

1 [Public Works, Administrative Codes - Requirements for Surface-Mounted Facility Site
Permits]

2

3 **Ordinance amending the Public Works Code to modify the exceptions to the Surface-**
 4 **Mounted Facility Site Permit requirement; to allow a permittee to choose to pay an “in-**
 5 **lieu” fee instead of installing a street tree; to allow a permittee to choose to pay an “in-**
 6 **lieu” fee instead of permitting the installation of a mural on its Surface-Mounted**
 7 **Facility; to repeal the requirements that a permittee install landscaping or pay an “in-**
 8 **lieu” fee and maintain the required landscaping; to repeal the requirement that an**
 9 **applicant for a Surface-Mounted Facility Site Permit make reasonable efforts to locate**
 10 **the facility on private property before submitting an application; to require Public**
 11 **Works to submit a report to the Board of Supervisors every two years on the number of**
 12 **applications for Surface-Mounted Facility Site Permits submitted and issued and on**
 13 **maintenance and graffiti abatement activities at existing Surface-Mounted Facilities; to**
 14 **amend the requirement that a permittee maintain any required street tree; and to**
 15 **amend the Administrative Code to require that the mural “in-lieu” fees be deposited in**
 16 **the Public Works Street Beautification Fund to be used to fund murals and other**
 17 **beautification projects in the public right-of-way.**

18

19 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 20 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 21 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 22 **Board amendment additions** are in double-underlined Arial font.
 23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 24 **Asterisks (* * * *)** indicate the omission of unchanged Code
 25 subsections or parts of tables.

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

1 Section 1. The Public Works Code is hereby amended by revising Article 27, Sections
2 2700, 2710, 2711, 2712, 2713, 2722, 2726, and 2727, and adding Section 2732, to read as
3 follows:

4 **SEC. 2700. SURFACE-MOUNTED FACILITY SITE PERMIT.**

5 (a) **Surface-Mounted Facility Site Permit Required.** It shall be unlawful for any
6 Person to construct or install a Surface-Mounted Facility in any Public Right-of-Ways that are
7 under the jurisdiction of the Department without first obtaining from the Department a Surface-
8 Mounted Facility Site Permit under this Article 27 authorizing such construction or installation.

9 (b) **Minimum Permit Requirements.** The Department shall require an Applicant for
10 a Surface-Mounted Facility Site Permit to demonstrate to the satisfaction of the Department
11 that:

12 (1) The City has granted Applicant the authority to construct, install, and
13 maintain the proposed Surface-Mounted Facility in the Public Right-of-Ways; and

14 (2) The Director has approved the proposed location for the Surface-
15 Mounted Facility pursuant to the requirements of this Article 27.

16 (c) **Permit Conditions.** The Department may include in a Permit such Conditions,
17 in addition to those already set forth in this Article 27 and other Applicable Law, as may be
18 required to govern the construction, installation, removal, or maintenance of Surface-Mounted
19 Facilities in the Public Right-of-Ways, and to protect and benefit the public health, safety,
20 welfare, and convenience.

21 (d) **Authority Granted.** A Permit shall authorize the Permittee to perform any
22 excavation that is required to install the Surface-Mounted Facility in the Public Right-of-Ways.

23 (e) **Exceptions to Permit Requirement.** The requirements of this Article 27 shall
24 not apply to the following:
25

1 (1) The replacement of an existing Surface-Mounted Facility at the
2 same location, provided the replacement Surface-Mounted Facility would be installed on the
3 existing foundation and would not be substantially larger in height or volume ~~be the same size or~~
4 ~~smaller~~ than the existing Surface-Mounted Facility.

5 (2) The installation of any equipment in the Public Right-of-Ways
6 pursuant to an encroachment permit issued by the Department pursuant to Article 15 of the
7 Public Works Code.

8 (f) **Other Provisions Inapplicable.** This Article shall govern all actions taken by
9 the City with respect to the approval or denial of an Application for a Surface-Mounted Facility
10 Site Permit under this Article 27. The requirements of ~~San Francisco~~ Business and Tax
11 Regulations Code Sections 5, 6, and 26(a) shall not apply to this Article 27 to the extent those
12 provisions are in conflict with the provisions of this Article 27.

