22G shall not abridge,  
2 modify, or alter the authority granted by State law or the City Charter to the Special Jurisdiction  
3 Agencies, unless any such Special Jurisdiction Agency authorizes any such changes, and provided that  
4 any such Special Jurisdiction Agency may enter into an agreement with any City Department Partner  
5 to implement this Chapter in a manner consistent with State law, the Charter, the Municipal Code, and  
6 City ordinances.

7           **SEC. 22G.2. DEFINITIONS.**

8           For purposes of this Chapter 22G, the following definitions shall apply:

9           “Additional Agency Approvals” means any additional permits, licenses, or other approvals  
10 from federal, state, or local regulatory agencies or any other City Department Partner that may be  
11 required to perform the Pilot Project.

12           “Approve” or “Approval” means the decision of the OET Director to approve a Pilot Project  
13 Proposal subject to modifications or conditions including but not limited to the applicant’s obtaining  
14 all Additional Agency Approvals.

15           “Charter” means the Charter of the City.

16           “City” means the City and County of San Francisco and all of its units or components of  
17 government.

18           “City Department” means any unit or component of City government, including but not limited  
19 to boards and commissions, departments, offices, agencies, or officials.

20           “City Department Partners” means all City Departments with jurisdiction over an Emerging  
21 Technology, the functions or activities performed by the Emerging Technology, or the physical area  
22 proposed to be used for or affected by the Emerging Technology.

23           “City-Owned Lot” means any real property lot owned by the City and administered by the  
24 Director of Real Estate under the provisions of Chapter 23 of this Code.



1           “Condition of Approval” or “Conditions of Approval” means one or more conditions of  
2 Approval of a Pilot Project imposed by OET or any conditions of approval of any applicable Additional  
3 Agency Approvals including payment of all applicable costs and fees to OET and the City Department  
4 Partners.

5           “Department” means the Department of Public Works.

6           “Emerging Technology” or “Emerging Technologies” means one or more physical objects,  
7 whether mobile or stationary, that constitute or incorporate new electronic or mobile technologies or  
8 applications of technology and which are proposed for use upon, above, or below City property and/or  
9 the public right-of-way. For purposes of this definition, characteristics of new electronic or mobile  
10 technologies or applications of technology include but are not limited to designation of the technology  
11 as a beta, test, or pre-sale product or system or application software; lacking or failing to meet written  
12 evaluation or analysis for safety purposes required to be met by any regulatory body of the United  
13 States, the State of California, or the City; and lacking or failing to meet applicable safety standards  
14 adopted or set by a government agency. Examples of Emerging Technologies may include but are not  
15 limited to powered devices, whether wheeled or non-wheeled, used for assistive, occupational,  
16 delivery, transportation, recreational, mobility, data gathering, testing, commercial, research, or other  
17 purposes.

18           “Emerging Technology Company” means any entrepreneur, firm, company, business, or other  
19 business entity, of whatever size or structure, whether subject to or exempt from taxation, that develops,  
20 utilizes, markets, licenses, or sells any Emerging Technology. Emerging Technology Companies shall  
21 be eligible to be a Pilot Project Sponsor under this Chapter 22G.

22           “Final Decision” means the final decision on the appeal of the OET Director’s action to  
23 suspend, modify, or rescind the Approval or any City Department Partner’s action to suspend, modify,  
24 rescind, revoke, or terminate any Additional Agency Approval.

1           “Notice to Proceed” means a written determination issued by OETOET and approved by the  
2 OET Director, indicating that the Pilot Project Sponsor has complied with all Conditions of Approval  
3 required to be met prior to the commencement of the Pilot Project and has provided OET with  
4 sufficient evidence of the issuance of all Additional Agency Approvals and the Pilot Project Sponsor’s  
5 compliance with all Conditions of Approval set forth in the Additional Agency Approvals.

6           “Notice of Suspension” means a written determination issued by the OET and approved by the  
7 OET Director, indicating that the Pilot Project Sponsor has failed to comply with one or more  
8 Conditions of Approval and the Pilot Project Sponsor lacks authorization to conduct, perform, or  
9 engage in the Pilot Project while the Notice of Suspension is in effect.

10           “OET” means the Office of Emerging Technology

11           “OET Director” means the director of the Office of Emerging Technology.

12           “Pilot Project” means the operation or use of an Emerging Technology upon, above, or below  
13 City property and/or the public right-of-way in the City’s jurisdiction, as authorized by OET, for a  
14 limited duration for purposes including but not limited to testing and evaluation in anticipation of  
15 potential commercial uses.

16           “Pilot Project Proposal” means a proposal seeking authorization to perform a Pilot Project.

17           “Pilot Project Sponsor” means the natural or legal person that has submitted a Pilot Project  
18 Proposal. A Pilot Project Sponsor must be an Emerging Technology Company.

19           “Proposed Activities” means activities proposed to be conducted, performed, or engaged in as  
20 part of a Pilot Project Proposal, including the duration of the proposed activities, the proposed  
21 locations of deployment of the Emerging Technology, and the proposed means and methods of  
22 conducting, performing, or engaging in the proposed Pilot Project.

23           “Public Works Director” means the Director of the Department or the Director’s designee.

24           “Special Jurisdiction Agencies” means the Recreation and Park Commission, the Airport  
25 Commission, and the City Department Partners with exclusive jurisdiction as set forth in the Charter

1 including the Municipal Transportation Agency (“SFMTA”), the Port of San Francisco (“Port”), and  
2 the Public Utilities Commission (“SFPUC”). Special Jurisdiction Agencies encompass both the City  
3 Department’s governing body, board, or commission, and the City Department responsible for  
4 administering the City Department’s affairs.

5 “Special Jurisdiction Agency Property” means real property within the jurisdiction of a Special  
6 Jurisdiction Agency.

7 “Stakeholders” means San Francisco residents, businesses, community organizations, and  
8 others who have provided written notice to OET that they wish to receive any public notice of public  
9 meetings and hearings regarding Emerging Technologies.

10 “State” means the State of California.

11 “Term” means an initial period not exceeding 12 months.

12 **SEC. 22G.3. OFFICE OF EMERGING TECHNOLOGY – MISSION AND POWERS.**

13 (a) Establishment. The Office of Emerging Technology is hereby created within the  
14 Department and shall be headed by the OET Director, who shall be appointed by the Public Works  
15 Director and who shall meet the qualifications for staffing of OET in subsection (b).

16 (b) Staffing. OET shall be staffed with experienced and qualified technology professionals or  
17 experts or those who have experience with or knowledge of San Francisco’s unique community values  
18 and regulatory environment.

19 (c) Mission and Purposes. OET shall have the mission and purposes set forth in this subsection  
20 (c).

21 (1) Serve as an initial point of contact, akin to a “front door,” and a continuing point of  
22 contact and central repository of information and expertise, for members of the public and prospective  
23 operators of Emerging Technology to engage with the City regarding Emerging Technology issues, to  
24 enable members of the public and Emerging Technology Companies to seek and provide information,  
25 express viewpoints, and receive feedback regarding Emerging Technologies.

1                   (2) Develop evaluation criteria and collaborate with other City Departments regarding  
2 the testing, evaluation, and regulation of Emerging Technology within the City.

3                   (3) Facilitate communication among Emerging Technology Companies, San Francisco  
4 residents, and local businesses.

5                   (4) Research the effects of Emerging Technology on the City's resources, residents, and  
6 businesses, and support responsive policy development in areas such as equity, accessibility, privacy,  
7 and the responsible and sustainable use of data.

8                   (5) Foster smart forecasting through collaboration with subject matter experts outside of  
9 City government including but not limited to academic and policy makers and administrators from  
10 government agencies separate from the City, consistent with the civil service provisions of the Charter.

