

BOARD of SUPERVISORS



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MEMORANDUM

TO: Rich Hillis, Director, Planning Department
Phil Ginsburg, General Manager, Recreation and Parks Department
Linda Gerull, Executive Director/CIO, Department of Technology

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

DATE: April 13, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Public Works on April 6, 2021:

File No. 210328

Ordinance amending the Public Works Code to authorize Public Works to issue Personal Wireless Service Facility Site Permits to install Personal Wireless Service Facilities on stand-alone poles; and making certain corrections to other provisions.

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.

cc: Scott Sanchez, Planning Department
Corey Teague, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
Adam Varat, Planning Department
AnMarie Rodgers, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Sarah Madland, Recreation and Parks Department
Karen Hong Yee, Department of Technology

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

2

3 **Ordinance amending the Public Works Code to authorize Public Works to issue**
4 **Personal Wireless Service Facility Site Permits to install Personal Wireless Service**
5 **Facilities on stand-alone poles; and making certain corrections to other provisions.**

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

10

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

12

13 Section 1. Article 25 of the Public Works Code is hereby amended by revising
14 Sections 1500, 1502, 1508, 1509, 1511, 1514, 1521, and 1522, and adding Section 1503, to
15 read as follows:

16

17 **SEC. 1500. PERSONAL WIRELESS SERVICE FACILITY SITE PERMIT.**

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

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

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

25

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

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

5 (B) The pole owner has authorized the Applicant to use or replace the
6 Utility Pole identified in the Application (where the Application is to use an existing Utility Pole);
7 and

8 (C) The Applicant has obtained any approvals that may be required
9 under the California Environmental Quality Act (California Public Resources Code Section
10 21000 et seq.) to construct, install, and maintain the proposed Personal Wireless Service
11 Facility.

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

14 (1) Install a Stand-alone Pole to be used for a Personal Wireless Service Facility
15 ~~new Utility Pole~~ on a Public Right-of-Way where there presently are no overhead utility
16 facilities; or

17 (2) Add a Personal Wireless Service Facility ~~on~~ to a Utility Pole or Stand-alone
18 Pole for which a Personal Wireless Service Facility Site Permit has already been approved.

19 (d) **Permit Conditions.** The Department may include in a Personal Wireless
20 Service Facility Site Permit such conditions, in addition to those already set forth in this Article
21 25 and other Applicable Law, as may be required to govern the construction, installation, or
22 maintenance of Personal Wireless Service Facilities in the Public Rights-of-Way, and to
23 protect and benefit the public health, safety, welfare, and convenience, provided that no such
24 conditions may concern the particular technology used for a Personal Wireless Service
25 Facility.

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

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

12
13 **SEC. 1502. DEFINITIONS.**

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

19 * * * *

20 “Disfavored Location” means a proposed location for a Personal Wireless Service Facility Site
21 Permit on a Stand-alone Pole in which one or more of the following applies:

22 (a) A Public Right-of-Way where the City has completed, or has plans for, major capital
23 improvements, including streetscape and pedestrian safety improvements.

24 (b) A Public Right-of-Way that is known for having a high volume of pedestrian traffic (e.g.
25 Neighborhood Commercial and Downtown Commercial zoning districts).

1 (c) A Public Right-of-Way that the Board of Supervisors has legislated as an underground utility
2 district, or that the Department has started the process of seeking to have legislated as an underground
3 utility district.

4 * * * *

5 “Placement Criteria” means the Department’s criteria for locating Personal Wireless Service
6 Facilities on a Stand-alone intended to ensure that a Personal Wireless Service Facility does not
7 incommode the public’s use of the Public Right-of-Way, which the Department shall establish by order
8 or regulation in consultation with the Planning Department.

9 “Planning Protected Location” means any of the following proposed locations for a Personal
10 Wireless Service Facility:

11 (a) On an historic, historically or architecturally significant, decorative, or specially
12 designed Utility Pole located in the Public Right-of-Way;

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

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

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

1 (e) On a Utility Pole or Stand-alone Pole that is on a Public Right-of-Way that the General
2 Plan has designated as having views that are rated “excellent” or “good.”

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

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

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

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

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

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

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

8 * * * *

9 “Separation Requirements” mean the required distance between Personal Wireless Service Facilities
10 installed on Stand-alone Poles, which the Department shall establish by order or regulation in
11 consultation with the Planning Department and Department of Technology.