13
14 **SEC. 2710. STREET TREE LANDSCAPING.**

15 (a) **Required for Permit.**

16 ~~(1)~~ The Department shall require every Permittee to install a suitable street
17 ~~trees and landscaping~~ in order to minimize any negative effects on the Aesthetic Character of
18 the streetscape resulting from Permittee's construction, installation and maintenance of the
19 permitted Surface-Mounted Facility. ~~The Department shall determine the number of required street~~
20 ~~trees and the total area of the landscaped area. Generally, the Department shall require the installation~~
21 ~~of at least one street tree and sidewalk landscaping of approximately 100 square feet with each~~
22 ~~permitted Surface-Mounted Facility.~~

23 (b) "In-Lieu" Fee.

24 ~~(2)(1)~~ In any instance in which the Department cannot require the Permittee to
25 install ~~either~~ an appropriate street trees ~~or landscaping~~ in the vicinity of the permitted Surface-

1 Mounted Facility, including on the basis of inadequate sidewalk width, interference with
2 utilities, or other reasons regarding the public health, safety, or welfare, the Department shall
3 instead require the Permittee to ~~pay make~~ an "in-lieu" ~~fee. payment into the Department's "Adopt-~~
4 ~~A-Tree" fund. This payment shall be in the amount specified in Public Works Code Sections 802(h) and~~
5 ~~807(f) for the installation of one street tree in addition to a payment of \$7,500 for sidewalk~~
6 ~~landscaping, and shall be payable prior to the Department's issuance of the Permit. These on-lieu fees~~
7 ~~may be adjusted to reflect changes in the relevant Consumer Price Index, subject to the requirements of~~
8 ~~Section 2729(e).~~

9 (2) An Applicant may elect to pay the "in-lieu" fees described in subsection (b)(1)
10 instead of installing any required street tree. The Applicant shall notify the Department of its election
11 in the Notice of Intent required under Section 2712 of this Article 27.

12 (3) The "in-lieu" fee required by this subsection (b) shall be in the amount specified
13 in Public Works Code Sections 802(h) and 807(f) for the installation of one street and shall be paid into
14 the "Public Works Adopt-A-Tree Fund" established under Administrative Code Section 10.100-227.

15 **(bc) Care and Maintenance of Street Trees ~~and Landscaping.~~** ~~The Permittee shall be~~
16 ~~responsible for the~~ care and maintenance of any street trees ~~and landscaping~~ required to be
17 installed in the Public Right-of-Ways under this Section shall be in accordance with the terms and
18 conditions of. In this regard, the Permittee shall assume the duty of a "property owner" Article 16 of
19 the as set forth in Public Works Code, Section 800, et seq. Section 805(a).

20 **(ed) No Separate Permit Required.** Where required, the installation of a ~~The~~ street tree
21 and landscaping requirements set forth subsection (a) above shall be incorporated into the Surface-
22 Mounted Facility Site Permit issued by the Department under this Article 27. No separate
23 permit will be required under Section 810B of the Public Works Code.

1 **SEC. 2711. MURALS.**

2 (a) **Required for Permit.** Any Person or group of Persons may propose to the
3 Department and the Permittee that the permitted Surface-Mounted Facility be used for a
4 mural that is appropriate for the location. The Department shall require every Permittee to
5 work with any Person or group of Persons selected by the San Francisco Arts Commission in
6 consultation with the Department and the Permittee to facilitate the installation of the mural at
7 Permittee's sole expense and at no cost to the City. No mural shall be allowed unless it is
8 approved by the San Francisco Arts Commission. No mural may contain any product
9 advertising of any kind. The Department may establish by order or regulation the process for
10 placing a mural on a permitted Surface-Mounted Facility.

11 (b) **Maintenance.** The Permittee shall at Permittee's expense work with the Person
12 or Persons that installed the mural to ensure that the mural is properly maintained. The
13 requirements of this subsection *(b)* shall be in addition to Permittee's responsibilities under
14 this Article 27 to maintain any permitted Surface-Mounted Facilities and remove any Graffiti
15 from its permitted Surface-Mounted Facilities.