11                   (d) Collaboration and Outreach. OET shall work with City Departments, including but not  
12 limited to the Real Estate Department, as defined in the Administrative Code, and the Special  
13 Jurisdiction Agencies; other governmental entities; Emerging Technology Companies; non-government  
14 organizations; members of academia; community members; and other interested parties and  
15 Stakeholders to formulate best practices for addressing new and evolving regulatory issues and  
16 questions regarding Emerging Technologies.

17                   (e) Powers and Duties. OET shall have the powers, responsibilities, and duties set forth in this  
18 subsection (e).

19                   (1) Emerging Technology Front Door. OET shall provide informational resources to  
20 Emerging Technology Companies to help enable such businesses to determine which permitting,  
21 regulatory, and other requirements may be applicable to the operation of the Emerging Technology in  
22 San Francisco. OET shall be the City's point of contact for providing information to and facilitating  
23 dialogue among Emerging Technology Companies and San Francisco residents, workers, local  
24 businesses, visitors, and other members of the public regarding Emerging Technologies. In addition,  
25

1 OET shall solicit and receive feedback regarding comments, ideas, and concerns about Emerging  
2 Technology.

3 (2) Testing, Evaluation, and Data Collection and Sharing. OET shall strive to provide  
4 Emerging Technology Companies with consistent and agile processes for safely developing, operating,  
5 and testing products and services in public spaces. OET shall research, design, and implement  
6 methods for testing, evaluating, and measuring the effects of Emerging Technology and shall  
7 coordinate City Department efforts to develop data collection and evaluation criteria regarding the  
8 effects of Emerging Technology on San Francisco residents and City resources and infrastructure.  
9 OET shall collaborate with other City Departments regarding the testing, evaluation, permitting, and  
10 regulation of Emerging Technology within the City, and data collection and sharing methods and  
11 protocols. Subject to the authority of Special Jurisdiction Agencies and other applicable limitations set  
12 forth in state law, the Charter, and/or any agreement between OET and the City Department Partners,  
13 upon request from the OET Director, each City Department Partner shall share data regarding  
14 Emerging Technologies, Emerging Technology Companies, Pilot Projects, or Proposed Activities, in  
15 the possession of such City Department Partner, with OET for purposes consistent with this Chapter  
16 22G.

17 (3) Evaluation of Proposed Pilot Projects. OET shall receive Pilot Project Proposals in  
18 a format approved by OET and any applicable City Department Partner, and shall be authorized to  
19 deny or Approve a Pilot Project Proposal, as described more fully in Section 22G.4, subject to the Pilot  
20 Project Sponsor's compliance with all conditions of approval including but not limited to any  
21 requirements imposed by any applicable City Department Partner and obtaining all Additional Agency  
22 Approvals. OET shall not exercise decision-making authority over activities within the jurisdiction of  
23 the Special Jurisdiction Agencies, unless otherwise authorized by such agency.

24 (4) Thought Leadership and Policy Development. OET shall: (A) investigate, research,  
25 and consult subject matter experts regarding the development, usage, and effects of Emerging

1 Technology on the City's resources and residents, particularly the most vulnerable members of the San  
2 Francisco community including seniors, children, economically disadvantaged individuals, and  
3 persons with mobility or other medical or health limitations; (B) support responsive policy development  
4 in areas such as equity, accessibility, privacy, and responsible and sustainable use of data; (C) focus  
5 on and monitor existing and evolving accessibility standards; and (D) make and provide support for  
6 recommendations to the Board of Supervisors, the Mayor, and other City Departments regarding  
7 amendments and updates to the Municipal Code and City regulations and processes to address the  
8 challenges posed and opportunities presented by Emerging Technologies.

9 (5) Communication. OET shall research, develop, and apply best practices to facilitate  
10 communication and share information regarding Emerging Technologies among City departments,  
11 Emerging Technology Companies, and Stakeholders. OET shall maintain a list of Stakeholders and  
12 notify such Stakeholders of any public hearings and meetings called by OET, and also may notify  
13 Stakeholders of other meetings or developments regarding Emerging Technologies. OET may in its  
14 discretion treat as Stakeholders persons or entities who do not meet the definition of Stakeholder in  
15 Section 22G.2.

16 (6) Forecasting. OET shall endeavor to create partnerships with businesses,  
17 organizations, educational institutions, and government agencies separate from the City to learn from  
18 deployments of Emerging Technologies outside of San Francisco and related Emerging Technology  
19 trends. OET shall endeavor to help build relationships with and among Stakeholders by hosting  
20 gatherings, forums, and presentations about Emerging Technology priority issues facing San  
21 Francisco.

22 **SEC. 22G.4. REVIEWING AND APPROVING PILOT PROJECT PROPOSALS.**

23 (a) Pilot Project Approval Required. To operate an Emerging Technology upon, over, or  
24 under City property or the public right-of-way, the Emerging Technology Company must obtain  
25

1 Approval of a Pilot Project Proposal from the OET Director, comply with all conditions of the  
2 Approval, and receive a Notice to Proceed.

3 (b) Exemptions. Notwithstanding any provision of this Section 22G.4, an Emerging Technology  
4 Company shall be exempt from the requirement to obtain Approval from the OET Director if the  
5 Emerging Technology Company demonstrates to the OET Director's satisfaction that the Proposed  
6 Activities are, in their entirety, independently authorized by federal law or State law, or if the Proposed  
7 Activities are entirely within the jurisdiction of one Special Jurisdiction Agency, or if the Proposed  
8 Activities are entirely within the jurisdiction of more than one Special Jurisdiction Agency and are  
9 governed by an agreement approved by each applicable Special Jurisdiction Agency.

10 (c) Pilot Project Proposals. Emerging Technology Companies are eligible to submit Pilot  
11 Project Proposals in accordance with this Chapter 22G.

12 (d) Limited Term Approval. OET shall have the discretion to Approve a Pilot Project Proposal  
13 that requires City authorization or permission to use or occupy public property, including but not  
14 limited to a City-Owned Lot, or a public right-of-way for a Term. The use or occupation of public  
15 property includes use and occupation upon, above, or under public property. OET shall be authorized  
16 to Approve one extension of the Term for up to an additional 12 months, provided the Pilot Project  
17 Sponsor has complied with all applicable conditions of the Approval of the Pilot Project and such an  
18 extension is contemplated and not prohibited by any Additional Agency Approval.

19 (e) Expiration of Pilot Project Authorization. The authorization for the Pilot Project shall  
20 automatically cease, and no longer be operative, upon any of the following circumstances:

21 (1) the expiration of the Term of the Pilot Project, if OET does not extend the Term as  
22 permitted in subsection (d); or

23 (2) if OET extends the Term of a Pilot Project as permitted in subsection (d), upon the  
24 expiration of the Term as extended; or

1                   (3) before the expiration of the Term as initially set or extended, if required by any  
2 applicable Additional Agency Approval.

3                   (f) Pilot Project Applicant Must Obtain All Additional Agency Approvals. The OET Director's  
4 Approval of a Pilot Project Proposal shall not preclude or supersede any requirement to obtain any  
5 Additional Agency Approval required to perform the Pilot Project. This Chapter 22G does not  
6 implicitly repeal any requirements for Additional Agency Approval otherwise required by law.

