

## **LEGISLATIVE DIGEST**

[Planning Code - Wireless Telecommunications Services Facilities]

**Ordinance amending the Planning Code to 1) define Wireless Telecommunications Services (WTS) Facilities; 2) create distinct WTS Facility land use controls and, among other things, require a conditional use authorization (CU) for Macro WTS Facilities in most Article 2, 7, and 8 Districts; 3) regulate Micro WTS Facilities in all Districts; 4) require that a WTS Facility's CU shall expire after ten years; 5) regulate WTS Facilities in certain Mission Bay Districts and P Districts; 6) exempt certain telecommunications equipment accessory uses from height limitations; 7) allow screening elements for WTS Facilities to exceed height limits, consistent with existing height limit exemptions for antennas; 8) define and regulate Temporary WTS Facilities; 9) allow the Historic Preservation Commission to delegate determinations on applications for Administrative Certificates of Appropriateness and Minor Permits to Alter to Planning Department staff; and affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

### Existing Law

#### 1. Definition of Wireless Telecommunications Services (WTS) Facilities

The Planning Code currently defines a Wireless Telecommunications Services (WTS) Facility but does not define "micro" and "macro" WTS Facilities. (Planning Code § 102.) In addition, the term "Wireless Telecommunications Services Facility" is not consistently used throughout the Planning Code.

#### 2. Temporary WTS Facilities

The Planning Code currently does not define a temporary WTS Facility and does not provide for neighborhood notification for temporary WTS Facilities.

#### 3. Land Use Controls for WTS Facilities in Various Districts

##### *a. Classification of WTS Facilities*

Under existing law, WTS Facilities are classified as different land uses depending on the zoning district. For example, a WTS Facility in a Neighborhood Commercial District pursuant to Article 7 of the Planning Code or a Mixed-Use District pursuant to Article 8 of the Planning Code is classified as a "Public Use." In Articles 2 and 9 of the Planning Code, WTS Facilities are referred to by various terms, such as "Telecommunication Antennae and Equipment."

*b. WTS Facility Controls*

i. Micro WTS Facilities

Micro WTS Facilities are generally permitted as Accessory Uses, except in “disfavored” locations pursuant to the WTS Facility Siting Guidelines adopted by the Planning Commission.

ii. In-Building Receiving Systems

Under existing law, certain antennas and satellite dishes that are Accessory Uses used for in-building service require a Conditional Use Authorization in the C, M and PDR Districts.

iii. P Districts

Under existing law, in a P District, the permitting requirements for a publicly-owned and -operated WTS Facility used for public communication systems are not specified. (Planning Code §§ 211.1, 211.2.)

iv. Mission Bay Districts

WTS Facilities are not specifically regulated in the Mission Bay Office, Commercial-Industrial, and Hotel Districts. Within Mission Bay Use Districts, screening and other concealment measures are required for antennas. (Planning Code §§ 912, 913, 914 & 943.)

v. RED District

A “Commercial Wireless Transmitting, Receiving or Relay Facility” is not permitted in the RED District. (Planning Code § 813.)

4. Inner Sunset, Pacific Avenue, and West Portal Neighborhood Commercial Districts

Macro WTS Facilities are not permitted on rooftops of buildings with two or more stories in the Pacific Avenue Neighborhood Commercial District, or on rooftops of buildings with three or more stories in the Inner Sunset and West Portal Neighborhood Commercial Districts. (Planning Code §§ 729, 730, & 732.)

5. Folsom and Main Residential/Commercial Special Use District

In the Folsom and Main Residential/Commercial Special Use District, a Conditional Use Authorization is required for “Wireless Facilities.” (Planning Code § 249.1.)

6. Parkmerced Special Use District

Conditionally permitted uses in the Parkmerced Special Use District, such as WTS Facilities, are not subject to the findings required by Planning Code Section 303, for a Conditional Use. Instead, they are subject to specific findings required for conditional uses in the Parkmerced Special Use District. (Planning Code Section 249.64.)

7. Bernal Heights Special Use District

Planning Code Section 242 provides that in the Bernal Heights Special Use District, “[n]o portion of a dwelling in any portion of this district shall exceed a height of 30 feet,” with an exception for “nonparabolic radio and television antennas.”

8. Height Limits for for WTS Facilities and Related Screening Elements

Screening elements (e.g., faux vent pipes) for WTS Facilities are not exempted from height limits, although certain radio and television antennae are exempt from height limits. (Planning Code § 260.)