16 (c) **"In-Lieu" Fee.**

17 (1) An Applicant may elect to pay an "in-lieu" fee instead of permitting the
18 installation of a mural on its Surface-Mounted Facility. The Applicant shall notify the Department of
19 its election in the Notice of Intent required under Section 2712 of this Article 27.

20 (2) The "in-lieu" fee required by this subsection (c) shall be the greater of \$2,000
21 or the product of multiplying the square footage of the total surface area of the proposed
22 Surface-Mounted Facility times in the amount of ~~\$5002,000~~ 48. The fee and shall be paid into
23 the "Public Works Street Beautification Excavation Fund" established under Administrative Code
24 section 10.100-~~239~~ 230. The in-lieu fee may be adjusted to reflect changes in the relevant Consumer
25 Price Index, subject to the requirements of Section 2729(e) of this Article 27.

1 **SEC. 2712. NOTICE OF INTENT TO SUBMIT APPLICATION.**

2 (a) **Submission to the Department.** As part of the Pre-Application Approval
3 Process, within ~~±~~ one day after the Preferred Location List has been reviewed and approved
4 by all applicable City departments, the Applicant may submit a Notice of Intent to the
5 Department for its review. An Applicant may request additional time to submit a Notice of
6 Intent.

7 (b) **Form and Contents.** The Notice of Intent shall be in the form approved by the
8 Department by order or regulation, but at a minimum shall contain the information required in
9 Section 2713(c)(1)-~~(9)~~(11).

10 (c) **Department Approval.** If the Department determines that a Notice of Intent is
11 complete, the Department will approve the Notice of Intent and authorize the Applicant to post
12 and mail the Notice of Intent as required in Section 2713.

13 (d) **Completion Requirements.** The Notice of Intent shall not be complete unless
14 the Department determines that the Applicant has complied with the following requirements:

15 (1) The Applicant has satisfactorily conducted the community meeting
16 required in Section 2705.

17 (2) The Applicant has submitted to the Department plans showing all of the
18 sizes and shapes of the cabinets proposed to be used for its Surface-Mounted Facilities,
19 including the dimensions of any ancillary equipment. For Applicants that conduct business in
20 jurisdictions other than San Francisco, the Applicant shall certify that the cabinets proposed
21 for San Francisco are no larger than the smallest used in any other jurisdiction for similar
22 services.

23 (3) If the Applicant is seeking approval of a larger cabinet on an existing
24 Surface-Mounted Facility site, the Applicant has sufficiently demonstrated to the Department
25 the reasons the larger cabinet is necessary.

1 (4) — ~~The Applicant has surveyed the vicinity of the Preferred Locations for its~~
2 ~~Surface Mounted Facility to identify locations outside of the Public Right of Ways (including City-~~
3 ~~owned property) that may be appropriate for the installation of the Surface Mounted Facility and the~~
4 ~~Applicant has made reasonable efforts to determine whether the owners of any and all suitable~~
5 ~~properties would be willing to allow the Applicant to use their property for Applicant's proposed~~
6 ~~Surface Mounted Facility. For purposes of this subsection, the term "reasonable efforts" includes~~
7 ~~offering the owners of any suitable property market rate compensation for the use of the property for~~
8 ~~the Applicant's Surface Mounted Facility. The Department shall by order or regulation establish~~
9 ~~guidelines defining "reasonable efforts" and "market rate compensation."~~

10 (5)(4) The Applicant attempted to place the Surface-Mounted Facility (or parts
11 thereof) underground where such underground placement is technologically or economically
12 feasible. An Applicant may satisfy the requirement contained in this subsection (d)(4) by
13 demonstrating to the satisfaction of the Director that it is not technologically or economically
14 feasible for the Applicant to place the Surface-Mounted Facility (or parts thereof)
15 underground. At a minimum, the Applicant shall demonstrate to the Director that it conducted
16 a thorough search for adequate underground technology and provide a report from a licensed
17 engineer certifying the information.