7                   (g) Pilot Projects on City-Owned Lots. The Director of Real Estate may approve the use of  
8 City Lots for a Pilot Project under the provisions of Chapter 23 of this Code. Alternatively, the  
9 Director of Real Estate may approve the use of City Lots for a Pilot Project under the provisions of this  
10 Chapter 22G, in which case the Director of Real Estate is authorized to establish, in consultation with  
11 the OET Director, rules and procedures for doing so

12                   (h) Fees. The fee for the initial application for review of a Pilot Project proposal and for any  
13 renewal application ("Pilot Project Review Fee Deposit") shall be \$2,006, payable to the Department.  
14 The Pilot Project Review Fee Deposit shall be due at the time of application and shall be paid in  
15 addition to any other applicable fees authorized pursuant to the Municipal Code, including without  
16 limitation Public Works Code Section 2.1.3, which shall be payable separate from the Pilot Project  
17 Review Fee Deposit as such additional costs are incurred by OET and City Departments in the  
18 administration of the Pilot Project. Beginning with fiscal year 2021-2022, the fee set forth in this  
19 subsection (h) may be adjusted each year, without further legislative action, in the following manner.  
20 Within the later of six months from the effective date of this Chapter 22G or the end of the first fiscal  
21 year containing the effective date, OET shall report to the Controller the revenues generated by the fees  
22 for the then-current fiscal year and the costs during that fiscal year of establishing and maintaining  
23 OET and implementing the requirements of this Chapter, as of the date of the report, which date can be  
24 earlier than the date of the submittal of the report to the Controller, as well as any other information  
25 that the Controller requests based on the Controller's determination that the information would assist



1 in the performance of the Controller's duties set forth in this Chapter. No later than August 1, 2020,  
2 the Controller shall determine whether the existing fees have produced or are projected to produce  
3 revenues sufficient to support the costs of establishing and maintaining OET and implementing the  
4 requirements of this Chapter and any other services set forth in this Chapter and that the fees will not  
5 produce revenue that is significantly more than the costs of providing such services. The Controller  
6 shall adjust the fees upward or downward for the fiscal year subsequent to the then-current fiscal year,  
7 as may be necessary to ensure that the program recovers the costs of operation without producing  
8 revenue that is significantly more than such costs. The adjusted fee shall first become operative on July  
9 1, 2021.

10 (i) City Department Coordination. OET shall coordinate among City Department Partners to  
11 identify applicable Additional Agency Approvals and to develop criteria, rules, procedures, and forms  
12 for designing, permitting, and implementing Pilot Projects to test the effects of Emerging Technologies  
13 on City resources and San Francisco residents, businesses, and visitors.

14 (j) Application Submittal. Emerging Technology Companies or other users of Emerging  
15 Technologies shall be eligible to submit an application to operate a Pilot Project to OET. The  
16 application shall be submitted in a form and manner approved by OET, and shall contain all  
17 information and data required by OET, and shall describe the Proposed Activities.

18 (k) Application Review. OET shall identify all applicable City Department Partners, and shall  
19 refer the application for the review of those City Department Partners.

20 (l) If the Proposed Activities fall entirely within the jurisdiction of one Special  
21 Jurisdiction Agency, OET shall refer the application to that Special Jurisdiction Agency for its review  
22 and decision-making and such application shall not be subject to further application review under this  
23 Chapter 22G unless such Special Jurisdiction Agency elects to follow the procedures and requirements  
24 set forth in this Chapter or agrees to the Office's review of the application under this Chapter. Any  
25

1 Proposed Activities determined to be within the exclusive jurisdiction of the SFMTA shall be subject to  
2 and governed by the requirements set forth in Division II of the Transportation Code.

3 (2) Where the Proposed Activities do not fall entirely within the jurisdiction of one City  
4 Department Partner, OET shall consult with all applicable City Department Partners and shall  
5 determine whether the Proposed Activities warrant approval of a Pilot Project. The OET Director's  
6 evaluation of the Proposed Activities shall consider factors including but not limited to:

7 (A) the Guiding Principles expressed in Board of Supervisors Resolution No.  
8 102-18 and reiterated in Section 2 of the ordinance in Board File No. 171123, establishing this  
9 Chapter 22G;

10 (B) the effects of the Emerging Technology on public health, safety, welfare, and  
11 convenience;

12 (C) whether the Emerging Technology and/or the Proposed Activities are likely  
13 to have a measurable economic and/or social impact in the three- to ten-year period following the use  
14 of the Emerging Technologies;

15 (D) effects of the Emerging Technology on the labor market; and

16 (E) whether the Emerging Technology is regulated to the extent required to  
17 protect public health, safety, welfare, and convenience, and public spaces.

18 (3) OET shall not Approve the Pilot Project with respect to the portion of the Proposed  
19 Activities on Special Jurisdiction Agency Property if the applicable Special Jurisdiction Agency has  
20 notified OET in writing of its denial of permission to proceed with the Proposed Activities on the  
21 applicable Special Jurisdiction Agency Property.

22 (l) Approval Decision.

23 (1) Application May Be Approved, Approved With Modifications, Denied, or Partially  
24 Denied. After the application has been reviewed, the OET Director shall Approve the application,  
25 Approve the application with modifications, deny the application, or deny the application in part if the

1 Special Jurisdiction Agency has provided written denial of permission to proceed with the Proposed  
2 Activities on Special Jurisdiction Agency Property.

3 (2) Additional Agency Approvals May Be Required. If an Additional Agency Approval  
4 is required before the Pilot Project may proceed, the OET Director's Approval of the Pilot Project  
5 shall require the applicant to obtain all required Additional Agency Approvals prior to the issuance of  
6 a Notice to Proceed. OET shall use reasonable efforts to facilitate and coordinate the review of Pilot  
7 Project applications by and among City Department Partners.

8 (3) Pilot Project Parameters Based on Coordination With City Department Partners.  
9 OET shall coordinate with the City Department Partners to develop the conditions and parameters of  
10 the Pilot Project, including the dates and times of the Pilot Project, the locations at which the use of the  
11 Emerging Technology will be authorized during the Pilot Project, and the criteria for evaluating the  
12 effects of the Emerging Technology on City infrastructure and resources and San Francisco residents.

13 (4) Evaluation Criteria. The OET Director may determine criteria for evaluation of  
14 Pilot Project applications. In evaluating an application, the OET Director may consider, among other  
15 factors, whether the Pilot Project is intended to yield information that could be used to safeguard and  
16 further public health, safety, and welfare; develop technical knowledge and expertise regarding the  
17 Emerging Technology; or develop best practices and regulatory requirements; or whether the Pilot  
18 Project poses unknown or unreasonable risks to public health, safety, and welfare. In addition, the  
19 OET Director may consider the extent to which an applicant has the capacity to meet the permit terms  
20 based on past experience operating permit programs, including, but not limited to, the applicant's  
21 compliance with applicable laws.

22 (m) Notice to Proceed. After the Pilot Project Sponsor has obtained the OET Director's  
23 Approval and all required Additional Agency Approvals, the Pilot Project Sponsor shall submit to OET  
24 a written request for a Notice to Proceed, and shall include as part of that request evidence of the  
25 issuance of all Additional Agency Approvals and satisfaction of all applicable Conditions of Approval.

1 Upon confirming that the applicant has satisfied all Conditions of Approval, OET shall issue a Notice  
2 to Proceed that authorizes the applicant to commence performance of the Approved Pilot Project.

3 (n) Notice of Suspension Due To Failure To Comply With Conditions of Approval. OET and  
4 the City Department Partners, as applicable, shall supervise the performance of the Pilot Project and  
5 shall require the Permittee to comply with all Conditions of Approval. Failure to comply with the  
6 Conditions of Approval shall be grounds for complete or partial suspension of the Pilot Project and  
7 OET's issuance of a Notice of Suspension as described below. If the Pilot Project results in conditions  
8 that negatively impact public peace, safety, health, or welfare, the OET Director may suspend, modify,  
9 or rescind the Approval decision as may be appropriate under the circumstances. The suspension,  
10 modification, rescission, revocation, or termination of any Additional Agency Approval shall result in  
11 the automatic suspension of the Pilot Project and may result in enforcement actions brought pursuant  
12 to this Chapter 22G and other provisions of the Municipal Code. Upon the suspension of a Pilot  
13 Project and upon the OET Director's determination that the Pilot Project, as modified to exclude the  
14 activities that cease to be authorized by an Additional Agency Approval, would not pose dangers to  
15 public health, safety, welfare, and convenience that are greater than those posed by the Pilot Project,  
16 the OET Director shall have the authority to determine that the Pilot Project shall be allowed to  
17 proceed as modified to exclude the activities that cease to be authorized by an Additional Agency  
18 Approval. The OET Director's determination shall not be appealable.