9. Time Limits on Conditional Use Authorizations for WTS Facilities

No time limit applies to Conditional Use Authorizations, including those for WTS Facilities.

10. Notification for Sutro Tower Permit Applications

The Planning Code requires notification of “properties” within a 1,000-foot radius of Sutro Tower for any building permit for work at Sutro Tower. (Planning Code § 306.9.)

11. Neighborhood Notification for Micro WTS Facilities

In RH and RM Districts, neighborhood notification is required for any new WTS Facility that is classified as an Accessory Use. (Planning Code § 311(f).) The Zoning Administrator considers most Micro WTS Facilities to be Accessory Uses.

Notification is also required for a new WTS Facility that is an Accessory Use in the Neighborhood Commercial Districts and the Eastern Neighborhoods Mixed Use Districts. (Planning Code § 312(g).)

12. Outdoor WTS Facilities in Neighborhood Commercial and Mixed-Use Districts.

WTS Facilities are classified as a Public Use in Neighborhood Commercial and Mixed-Use Districts. All uses in these districts are required to be located within enclosed buildings, with certain exceptions, including one for “Public Uses (selected).” The term “Public Uses (selected)” is not defined. (Planning Code § 703.2.)

13. Historic Preservation Commission Review of Administrative Certificates of Appropriateness and Minor Permits to Alter

Under existing law, the Historic Preservation Commission (HPC) may define certain categories of work on landmarked structures and in historic districts as Minor Alterations and delegate approval of an Administrative Certificate of Appropriateness (ACOA) for such Minor Alterations to Planning Department staff. Department staff decisions may be appealed to the HPC. (Planning Code § 1006.2.) However, Section 1006.2 does not provide that Department staff may deny an application for an ACOA. The HPC has designated the installation of certain Wireless Telecommunications Facilities as Minor Alterations.

Similarly, under existing law, the HPC may define certain categories of work on Significant or Contributory Buildings or buildings within a Conservation District in the C-3 District as Minor

Alterations. The HPC may delegate approval of a Minor Permit to Alter for such Minor Alterations to Department staff. (Planning Code § 1111.1(a).) The Planning Code further provides that “Minor Alterations delegated to Department staff shall be approved, approved with modifications, or disapproved as a Permit for Minor Alteration by the Department without a hearing before the HPC.” (Planning Code § 1111.1(b).) The HPC has designated the installation of certain Wireless Telecommunications Facilities as Minor Alterations.

### Amendments to Current Law

#### 1. Definition of Wireless Telecommunications Services (WTS) Facilities

This ordinance would define Micro and Macro WTS Facilities as follows (Planning Code § 102):

- A Micro WTS Facility would be defined as a WTS Facility that is generally characterized by (a) limited spatial effects; (b) a small number of antennas (typically up to two); (c) an absence of substantial cumulative effects on neighborhood character or aesthetics, when considered in conjunction with other WTS Facilities at the same project site; and (d) a location that is not “disfavored” as specified in the WTS Facility Siting Guidelines adopted by the Planning Commission.
- A Macro WTS Facility would be defined as a WTS Facility generally characterized by significant spatial effects and more than two antennas, and would include all WTS Facilities not defined as Micro WTS Facilities.

This ordinance would also update references to wireless facilities in various sections of the Planning Code so that the term WTS Facility is applied consistently throughout the Planning Code. In addition, this ordinance would clarify that WTS Facilities are subject to the WTS Facility Siting Guidelines adopted by the Planning Commission.

#### 2. Temporary WTS Facilities

This ordinance would define a Temporary WTS Facility as a WTS Facility located on a parcel of land and consisting of a vehicle-mounted facility, a building-mounted antenna, or a similar facility, and associated equipment, that is used to provide temporary coverage for a large-scale event or an emergency, or to provide temporary replacement coverage due to the removal of a permitted, permanent WTS facility necessitated by the demolition or major alteration of a nearby property. (Planning Code § 102.)

The proposed ordinance would permit Temporary WTS Facilities for up to one year, subject to certain determinations by the Zoning Administrator, including that the facility avoids residential dwellings to the maximum extent feasible, complies with the City’s noise ordinance, is no taller than needed, is screened to the maximum extent feasible, and is erected for no longer than reasonably required. Permits for Temporary WTS facilities for over 90 days would be subject to the neighborhood notification provisions of Planning Code Sections 311 and 312.