18 (6)(5) Where it is not technologically or economically feasible to underground
19 the entire Surface-Mounted Facility, the Applicant has agreed: (A) to underground part of the
20 Surface-Mounted Facility; (B) to limit the height and footprint of the Surface-Mounted Facility
21 to the maximum extent feasible; (C) either to use stainless steel or to paint the Surface-
22 Mounted Facility the color used for City structures in the vicinity, unless otherwise specified by
23 the Department, and added a Graffiti-proof coating; ~~(D) to screen the Surface Mounted Facility~~
24 ~~by landscaping the Public Right of Ways in the area around the Surface Mounted Facility or~~
25 ~~camouflaging or camouflage the Surface Mounted Facility where requested by any City~~

1 department; and ~~(E)~~D) to comply with any Conditions imposed by any City department that
2 reviewed the Applicant's Preferred Location List.

3 ~~(7)~~(6) The Applicant has explored reasonable opportunities to co-locate the
4 Surface-Mounted Facility with any other Surface-Mounted Facility installed or to be installed in
5 the Public Right-of-Ways by other entities including City departments.

6 ~~(8)~~(7) The Applicant has explored reasonable opportunities for its Surface-
7 Mounted Facility to serve a dual function such as a bench or other amenity. The Department
8 shall have the authority to require that a Surface-Mounted Facility serve a dual function,
9 where the Department determines that such dual function is technologically and economically
10 feasible.

11 ~~(9)~~(8) The Applicant has notified the Department whether the Applicant could
12 remove an existing Surface-Mounted Facility from the Public Right-of-Ways because it would
13 no longer be used or useful to the Applicant once the proposed Surface-Mounted Facility has
14 been installed.

15 ~~(10)~~(9) The Applicant has submitted a plan to the Department, in a format
16 specified by the Department, showing all of the Surface-Mounted Facilities the Applicant
17 expects to install in the City within five years of the Application date. Any Applicant that does
18 not anticipate installing any other Surface-Mounted Facilities in the next five years may satisfy
19 this requirement by submitting a statement to that effect instead of a five-year plan.

20 ~~(H)~~(10) The Department has determined that at least two of the Applicant's
21 Preferred Locations for the Surface-Mounted Facility are acceptable or the Notice of Intent will
22 include additional proposed locations identified by the Department or another City department
23 that reviewed the Applicant's Preferred Location List, unless the Department has determined
24 that there is only one feasible location for the proposed Surface-Mounted Facility.

1 **SEC. 2713. PUBLIC NOTICE OF NOTICE OF INTENT TO SUBMIT APPLICATION.**

2 (a) **Public Notice Required.** As part of the Pre-Application Approval Process, the
3 Department shall require an Applicant to notify the public that the Applicant has submitted a
4 Notice of Intent to the Department.

5 (b) **Notice Requirements.**

6 (1) The Applicant shall send a copy of the Notice of Intent to all Persons
7 owning or occupying any property located within 300 feet along either side of the fronting
8 streets of any of the Preferred Locations for the Surface-Mounted Facility.

9 (2) The Applicant shall post a copy of the Notice of Intent in conspicuous
10 places along the Public Right-of-Ways within 300 feet of either side of the fronting streets of
11 any of Applicant's Preferred Locations for the Surface-Mounted Facility.

12 (3) The Applicant shall send a copy of the Notice of Intent to any
13 neighborhood planning association identified by the Planning Department for any
14 neighborhood within 300 feet of any of the Applicant's Preferred Locations for the Surface-
15 Mounted Facility.

16 (c) **Form of Notice of Intent.** The Notice of Intent shall be in a form to be approved
17 by the Department by order or regulation. At a minimum, the Notice of Intent shall contain the
18 following information:

19 (1) The fronting address for each of the Preferred Locations and photo-
20 simulations of the Surface-Mounted Facility at each of the Preferred Locations. Such photo-
21 simulations shall accurately depict the proposed Surface-Mounted Facility and any *proposed*
22 *required* street trees ~~or landscaping~~.