19 (1) A Notice of Suspension shall inform the Pilot Project Sponsor that the Pilot Project  
20 lacks authorization to proceed or operate, and that the Notice to Proceed shall be suspended and shall  
21 remain suspended, until there is a Final Decision or the expiration of the time period to appeal the  
22 decision of the City Department Partner to suspend, modify, rescind, revoke, or terminate the  
23 Additional Agency Approval. A Pilot Project Sponsor's failure to comply with the Notice of Suspension  
24 shall be a violation of the Conditions of Approval and shall be subject to enforcement pursuant to  
25 subsection (o).

1                   (2) If the OET Director receives a written notification from a City Department Partner  
2 requesting the suspension of the Notice to Proceed as to all or a portion of the Pilot Project, as  
3 specified in the City Department Partner's written notification, due to the City Department Partner's  
4 suspension, modification, rescission, revocation, or termination of such City Department Partner's  
5 Additional Agency Approval, the OET Director shall issue a Notice of Suspension.

6                   (3) If, independent of receiving any written notice from a City Department Partner  
7 requesting the suspension of the Notice to Proceed due to the City Department Partner's suspension,  
8 modification, rescission, revocation, or termination of such City Department Partner's Additional  
9 Agency Approval, the OET Director determines that the Pilot Project Sponsor has failed to comply with  
10 one or more Condition of Approval, the OET Director shall inform all City Department Partners that  
11 issued Additional Agency Approvals and shall issue a Notice of Suspension.

12                   (o) Administrative Penalties or Fines. Failure to comply with any requirement in this Chapter  
13 22G shall be deemed a public nuisance subject to enforcement and administrative citations for such  
14 violations. The administrative penalty or fine shall not exceed \$1,000 per day for each violation.  
15 Administrative penalties shall be assessed, enforced, and collected in accordance with Section 39-1 of  
16 the Police Code and administrative fines shall be assessed, enforced, and collected in accordance with  
17 Administrative Code Chapter 100, which is incorporated by reference herein.

18                   (p) Appeals.

19                   (1) The OET Director's issuance of a Notice of Suspension pursuant to subsection  
20 (n)(3) may be appealed to the Public Works Director upon the Pilot Project Sponsor's filing of a  
21 written appeal to the Public Works Director within 15 days of the date of the Notice of Suspension.

22                   (2) The OET Director's issuance of a Notice of Suspension pursuant to subsection  
23 (n)(2) shall not be appealable apart from the process, if any, for appealing the action or decision of the  
24 City Department Partner responsible for suspending the applicable Additional Agency Approval.

1           (q) Draft and Final Project Reports. Within 60 days of the expiration of the Term of the Pilot  
2 Project, the Pilot Project Sponsor shall submit a draft Pilot Project report including all data  
3 concerning the safety and performance of the Pilot Project, and other data as requested by the OET  
4 Director, to the OET Director. Within 60 days of receiving the draft Pilot Project report, the OET  
5 Director shall issue a final Pilot Project report (“Final Pilot Project Report”) prepared in consultation  
6 with the applicable City Department Partners. The Final Pilot Project Report shall summarize the  
7 scope of the Pilot Project and include the OET Director’s independent evaluation of the performance of  
8 the Pilot Project and recommendations regarding whether new legislation, regulations, or procedures  
9 should be adopted to regulate, deregulate, allow, prohibit, or otherwise address such Emerging  
10 Technologies on public property or the public right-of-way. Each Final Pilot Project Report shall be  
11 available to the public on the Department’s or OET’s website.

12           (r) Annual Report to the Board of Supervisors. No later than one year from the effective date  
13 of this Chapter 22G, and annually thereafter, OET shall submit to the Board of Supervisors and the  
14 Mayor an Emerging Technology report (“Annual Report”) that describes the work performed by OET  
15 during the prior calendar year including without limitation the Pilot Project Proposals received, the  
16 Pilot Projects approved and/or completed during the term covered in the Annual Report, the OET  
17 Director’s analysis and recommendations corresponding to each Pilot Project, OET’s analysis of  
18 Emerging Technology data, including the effects of Emerging Technologies on public spaces and the  
19 labor market, and the OET Director’s conclusions and recommendations regarding such data. As may  
20 be required to safeguard public health, safety, welfare, and convenience in light of the effects of  
21 particular categories of Emerging Technologies or businesses seeking to utilize, market, test, sell, or  
22 launch Emerging Technologies, the Annual Report shall include recommendations that the City,  
23 including Special Jurisdiction Agencies, take legislative and/or administrative actions to modify,  
24 streamline, consolidate, amend, or terminate, as applicable, existing permit programs and  
25 requirements; to create new permit programs; and to streamline or consolidate regulatory review and

1 approval processes and requirements among City Department Partners. The Annual Report shall  
2 include recommendations that the Board adopt or refrain from adoption of new legislation to regulate,  
3 deregulate, allow, or prohibit such Emerging Technologies upon, above, or below public property or  
4 the public right-of-way.

5  
6 Section 4. The Public Works Code is hereby amended by adding Chapter 723.5, to  
7 read as follows:

8 **SECTION 723.5 TESTING EMERGING TECHNOLOGY DEVICES ON PUBLIC RIGHT-**  
9 **OF-WAYS – PERMIT REQUIRED.**

10 (a) Purpose. The purpose of this Section 723.5 is to establish a Pilot Permit program to  
11 regulate and temporarily authorize the physical operation, testing, and/or placement of certain  
12 Emerging Technologies Devices upon, above, or below City sidewalks, public right-of-ways, and  
13 property within the jurisdiction of Public Works. This Section 723.5 shall not govern the operation of  
14 Emerging Technology Devices on the portions of City streets and highways or public property subject  
15 to the sole jurisdiction of one or more Special Jurisdiction Agencies, unless such agencies authorize the  
16 application of this Section to said portions of streets, highways, or public property.

17 (b) Definitions.

18 “City Department Partners” has the same meaning as in Administrative Code Section 22G.2.

19 “Director” means the Public Works Director or the Public Works Director’s designee.

20 “Emerging Technology” is equivalent to the definition set forth in the OET Ordinance.

21 “Emerging Technology Device” means the physical device or enclosure that constitutes,  
22 implements, or utilizes an Emerging Technology, or the physical device or enclosure that is required  
23 for the Emerging Technology to operate or function.

1 "Notice of Application" means a written notice on a form provided or approved by Public  
2 Works that indicates an application for a Pilot Permit is being considered for approval by Public  
3 Works.

4 "Notice to Proceed" has the same meaning as in Administrative Code Section 22G.2.

5 "OET" has the same meaning as in Administrative Code Section 22G.2.

6 "OET Director" has the same meaning as in Administrative Code Section 22G.2.

7 "OET Ordinance" means Administrative Code Chapter 22G (Office of Emerging Technology),  
8 as may be amended from time to time.

9 "Pilot Permit" means a permit issued by the Director to perform a PW Pilot Project under this  
10 Section 723.5. A Pilot Permit is separate and distinct from a Notice to Proceed.

11 "Pilot Project"

12 "Pilot Term" means the term of days for which a PW Pilot Project is authorized by the Director  
13 under this Section 723.5.