3. Land Use Controls for WTS Facilities in Various Districts

*a. Classification of WTS Facilities*

This ordinance would consistently classify a WTS Facility as a distinct land use throughout Articles 1, 2, 7, 8, and 9 of the Planning Code.

*b. WTS Facility Controls*

WTS Facilities would require a Conditional Use Authorization (CU) on all stories of a building, in all zoning districts except in the following instances:

i. Micro WTS Facilities

A Micro WTS Facility would be principally permitted in all districts governed by Planning Code Articles 2, 7 and 8.

ii. In-Building Receiving Systems

Certain antennas and satellite dishes utilized only for in-building services would be principally permitted in C, M, and PDR (except PDR-1-B) zoning districts. The antennas and dishes would remain subject to design review. (Planning Code § 204.3(c).)

iii. P Districts

Publicly-owned and -operated WTS Facilities used primarily for public communications would be principally permitted. (Planning Code §§ 211.1, 211.2.)

iv. Mission Bay Districts

To the extent not superseded by the Mission Bay Redevelopment Plan, WTS Facilities would be principally permitted in the Mission Bay Office, Commercial-Industrial, and Hotel Districts. (Planning Code §§ 912, 913, 914 & 943.)

v. RED District

Macro WTS Facilities would be prohibited in the Residential Enclave District (RED). Micro WTS Facilities would be permitted. (Planning Code § 813.)

4. Inner Sunset, Pacific Avenue, and West Portal Neighborhood Commercial Districts

Macro WTS facilities would be conditionally permitted on rooftops of all buildings in the Inner Sunset, Pacific Avenue, and West Portal Neighborhood Commercial Districts. (Planning Code §§ 729, 730, & 732.)

5. Folsom and Main Residential/Commercial Special Use District

This ordinance would strike the reference to “Wireless Facilities” from the controls for the Folsom and Main Residential/Commercial Special Use District. (Planning Code § 249.1.)

6. Parkmerced Special Use District

This ordinance would require that findings for Conditional Use Authorizations for WTS Facilities in the Parkmerced Special Use District include those findings required by Planning Code Sections 249.64 and 303.

7. Bernal Heights Special Use District

This ordinance would clarify that WTS Facilities attached to a dwelling are exempt from the 30-foot height limitation on dwellings in the Bernal Heights Special Use District.

8. Height Limits for WTS Facilities and Related Screening Elements

This ordinance would clarify that WTS Facilities and other antennas, dishes, towers and related screening elements are exempt from height limits, subject to any other applicable Planning Code provisions, including but not limited to applicable design and shadow review.

9. Time Limit for Conditional Use Authorization for WTS Facilities

This ordinance would establish a ten-year time limit for any CU for a WTS Facility approved after the effective date of the ordinance. The CU could be renewed without limitation for subsequent ten-year time periods subject to certain requirements. In addition, the ordinance would affirm existing law that in granting the CU, the Planning Commission may determine that the Director shall review and determine whether to grant any application for renewal.

10. Notification for Sutro Tower Permit Applications

This ordinance would require notification of residential tenants within a 1,000-foot radius of Sutro Tower for any building permit for Sutro Tower.

11. Neighborhood Notification for Micro WTS Facilities.

In RH and RM Districts, this ordinance would require neighborhood notification for any application for a new Micro WTS Facility other than a Temporary WTS Facility. Temporary WTS Facilities for commercial purposes in RH, RM and RTO Districts to be permitted for over 90 days would also require neighborhood notification. (Planning Code § 311(f).)

In zoning districts listed in the Neighborhood Commercial Districts and the Eastern Neighborhoods Mixed Use Districts, this ordinance would require notification for any application for a new Micro WTS Facility. Temporary WTS Facilities for commercial purposes in the Neighborhood Commercial Districts and the Eastern Neighborhoods Mixed Use Districts to be permitted for over 90 days would also require neighborhood notification. (Planning Code § 312(g).)

12. Outdoor WTS Facilities in Neighborhood Commercial and Mixed-Use Districts

The proposed ordinance would clarify that WTS Facilities are allowed outside an enclosed building in neighborhood commercial and mixed-use districts. (Planning Code § 703.2.)