23 (2) The Applicant's order of preference for the Preferred Locations.

24 (3) A brief description of the nature of the use of the proposed Surface-
25 Mounted Facility and the consequences of not installing the facility.

1 (4) Any assessment made of the Applicant's Preferred Locations by the
2 Planning Department and/or Recreation and Park Department.

3 (5) Any Conditions on the installation of the proposed Surface-Mounted
4 Facility at each of the Preferred Locations imposed by any City department that reviewed the
5 Applicant's Preferred Location List (including a statement indicating whether the Applicant has
6 accepted the Conditions).

7 (6) Any additional proposed locations for the Surface-Mounted Facility
8 identified by any City department that reviewed the Applicant's Preferred Location List
9 (including a statement indicating whether the Applicant has accepted the proposed locations).

10 (7) The procedure for protesting any or all of the Preferred Locations
11 contained in the Notice of Intent.

12 (8) The Applicant's contact information for obtaining information related to
13 the Notice of Intent and/or the technical requirements for the proposed Surface-Mounted
14 Facility.

15 (9) A statement that more information about the proposed Notice of Intent
16 can be obtained from the Applicant and more information about submitting a protest can be
17 obtained from the Department.

18 (10) If applicable, a statement that the Applicant will elect to pay an "in-lieu" fee
19 rather than installing a street tree.

20 (11) If applicable, a statement that the Applicant will elect to pay an "in-lieu" fee
21 rather than permitting the installation of a mural on its permitted Surface-Mounted Facility.

22 ~~(d)(10)~~ **Language Requirement.** The Department may require an Applicant to translate
23 the Notice of Intent into such language(s) that the Department determines are appropriate
24 based on the locations for the proposed Surface-Mounted Facility contained in the Notice of
25 Intent. Prior to issuing the Notice of Intent, the Applicant shall inquire of the Department as to

1 whether translation is required, and if so, into which language or languages such translation
2 shall be offered.

3 ~~(d)~~(e) **Filing with the Department.** The Applicant shall file with the Department proof
4 that the Applicant has complied with the notice requirements contained herein.

5
6 **SEC. 2722. POST-INSTALLATION OBLIGATIONS.**

7 (a) **Required Signage.** A Permittee shall place a sign on a permitted Surface-
8 Mounted Facility that shall contain the Permittee's name and provide a telephone number for
9 people to call to notify the Permittee that there is damage to or Graffiti on a Surface-Mounted
10 Facility or that an associated street tree landscaping is in need of maintenance. A telephone call
11 to that number will be considered notice to the Permittee. Such sign shall be displayed in a
12 conspicuous manner and shall be maintained and/or replaced as necessary.

13 (b) **Surface-Mounted Facility Maintenance.** A Permittee shall be solely
14 responsible for maintaining a Surface-Mounted Facility installed in the Public Right-of-Ways in
15 a clean and safe condition. A Permittee shall repair any damage to a Surface-Mounted Facility
16 within 30 days after discovering or being notified of such damage to a Surface-Mounted
17 Facility.

18 ~~(c) — Landscaping Maintenance. A Permittee shall be solely responsible for the maintenance~~
19 ~~of any installed landscaping or street tree installed by the Permittee as a Condition of the Department's~~
20 ~~issuance of a Surface-Mounted Facility Site Permit for so long as the permitted Surface-Mounted~~
21 ~~Facility remains at the location. Such landscaping shall be kept in a state of good visual quality, with~~
22 ~~any dead or diseased material promptly removed and replaced. The Permittee shall remove any litter~~
23 ~~accumulating within the landscaped area within 72 hours after discovering or being notified of such~~
24 ~~litter accumulation. —~~

1 ~~(d)~~(c) **Graffiti Removal.** A Permittee shall be solely responsible for the removal of any
2 Graffiti from a Surface-Mounted Facility installed in the Public Right-of-Ways. A Permittee
3 shall remove all Graffiti from a Surface-Mounted Facility within 72 hours after discovering or
4 being notified that there is Graffiti on a Surface-Mounted Facility.