14 "Public Works" means the Department of Public Works.

15 "PW Pilot Project" means the portion of the Pilot Project, as defined in the OET Ordinance,  
16 that takes place on public right-of-ways or real property within the jurisdiction of Public Works.

17 "Regulations" means orders, requirements, processes, or procedures that the Director may  
18 adopt as the Director deems necessary to maintain and further the public peace, safety, health,  
19 convenience, and welfare.

20 "Special Jurisdiction Agencies" has the same meaning as in Administrative Code Section  
21 22G.2.

22 "Testing" means the operation and evaluation of an Emerging Technology or Emerging  
23 Technology Device for research and development for anticipated commercial uses and for the City's  
24 evaluation of whether the operation of the Emerging Technology Device would warrant the creation of  
25



1 a permit program that would allow the Emerging Technology Device to operate beyond the Pilot Term  
2 in light of the effects of the Emerging Technology on public health, safety, welfare, and convenience.

3 (c) **Permit Required.** It shall be unlawful for any person, including but not limited to natural  
4 persons and businesses, to operate an Emerging Technology Device upon, above, or below any public  
5 right-of-way (as defined in Article 2.4 of the Public Works Code) or public property within Public  
6 Works' jurisdiction without a Pilot Permit, unless otherwise authorized by federal or state law.  
7 Operation of an Emerging Technology Device upon, above, or below any public right-of-way or public  
8 property without all required permits shall be deemed a public nuisance. To be eligible to apply for a  
9 Pilot Permit under this Section 723.5, the applicant must first obtain Approval, as defined in  
10 Administrative Code Section 22G.2, to perform a Pilot Project and pay all applicable fees.

11 (d) **Public Works Director's Administration of Permit.** The Director shall administer all Pilot  
12 Permits in consultation with all applicable City Department Partners and pursuant to the requirements,  
13 rules, and regulations set forth in this Section 723.5 or other Regulations.

14 (e) **Restrictions on Duration of Pilot Permits.** The Director shall be authorized to determine  
15 the term of any Pilot Permit issued under this Section 723.5 provided that the duration shall not exceed  
16 12 months and shall be subject to the Director's authority to grant one extension of an additional 12  
17 months. When a permittee requests an extension, the permittee shall provide Public Works with a  
18 report that provides all data collected during prior Testing and describes any public safety-related  
19 incidents that have occurred including all emergency calls for service.

20 (f) **Application Process.** Public Works shall receive and process each complete Pilot Permit  
21 application, and the content of applications shall comply with the Director's Regulations. All  
22 applications shall be on forms prescribed therefor and shall contain or be accompanied by all  
23 information required to assure the presentation of pertinent facts for proper consideration of the  
24 application. At a minimum, the applicant shall provide the following information as part of the  
25 application submittal:

1                   (1) Business entity name, name of natural person submitting application, office address,  
2 telephone number, and email address;

3                   (2) Copy of business license;

4                   (3) Tax identification number;

5                   (4) Description, physical dimensions, and technical specifications of the Emerging  
6 Technology Device;

7                   (5) Description and purpose of Testing;

8                   (6) Proposed dates and times of Testing;

9                   (7) Proposed paths of travel and identification of any portion of the paths of travel that  
10 are within or adjacent to the "High Injury Network" as designated by the City's Vision Zero SF road  
11 safety initiative;

12                   (8) Operations manuals and instructions for operation of the Emerging Technology  
13 Device, including manner of causing it to come to a full and complete stop;

14                   (9) Privacy policy that addresses the manner in which applicant will use, store, and  
15 safeguard photographic, video, and other data obtained through the Testing; and

16                   (10) Proposed public notice plan.

17                   Public Works shall refer an application to any other appropriate City department for its review  
18 and consultation. After reviewing the Pilot Permit application and determining that the application is  
19 complete, Public Works shall inform the applicant that the applicant is authorized to proceed to post  
20 Notices of Application.

21                   (g) **Public Notice and Opportunity to Comment.** Upon receiving authorization to proceed to  
22 post Notices of Application, the applicant shall post Notices of Application for a period of 20 calendar  
23 days at the Testing site(s) according to a public notice plan approved by Public Works, and the  
24 applicant shall also provide any Notice of Application to Stakeholders as defined in Administrative  
25 Code Section 22G.2 and other interested persons, as may be prescribed by the Director's Regulations.

1 The applicant shall submit to Public Works photographic evidence that the Notices of Application were  
2 posted in accordance with this subsection (g). The applicant shall remove all Notices of Application  
3 the day after the expiration of the 20-day notice period. Public Works shall accept public comments on  
4 the Notice of Application for 20 calendar days from the first day the Notice of Application was posted.  
5 Public Works shall also list pending applications and all approved Pilot Permits on the Public Works  
6 website.

7 **(h) Public Hearings.**

8 **(1) Public Works Hearing.** Upon receiving a request for a hearing from a member of  
9 the public during the notification period, the Director shall review the merit of the request and the  
10 Director shall schedule and hold a public hearing, at the Director's sole discretion, regarding each  
11 application for a Pilot Permit. Unless otherwise stated in this Section 723.5, the Notice of Public  
12 Hearing posting shall comply with Article 5.6 of the Public Works Code. The Public Works Director  
13 shall also notify the Board of Supervisors of any public hearing held under this subsection (h)(1), and  
14 of the Director's written determination after such hearing.

15 **(2) Appeal to Board of Appeals.** The Director's approval or denial of a Pilot Permit  
16 application, or the Director's modification, suspension, or revocation of a Pilot Permit, may be  
17 appealed by filing a notice of appeal with the Board of Appeals.

18 **(i) Conditions of Approval and Data Sharing.**

19 **(1) Conditions of Approval.** The Director, in consultation with other City departments,  
20 as applicable, shall impose any conditions of approval that the Director deems necessary or  
21 appropriate to protect the public peace, safety, health, and welfare of pedestrians and other users of the  
22 sidewalks, public right-of-ways, and public property ("Conditions of Approval"). The Director shall  
23 have the authority to add Conditions of Approval to modify, or suspend the Pilot Permit to address  
24 public peace, safety, health, and welfare issues arising from the Testing, including but not limited to  
25 conditions intended to promote safe operations within the High Injury Network. Upon the Director's

1 determination that the permittee has failed to comply with the Conditions of Approval, the Director  
2 shall provide the permittee with written notification of the time and date of a public hearing to consider  
3 the grounds for revoking, modifying, or suspending the Pilot Permit. Following the public hearing, the  
4 Director shall issue an order revoking or modifying the Pilot Permit for good cause. If the failure to  
5 comply with the Conditions of Approval poses an imminent threat to public safety, health, or welfare,  
6 the Director shall immediately suspend the permit pending a final decision to revoke or modify the  
7 Pilot Permit. The Director's modification, revocation, or suspension of the Pilot Permit may be  
8 appealed to the Board of Appeals under subsection (h)(2).

9 (2) **Data Sharing.** Each Pilot Permit permittee shall disclose the following information  
10 to Public Works and OET on a monthly basis in an aggregated form that preserves the privacy and the  
11 confidentiality of the identity of end users that are not employees, contractors, or subcontractors of the  
12 Pilot Permit permittee:

13 (A) all data collected during the Testing of an Emerging Technology Device,  
14 including any Global Positioning System ("GPS") or photographic data;

15 (B) information regarding the San Francisco businesses that are incorporating  
16 the Testing of Emerging Technology Devices into their operations; and

17 (C) incidents arising from the Testing of each Emerging Technology Device,  
18 including but not limited to, violations of the operational requirements set forth in subsection (j),  
19 incidents impacting public safety, public complaints or emergency calls regarding such Testing, any  
20 malfunctions or public tampering with a permitted device, or any collisions with street furniture,  
21 vehicles, or persons in the public right-of-way.