13. Historic Preservation Commission Review of Administrative Certificates of Appropriateness and Minor Permits to Alter

This ordinance would clarify that Planning Department staff may deny, as well as approve, an application for an Administrative Certificate of Appropriateness or a Minor Permit to Alter under both Article 10 and Article 11 of the Planning Code, including for WTS Facilities that have been designated by the HPC as Minor Alterations. Staff decisions would still be appealable to the HPC.

### Background Information

#### 1. Definition of Wireless Telecommunications Services (WTS) Facilities

“Micro” and “macro” are terms commonly used to distinguish between types of WTS Facilities. Micro facilities are generally considered Accessory Uses by the Zoning Administrator.

#### 2. Temporary WTS Facilities

Temporary WTS facilities are typically used to provide wireless coverage for large-scale events, or in the event an existing permanent WTS facility is removed or shut down due to construction activity. These facilities are typically composed of antennas and a mast mounted on a truck (also known as a cell on wheels, or “COW”), or antennas mounted on sleds on rooftops.

#### 3. Land Use Controls

##### *In-Building Receiving Systems*

Until 2014, the Planning Code contained a provision allowing certain antennas and satellite dishes used for in-building service to be principally permitted in C, M, and PDR (except for PDR-1-B) districts. This provision was inadvertently deleted by Ordinance 232-14.

##### *P Districts*

Until 2015, a publicly-owned and -operated WTS Facility used for public communication systems was principally permitted in P districts. This provision was inadvertently deleted by Ordinance 22-15.

#### 4. WTS Facilities in the Inner Sunset, Pacific Avenue, and West Portal NCDs

In most Neighborhood Commercial Districts in San Francisco, Public Uses are allowed on the first, second, and third-and-above stories of buildings. However, in the Inner Sunset, Pacific Avenue, and West Portal NCDs, Public Uses, which include WTS Facilities, are restricted to the first or the first and second floors. This tends to preclude rooftop Macro WTS Facilities, which are typically placed on buildings with three or more stories, in favor of a greater number of Micro WTS Facilities on other buildings. This also tends to preclude antennas hidden within business blade signs that could be placed on a building façade parallel to the third story.

5. Folsom and Main Residential/Commercial Special Use District

The proposed change would strike the requirement that WTS Facilities obtain a Conditional Use Authorization in this Special Use District. The current provision is duplicative because Macro WTS Facilities are already conditionally permitted in this Special Use District based on the underlying RC-4 zoning.

6. Parkmerced Special Use District

The proposed ordinance would make the CU process for the Parkmerced Special Use District more consistent with the generally applicable CU process in Planning Code Section 303.

7. Bernal Heights Special Use District

The proposed ordinance would exempt WTS facilities and associated screening elements from height limits. The Planning Department expects that this change would likely have only limited effect as the majority of Bernal Heights is zoned RH-1, where WTS facilities are disfavored.

8. Height Limitations for Screening Elements for WTS Facilities

Exempting screening elements from height limits would allow screening elements to reach the full height of the WTS Facilities that they are screening from view.

9. Time Limit for Conditional Use Authorizations for WTS Facilities

The ten-year limit on new CUs for WTS Facilities is consistent with similar time limits applied by various other cities and counties in California. In addition, Article 25 of the Public Works Code currently places a ten-year time limit on permits for wireless facilities located in the public right-of-way. The proposed time limit would enable the Planning Commission to review and address cumulative modifications to WTS Facilities that individually do not require permits.

10. Notification for Sutro Tower Permit Applications

This ordinance would conform Planning Code § 306.9 to current practice, which is to notify all residential tenants in the relevant area.

11. Neighborhood Notification for Micro WTS Facilities

The proposed ordinance would delete the requirement for neighborhood notification in the RED District because that requirement is redundant: Section 312 noticing is already required for Eastern Neighborhoods Mixed-Use Districts, which includes the RED District.

12. [omitted]

13. Historic Preservation Commission Review of Administrative Certificates of Appropriateness and Minor Permits to Alter

A recently enacted State law, AB 57, requires that a permit application for a WTS Facility shall be “deemed approved” if a city or county does not make a decision on the application within 90 or 150 days, depending on the type of application (collocation or new facility). These



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deadlines, which were first adopted by the Federal Communications Commission, are referred to as “shot clocks.”

In order to ensure that WTS Facility permits are processed within the time allowed by AB 57, the proposed ordinance would clarify that the Historic Preservation Commission may delegate to Planning Department staff the power to administratively deny, as well as approve, a Minor Permit to Alter and an Administrative Certificate of Appropriateness.

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