5 ~~(e)~~(d) **Inspection Required.** A Permittee shall regularly inspect each Surface-
6 Mounted Facility installed in the Public Right-of-Ways to determine whether any of its Surface-
7 Mounted Facilities are damaged, in need ~~of a landscaping~~ street tree maintenance, or have
8 been tagged with Graffiti.

9 ~~(f)~~(e) **Records.** A Permittee shall maintain written records of all inspections, repairs
10 to, and maintenance of any permitted Surface-Mounted Facilities in the Public Right-of-Ways
11 in such form as may be required by the Department. The Department may require that a copy
12 of these written records be sent to the Department on a regular basis.

13
14 **SEC. 2726. LIABILITY.**

15 As a condition of a Surface-Mounted Facility Site Permit, each Permittee agrees on
16 behalf of itself and any agents, successors, or assigns to be wholly responsible for the
17 construction, installation, and maintenance of any permitted Surface-Mounted Facility ~~and any~~
18 and the installation of any required street trees ~~or landscaping~~. Each Permittee and its agents
19 are jointly and severally liable for all consequences of such construction, installation, and
20 maintenance of a permitted Surface-Mounted Facility and the installation of any required
21 street trees ~~or landscaping~~. The issuance of any Permit, inspection, repair suggestion,
22 approval, or acquiescence of any Person affiliated with the City shall not excuse any
23 Permittee or its agents from such responsibility or liability.

1 **SEC. 2727. INDEMNIFICATION AND DEFENSE OF CITY.**

2 (a) **Indemnification of City.** As a condition of a Surface-Mounted Facility Site
3 Permit, each Permittee agrees on behalf of itself and its agents, successors, or assigns, to
4 indemnify, defend, protect, and hold harmless the City from and against any and all claims of
5 any kind allegedly arising directly or indirectly from the following:

6 (1) Any act, omission, or negligence of a Permittee or its ~~any~~ agents,
7 successors, or assigns while engaged in the construction, installation, or maintenance of any
8 Surface-Mounted Facility authorized by a Permit, or while in or about the Public Right-of-Ways
9 that are subject to the Permit, for any reason connected in any way whatsoever with the
10 performance of the work authorized by the Permit, or allegedly resulting directly or indirectly
11 from the construction, installation, or maintenance of any Surface-Mounted Facility authorized
12 under the Permit or any required street trees ~~or landscaping~~;

13 (2) Any accident, damage, death, or injury to any of a Permittee's contractors
14 or subcontractors, or any officers, agents, or employees of either of them, while engaged in
15 the performance of the construction, installation, or maintenance of any Surface-Mounted
16 Facility authorized by a Permit or any required street trees ~~or landscaping~~, or while in or about
17 the Public Right-of-Ways that are subject to the Permit, for any reason connected with the
18 performance of the work authorized by the Permit, including from exposure to radio frequency
19 emissions;

20 (3) Any accident, damage, death, or injury to any Person or accident,
21 damage, or injury to any real or personal property in, upon, or in any way allegedly connected
22 with the construction, installation, or maintenance of any Surface-Mounted Facility authorized
23 by a Permit or any required street trees ~~or landscaping~~, or while in or about the Public Right-of-
24 Ways that are subject to the Permit, from any causes or claims arising at any time, including
25 any causes or claims arising from exposure to radio frequency emissions; and

1 (4) Any release or discharge, or threatened release or discharge, of any
2 hazardous material caused or allowed by a Permittee or its agents about, in, on, or under the
3 Public Right-of-Ways.

4 (b) **Defense of City.** Each Permittee agrees that, upon the request of the City, the
5 Permittee, at no cost or expense to the City, shall indemnify, defend, and hold harmless the
6 City against any claims as set forth in subsection (a) above, regardless of the alleged
7 negligence of City or any other party, except only for claims resulting directly from the sole
8 negligence or willful misconduct of the City. Each Permittee specifically acknowledges and
9 agrees that it has an immediate and independent obligation to defend the City from any claims
10 that actually or potentially fall within the indemnity provision, even if the allegations are or may
11 be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered
12 to the Permittee or its agent by the City and continues at all times thereafter. Each Permittee
13 further agrees that the City shall have a cause of action for indemnity against the Permittee for
14 any costs the City may be required to pay as a result of defending or satisfying any claims that
15 arise from or in connection with a Permit, except only for claims resulting directly from the sole
16 negligence or willful misconduct of the City. Each Permittee further agrees that the
17 indemnification obligations assumed under a Permit shall survive expiration of the Permit or
18 completion of installation of any Surface-Mounted Facility authorized by the Permit.