22 (j) **Operational Requirements.** The Testing of Emerging Technology Devices shall comply  
23 with the following requirements, if applicable, and any additional requirements adopted by the Public  
24 Works Director as needed to protect the public health, safety, and welfare. To evaluate whether a  
25

1 permittee has complied with these requirements, Public Works shall seek the review and consultation of  
2 any other appropriate City department.

3 (1) **Speed limit.** Emerging Technology Devices shall not travel more than three miles  
4 per hour while on an open public right-of-way.

5 (2) **Minimum Accessibility Requirements on Public Right-of-Ways.** Emerging  
6 Technology Devices shall avoid obstructing the path of travel and shall avoid interfering with the  
7 following minimum right-of-way clearance requirements: (A) a six-foot clear path of travel in  
8 commercial corridors and four-foot clear path of travel in residential corridors; and (B) a minimum  
9 two-foot clearance is required along the curbside when operating adjacent to existing on-street  
10 parking. In addition, Emerging Technology Devices shall not block or obstruct an accessible route  
11 including, but not limited to, the pedestrian throughway zone (as defined in the San Francisco Better  
12 Streets Plan), and building facility entrances, public and private transit stops, passenger loading zones,  
13 and accessible on-street parking spaces. Emerging Technology Devices shall move out of an  
14 accessible route when a pedestrian is present and shall allow the unencumbered passage of pedestrians  
15 within the public right-of-way. Emerging Technology Devices shall not in any way impede or interfere  
16 with use of driveways or curb ramps, or access to or egress from buildings, driveways, fire escapes,  
17 Fire Department Connections (“FDC”), fire hydrants, street furniture, maintenance holes, public  
18 utility valves, or other at-grade access points in the street or sidewalk.

19 (3) **Permissible Testing Areas.** Permittees shall only be allowed to Test Emerging  
20 Technology Devices only on sidewalks or public right-of-ways not used by vehicles that can  
21 simultaneously accommodate the Testing of Emerging Technology Devices and paths of travel for  
22 persons with disabilities or have an effective sidewalk width of six feet and meet the minimum access  
23 requirements on the public-right-of way.

24 (4) **Traffic Signals.** Emerging Technology Devices shall obey all signs and signals  
25 governing vehicular and pedestrian traffic.

1                   (5) **Hazardous Materials.** Emerging Technology Devices may not transport or carry  
2 waste or hazardous materials (including flammables or ammunition).

3                   (6) **Unique Identifier.** Each permittee shall place a unique identifier on each Emerging  
4 Technology Device that also includes the permittee's contact information.

5                   (7) **Insurance Requirements.** Each permittee shall obtain and have readily accessible  
6 proof of sufficient general liability, automotive liability, and workers' compensation insurance.

7                   (8) **Indemnification of City.** Each permittee shall agree to indemnify, defend, protect,  
8 and hold harmless the City from and against any and all claims of any kind allegedly arising directly or  
9 indirectly out of permittee's Testing of Emerging Technology Devices on City sidewalks and public  
10 right-of-ways.

11                   (9) **Storage or Parking.** When any Emerging Technology Devices is not in use for  
12 Testing, each permittee shall store or park such Emerging Technology Devices on private property  
13 unless otherwise authorized by the Director for good cause.

14                   (10) **Site Visits.** Each permittee shall allow Public Works and any other appropriate  
15 City department to attend and observe one or more Testing sessions during the Pilot Term.

16                   (k) **Public Works' Report Regarding Pilot Permits.** Prior to the expiration of the Pilot Term,  
17 Public Works shall provide a "Pilot Permit Performance Report" to the OET Director evaluating the  
18 performance of the PW Pilot Project, summarizing the data provided by permittees, and offering  
19 findings and recommendations regarding whether, based on the PW Pilot Project, the Emerging  
20 Technology Device may be operated safely and feasibly on City sidewalks or public right-of-ways  
21 beyond the Pilot Term.

22                   **(l) Fines and Penalties.**

23                   (1) **Criminal Penalty.** Any permittee that violates any of the provisions of this Section  
24 723.5 shall be guilty of an infraction. Every violation determined to be an infraction is punishable by  
25 (A) a fine not exceeding \$100 for the first violation within one year; (B) a fine not exceeding \$200 for a

1 second violation within one year from the date of the first violation; (C) a fine not exceeding \$500 for  
2 the third and each additional violation within one year from the date of the first violation. No criminal  
3 penalty pursuant to this Section 723.5 may be imposed on the employee or staff of any company,  
4 corporation, or other business entity that is operating an Emerging Technology Device in violation of  
5 this Section 723.5. A permittee that has been fined for a second or subsequent infraction herein may be  
6 authorized to submit a written request for a hardship waiver seeking to reduce the amount of the  
7 second or subsequent fine on the grounds that the permittee made a bona fide effort to comply after the  
8 first violation and that payment of the full amount of the fine would impose an undue financial burden  
9 on the permittee.

10 **(2) Civil Penalty.**

11 (A) The Public Works Director may request the City Attorney to maintain an  
12 action for injunction to restrain or summary abatement to cause the correction or abatement of a  
13 violation of this Section 723.5 and for assessment and recovery of a civil penalty and reasonable  
14 attorney's fees for such violation.

15 (B) Any person who violates this Section 723.5 may be liable for a civil penalty,  
16 not to exceed \$500 for each day such violation is committed or permitted to continue, which penalty  
17 shall be assessed and recovered in a civil action brought in the name of the people of the City by the  
18 City Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the  
19 court may consider any one or more of the relevant circumstances presented by any of the parties to the  
20 case, including, but not limited to, the following: the nature and seriousness of the misconduct, the  
21 number of violations, the persistence of the misconduct, the length of time over which the misconduct  
22 occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net  
23 worth. The City Attorney may seek recovery of attorney's fees and costs incurred in bringing a civil  
24 action pursuant to this subsection (1)(2).

1                   (3) **Administrative Fine.** In addition to the criminal and civil penalties authorized by  
2 subsections (1)(1) and (1)(2), Public Works employees designated in Section 38 of the Police Code may  
3 issue administrative citations for such violations. The administrative penalty or fine shall not exceed  
4 \$1,000 per day for each violation. Administrative penalties shall be assessed, enforced, and collected  
5 in accordance with Section 39-1 of the Police Code and administrative fines shall be assessed,  
6 enforced, and collected in accordance with Administrative Code Chapter 100, which is incorporated by  
7 reference herein.

8  
9                   Section 5. The Administrative Code is hereby amended by revising Section 2A.190 to  
10 read as follows:

11                   **SEC. 2A.190. DEPARTMENT OF PUBLIC WORKS.**

12                   (a) The Department of Public Works shall administer all capital improvement and  
13 construction projects, except projects solely under the Airport, Port, Public Utilities, or  
14 Recreation and Park ~~and Public Transportation~~ Commissions, or the Municipal Transportation  
15 Agency's Board of Directors.

16                   (b) All examinations, plans, estimates, and construction administration services  
17 required by the City and County in connection with any public improvements, exclusive of  
18 those made by the Airport, Port, Public Utilities, or Recreation and Park ~~and Public~~  
19 ~~Transportation~~ Commissions, or the Municipal Transportation Agency's Board of Directors, shall be  
20 made by the Director of Public Works, and the Director shall, when requested to do so, furnish  
21 information and data for the use of the Board of Supervisors.

22                   (c) The Director of Public Works shall designate a deputy or other employee as City  
23 Engineer. The City Engineer shall possess the same power in the City and County as is or  
24 may from time to time be given by law to city engineers, and the official acts of the City  
25



1 Engineer shall have the same validity and be of the same force and effect as are or may be  
2 given by law to those of city engineers.

3 (d) The Director of Public Works shall designate a deputy or other employee as  
4 County Surveyor. The County Surveyor shall possess the same power in the City and County  
5 in making surveys, plats and certificates as is or may from time to time be given by law to  
6 county surveyors, and the official acts and all plats, surveys and certificates of the County  
7 Surveyor shall have the same validity and be of the same force and effect as are or may be  
8 given by law to those of county surveyors.

9 (e) Any and all references to the "Bureau of Architecture," "Bureau of Engineering," or  
10 "Bureau of Construction Management" in the San Francisco Municipal Code is deemed to be  
11 a reference to the "Department of Public Works." Any reference to "San Francisco Public Works"  
12 or "Public Works" in the Municipal Code is deemed to be a reference to the Department of Public  
13 Works.

14 (f) The Director of Public Works shall be authorized to adopt regulations and to perform  
15 official acts within the regulatory authority of the Department of Public Works by approval and  
16 issuance of an order.

17  
18 Section 6. The Public Works Code is hereby amended by revising Sections 2.1.3 and  
19 723, to read as follows:

20 SEC. 2.1.3. ADDITIONAL FEES.

21 In instances where the actual costs of the administration or processing of any application,  
22 approval, or permit is in excess of or will exceed the fee amount established pursuant to section  
23 2.1.1, the Director, in his or her discretion, may require an applicant or permittee to pay a sum  
24 in excess of the subject fee amounts. This additional sum shall be sufficient to recover actual  
25 costs that the Department incurs and shall be charged on a time and materials basis. The

1 Director also may charge for any time and materials costs that other agencies, boards,  
2 commissions, or departments of the City incur in connection with the processing or  
3 administration of a particular application, approval, or permit. Whenever additional fees are or  
4 will be charged, the Director, upon request of the applicant or permittee, shall provide in  
5 writing the basis for the additional fees or an estimate of the additional fees to be charged.

6 SEC. 723. OBSTRUCTION OF ~~STREETS~~ PUBLIC RIGHT-OF-WAY PROHIBITED.

7 (a) It shall be unlawful for any person, firm or corporation, without permission from the  
8 Department of Public Works, to pile, cap or otherwise obstruct or place obstructions upon, above,  
9 or below, any street, lane, alley, place or court, or any portion thereof public right-of-way, whether  
10 the same be graded or not. "Public right-of-way" shall mean the area across, along, beneath, in,  
11 on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, roadways,  
12 sidewalks, spaces, streets, and ways within the City, as they now exist or hereafter will exist and which  
13 are or will be under the permitting jurisdiction of the Department of Public Works.

14 (b) Any violation of this Section 723 shall be deemed a public nuisance subject to enforcement  
15 actions pursuant to Administrative Code Chapter 100, which is hereby incorporated in its entirety,  
16 Administrative Code Chapter 80, and Police Code Section 39-1, and other Public Works regulations,  
17 procedures, and actions adopted by order.

18  
19 Section 7. The Police Code is hereby amended by revising Section 39-1, to read as  
20 follows:

21 **SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF**  
22 **ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE**  
23 **VIOLATIONS.**

24 (a) This Section 39-1 shall govern the imposition, assessment, and collection of  
25 administrative penalties imposed pursuant to Sections 37, 38, and 63 of the Police Code;

1 Sections 41.13, 283.1, 287, 288.1 and 600 of the Health Code; ~~and~~ Sections 170, 173, 174,  
2 174.2, 723, 723.5, 724.5, and 794 of the Public Works Code; and Section 22G.4 of the  
3 Administrative Code.

4 \* \* \* \*

5  
6 Section 8. Effective Date. This ordinance shall become effective 30 days after  
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
9 of Supervisors overrides the Mayor's veto of the ordinance.

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

17  
18 Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word  
19 of this ordinance, or any application thereof to any person or circumstance, is held to be  
20 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
21 shall not affect the validity of the remaining portions or applications of the ordinance. The  
22 Board of Supervisors hereby declares that it would have passed this ordinance and each and  
23 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
24 unconstitutional without regard to whether any other portion of this ordinance or application  
25 thereof would be subsequently declared invalid or unconstitutional.

1 Section 11. Undertaking for the General Welfare. In enacting and implementing this  
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it  
4 is liable in money damages to any person who claims that such breach proximately caused  
5 injury.

6  
7 APPROVED AS TO FORM:  
8 DENNIS J. HERRERA, City Attorney

9 By:

  
10 CHRISTOPHER T. TOM  
11 Deputy City Attorney

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## LEGISLATIVE DIGEST

[Administrative, Public Works, Police Codes - Establishing Office of Emerging Technology - Requiring Permits for Using Emerging Technology Devices on Public Right-of-Ways]

**Ordinance amending the Administrative Code to create an Office of Emerging Technology within the Department of Public Works; amending the Public Works Code to require a permit to obstruct the public right-of-way within Public Works' jurisdiction; amending the Administrative Code to codify the Public Works Director's authority to take official actions, as defined herein, including adopting regulations for the pilot operation of emerging technology devices; amending the Public Works Code and Police Code to provide for administrative, civil, and criminal penalties for unlawful obstruction of the public right-of-way, including operation of emerging technology devices without a required permit; and affirming the Planning Department's determination under the California Environmental Quality Act.**

### Background Information

Presently, the City does not have an office that is tasked with evaluating the City-wide effects of emerging technologies on City resources, infrastructure, and residents. This ordinance establishes an Office of Emerging Technology in accordance with Board Resolution No. 102-18, which established principles for the regulation of emerging technology and urged the City Administrator to convene an emerging technology working group, and the final report of the Emerging Technology Working Group.

### Amendments to Current Law

1. New Administrative Code Chapter 22G (Office of Emerging Technology)
  - As proposed, Administrative Code Chapter 22G would establish the Office of Emerging Technology ("OET"). In addition, Chapter 22G would attempt to streamline and coordinate the City's review and permitting of Emerging Technologies through the evaluation of pilot projects and the formulation of legislative and policy recommendations for consideration by the Board of Supervisors.
  - "Emerging Technologies" would include "one or more physical objects, whether mobile or stationary, that constitute or incorporate new electronic or mobile technologies or applications of technology and which are proposed for use upon, above, or below City property and/or public right-of-way. Characteristics of new electronic or mobile technologies or applications of technology include but are not limited to designation of the technology as a beta, test, or pre-sale product or system or application software;

lacking written evaluation or analysis for safety purposes by any regulatory body of the United States, the State of California, or the City.”

- OET would be housed in the Department of Public Works and headed by the OET Director. OET would function City-wide subject to the existing authority of “Special Jurisdiction Agencies” (defined as the Recreation and Park Commission, the Airport Commission, SFMTA, the Port of San Francisco, and SFPUC) and applicable limitations under California law and/or the Charter. The ordinance will not abridge, modify, or alter the authority of the Special Jurisdiction Agencies, however, any Special Jurisdiction Agency may adopt legislative or regulatory changes and enter into agreements with other City Departments to implement the ordinance consistent with State law, the Charter, the Municipal Code, and City ordinances.
- OET’s powers and duties would include the following:
  - *Emerging Technology Front Door.* OET will provide informational resources to Emerging Technology Companies to help enable such businesses to determine which permitting, regulatory, and other requirements may be applicable to the operation of the Emerging Technology in San Francisco. OET will be the City’s point of contact for providing information to and facilitating dialogue among Emerging Technology Companies and San Francisco residents, workers, local businesses, visitors, and other members of the public regarding Emerging Technologies. In addition, OET will receive comments, ideas, and concerns about Emerging Technology.
  - *Testing, Evaluation, and Data Collection and Sharing.* OET will strive to provide Emerging Technology Companies with consistent and agile processes for safely developing, operating, and testing products and services in public spaces. OET will research, design, and implement methods for testing, evaluating, and measuring the effects of Emerging Technology and will coordinate City Department efforts to develop data collection and evaluation criteria regarding the effects of Emerging Technology on San Francisco residents and City resources and infrastructure. OET will collaborate with other City Departments regarding the testing, evaluation, permitting, and regulation of Emerging Technology within the City, and data collection and sharing methods and protocols.
  - *Evaluation of Proposed Pilot Projects.* OET will receive and review pilot project proposals, and will deny or approve a pilot project proposal, subject to the project sponsor’s obtaining additional agency approvals that are required, and complying with all applicable conditions of approval. OET will facilitate the referral and review of pilot project applications by appropriate City Departments and the issuance of testing and other permits by City Departments, as applicable, to help ensure Emerging Technologies can operate to serve the public good while minimizing harms to public health, safety, welfare, and convenience, and public spaces; and to facilitate the streamlined and consolidated issuance of permits and consideration of appeals.