19 (c) **Additional Requirements.** The Department may specify in a Permit such
20 additional indemnification requirements as are necessary to protect the City from risks of
21 liability associated with the Permittee's construction, installation, and maintenance of a
22 Surface-Mounted Facility or any required street trees ~~or landscaping~~.

1 **SEC. 2732. DEPARTMENT OF PUBLIC WORKS REPORTING REQUIREMENT.**

2 (a) Beginning on September 1, 2019, and by September 1 of every other year
3 thereafter, the Department shall submit a report (the “Department Report”) to the Board of
4 Supervisors and the Mayor concerning the applications for Surface-Mounted Facility Site
5 Permits submitted during the prior two-year period and maintenance of existing Surface-
6 Mounted Facilities.

7 (b) For each application, the Department Report shall contain the following
8 information: (1) the number of applications submitted by applicant; (2) the proposed location
9 of the Surface-Mounted Facility set forth in each application; (3) whether those applications
10 were protested; (4) the results of all such protests; (5) whether the Department granted or
11 denied those applications; (6) whether any Department determinations were appealed; and
12 (7) the outcome of any such appeals. For each existing Surface-Mounted Facility, the
13 Department Report shall also describe maintenance and graffiti abatement activities by the
14 Permittee during the two-year period.

15
16 Section 2. The Administrative Code is hereby amended by revising Chapter 10, Article
17 13, Section 10.100-239, to read as follows:

18 **SEC. 10.100-239. PUBLIC WORKS STREET BEAUTIFICATION DAMAGE**
19 **RESTORATION FUND.**

20 (a) Establishment of Fund. The Public Works Street Damage Restoration
21 Beautification Fund is established as a category eight fund for the purpose of receiving “in-
22 lieu” fees required under Public Works Code section 2711(c) Street Damage Restoration Fee
23 amounts paid pursuant to Section 2.4.44 of the Public Works Code (Part II, Chapter 10 of the
24 San Francisco Municipal Code).

1 (b) Use of Fund. Monies in the Street ~~Damage Restoration~~ Beautification Fund
2 shall be used exclusively for ~~street resurfacing and reconstruction. Notwithstanding the~~
3 ~~foregoing, the Director of the Department of Public Works may order refunds to be made from~~
4 ~~the Street Damage Restoration Fund consistent with procedures adopted pursuant to Section~~
5 ~~2.4.46 of the Public Works Code~~ murals and other beautification projects in the public right-of-
6 way. Public Works shall establish a mechanism for receiving applications for use of these
7 funds for such purposes.
8

9 Section 23. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the “Note” that appears under
14 the official title of the ordinance.
15

16 Section 34. Severability. If any section, subsection, sentence, clause, phrase, or
17 word of this ordinance, or any application thereof to any person or circumstance, is held to be
18 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
19 shall not affect the validity of the remaining portions or applications of the ordinance. The
20 Board of Supervisors hereby declares that it would have passed this ordinance and each and
21 every section, subsection, sentence, clause, phrase, and word not declared invalid or
22 unconstitutional without regard to whether any other portion of this ordinance or application
23 thereof would be subsequently declared invalid or unconstitutional.
24
25

1 Section 45. No Conflict with Federal or State Law. Nothing in this ordinance shall be
2 interpreted or applied so as to create any requirement, power, or duty in conflict with any
3 federal or state law.

4
5 Section 56. Effective Date. This ordinance shall become effective 30 days after
6 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
7 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
8 of Supervisors overrides the Mayor's veto of the ordinance.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

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13 By: _____
14 WILLIAM K. SANDERS
15 Deputy City Attorney

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