- *Thought Leadership and Policy Development.* OET will: (A) investigate, research, and consult subject matter experts regarding the development, usage, and effects of Emerging Technology on the City's resources, infrastructure, and residents, particularly the most vulnerable members of the San Francisco community including seniors, children, economically disadvantaged individuals, and persons with mobility or other medical or health limitations; (B) support responsive policy development in areas such as equity, accessibility, privacy, and responsible and sustainable use of data; (C) focus on and monitor existing and evolving accessibility standards; and (D) make and provide support for recommendations to the Board of Supervisors, the Mayor, and other City Departments regarding amendments and updates to the Municipal Code and City regulations and processes to address the challenges posed and opportunities presented by Emerging Technologies.
- *Communication.* OET will research, develop, and apply best practices to facilitate communication and share information regarding Emerging Technologies among City departments, Emerging Technology companies, and stakeholders.
- *Forecasting.* OET will create partnerships with businesses, organizations, educational institutions, and government agencies separate from the City to learn from deployments of Emerging Technologies outside of San Francisco and related Emerging Technology trends. OET will host gatherings, forums, and presentations about Emerging Technology priority issues facing San Francisco.
- **Pilot Project Review, Approval, and Written Notice to Proceed.**
  - Under the ordinance, subject to certain exemptions, an Emerging Technology company seeking to operate an Emerging Technology upon, over, or under City property or the public right-of-way, would be required to first obtain approval of a pilot project proposal from the OET Director, then comply with all conditions of the Approval, and then receive a written notice informing the applicant that the pilot project may proceed.
  - The OET Director may determine criteria for evaluation of pilot project applications. In addition, the OET Director's evaluation of applications may consider, among other factors, whether the pilot project is intended to yield information that could be used to safeguard and further public health, safety, and welfare; develop technical knowledge and expertise regarding the Emerging Technology; or develop best practices and regulatory requirements; or whether the pilot project poses unknown or unreasonable risks to public health, safety, and welfare. In addition, the OET Director may consider the extent to which an applicant has the capacity to meet the permit terms based on past experience operating permit programs, including, but not limited to, the applicant's compliance with applicable laws.
  - An Emerging Technology company would be exempt from the need to obtain Approval from the OET Director if the Emerging Technology company demonstrates that the proposed activities are, in their entirety, independently

authorized by federal law or California law, or if the Proposed Activities are entirely within the jurisdiction of one Special Jurisdiction Agency, or if the Proposed Activities are entirely within the jurisdiction of more than one Special Jurisdiction Agency and are governed by an agreement approved by each applicable Special Jurisdiction Agency.

- Annual Reports. No later than one year from the effective date of the ordinance, and annually thereafter, OET will submit to the Board of Supervisors and the Mayor an Emerging Technology report that describes the work performed by OET including the pilot project proposals received, reviewed, approved, and/or completed; the OET Director's analysis and recommendations regarding each pilot project; OET's analysis of Emerging Technology data, including the effects of Emerging Technologies on public spaces and the labor market, and the OET Director's conclusions and recommendations regarding such data. These annual reports will include recommendations that the City, including Special Jurisdiction Agencies, take legislative and/or administrative actions to modify, streamline, consolidate, amend, or terminate, as applicable, existing permit programs and requirements; to create new permit programs; and to streamline or consolidate regulatory review and approval processes and requirements among City Department Partners. The annual reports will include recommendations that the Board adopt or refrain from adoption of new legislation to regulate, deregulate, allow, or prohibit such Emerging Technologies upon, above, or below public property or the public right-of-way.

2. New Public Works Code Section 723.5 (Testing Emerging Technology Devices on Public Right-of-Ways – Permit Required)

- As proposed, Public Works Section 723.5 would establish a pilot permit program administered by the Public Works Director (in consultation with all applicable City departments) to regulate and temporarily authorize the physical operation, testing, and/or placement of certain Emerging Technology devices upon, above, or below City sidewalks, public right-of-ways, and property within the jurisdiction of Public Works. Emerging Technology devices permitted under Section 723.5 will be required to comply with certain operational requirements intended to protect the public health, safety, and welfare.
- Notably, Section 723.5 will not govern the operation of Emerging Technology Devices on City streets or highways, or public property subject to the sole jurisdiction of one or more Special Jurisdiction Agencies (as defined in Administrative Code Chapter 22G), unless such agencies authorize the application of this Section to such City streets or highways, or public property.
- Permit applicants will be required to post written notices of their pilot permit applications and members of the public will have an opportunity to comment on and request a public hearing regarding the permit application.



- The Public Works Director's approval or denial of a pilot permit application, or the Director's modification, suspension, or revocation of a pilot permit, may be appealed to the Board of Appeals.
  - Prior to the expiration of the pilot project permit, Public Works will provide a pilot project performance report to the OET Director to evaluate the performance of the pilot project and determine whether, based on the pilot project, the Emerging Technology device may be operated safely and feasibly on City sidewalks and public right-of-ways beyond the term of the pilot project.
3. Amendments to Administrative Code Section 2A.190 (Department of Public Works)
- This ordinance includes conforming amendments to Administrative Code Section 2A.190 to assist with the implementation of this ordinance.
  - A new subsection (f) will be added to Section 2A.190 to codify the Public Works Director's authority to adopt regulations and to perform official acts within the regulatory authority of the Public Works Department by approval and issuance of an order.
4. Amendments to Public Works Code Section 2.1.3 (Additional Fees)
- This ordinance includes conforming amendments to Public Works Code Section 2.1.3 to assist with the implementation of this ordinance.
  - As amended, Section 2.1.3 would authorize the Public Works Director to require an applicant or permittee to pay additional fees, in excess of the established fee amounts, to cover City Departments' actual costs of administering or processing any applicable application, approval, or permit.
5. Amendments to Public Works Code Section 723 (Obstruction of Public Right-of-Way Prohibited)
- This ordinance includes conforming amendments to Public Works Code Section 723 to assist with the implementation of this ordinance.
  - As amended, Section 723 would prohibit the obstruction of public right-of-ways without permission from Public Works. Any violation of Section 723 would be a public nuisance subject to enforcement actions pursuant to the Administrative Code, the Police Code, and Public Works regulations and procedures.
6. Amendments to Police Code Section 39-1 (Procedure for Assessment and Collection of Administrative Penalties for Specified Littering and Nuisance Violations)
- This ordinance includes conforming amendments to Police Code Section 39-1, which governs the imposition, assessment, and collection of administrative penalties, to assist with the implementation of this ordinance.

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- As amended, Section 39-1 would include new references to Public Works Code Sections 723 and 723.5, and Administrative Code Section 22G.4.

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