12 “Siting Criteria” means the following criteria for siting Personal Wireless Service Facilities installed
13 on a Stand-alone Pole;

14 (a) Use of a Stand-alone Pole is necessary, because the Applicant has been denied access to existing,
15 nearby Utility Poles by the pole owner or owners to install its proposed Personal Wireless Service
16 Facility.

17 (b) The proposed Stand-alone Pole will not obstruct the appropriate path of travel along the
18 sidewalk, paying particular attention to the needs of persons with disabilities.

19 (c) The proposed Stand-alone Pole will not be installed on sidewalks: (1) that are narrower than the
20 City’s standard sidewalk in the applicable zoning district as set forth in the Better Streets Plan; or (2)
21 where existing special paving or other special design features would have to be removed.

22 (d) The proposed Stand-alone Pole will not obstruct access to other facilities that have been
23 installed, or the Department knows will soon be installed, in the Public Right-of-Way by other entities
24 including City departments and entities providing utility services.

1 (e) The location for the proposed Stand-alone Pole is consistent with any Separation Requirements
2 that have been adopted by the Department.

3 (f) The location for the proposed Stand-alone Pole is consistent with any Placement Criteria that
4 have been adopted by the Department.

5 “Stand-alone Pole” means a new pole that will be installed in the Public Right-of-Way for the
6 purpose of supporting a Personal Wireless Service Facility.

7 * * * *

8 “Unprotected Location” means a proposed location for a Personal Wireless Service Facility
9 that is neither a Planning Protected, ~~Zoning Protected~~, Zoning Protected Location, nor Park
10 Protected Location.

11 * * * *

12 “Zoning Protected Location” means on a Utility Pole or Stand-alone Pole that is on a Public
13 Right-of-Way that is within a Residential or Neighborhood Commercial zoning district under
14 the Planning Code.

15 * * * *

16
17 **SEC. 1503. APPLICATIONS TO INSTALL PERSONAL WIRELESS SERVICE FACILITIES ON**
18 **STAND-ALONE POLES.**

19 (a) Department Authority. The Department may issue a Permit to install a Personal
20 Wireless Service Facility on a Stand-alone Pole.

21 (b) Siting Criteria. In addition to meeting the other requirements for a Personal Wireless
22 Service Facility Site Permit, the Department may grant an Application for a Permit to install a
23 Personal Wireless Service Facility on a Stand-alone Pole only if it meets the Siting Criteria.

24 (c) Disfavored Locations. The Department may not grant an Application for a Permit to
25 install a Personal Wireless Service Facility on a Stand-alone Pole in a Disfavored Location, even if the

1 Application meets the Siting Criteria, unless the Applicant can show that no other suitable location is
2 available in the Public Right-of-Way.

3 * * * *

4
5 **SEC. 1508. DEPARTMENT REVIEW OF A PERSONAL WIRELESS SERVICE FACILITY**
6 **SITE PERMIT APPLICATION.**

7 The Department shall review an Application for a Personal Wireless Service Facility
8 Site ~~Permit~~ ~~Permit~~ to determine whether the Application:

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

11 (b) Meets the applicable Tier A, Tier B, or Tier C Compatibility Standard based on
12 the Department's application of the Objective Standard; or

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

19 (d) If the Application is for a Permit to install a Personal Wireless Service Facility on a
20 Stand-alone Pole: (1) the proposed location meets the Siting Criteria; and (2) if the proposed location
21 is a Disfavored Location, the Applicant has shown there is no other suitable location available in the
22 Public Right-of-Way.

23
24 **SEC. 1509. PLANNING DEPARTMENT REVIEW OF A TIER A OR TIER B PERSONAL**
25 **WIRELESS SERVICE FACILITY SITE PERMIT APPLICATION.**

1 (a) **Referral to Planning Department Required.**

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

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

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

21 (c) **Affirmative Determination Required.** The Department shall not approve an
22 Application for a Tier A or Tier B Personal Wireless Service Facility Site Permit that has been
23 referred to the Planning Department unless the Planning Department makes a determination
24 that the Application satisfies the applicable Tier A or Tier ~~Tier~~ B Compatibility Standard.
25

1 **SEC. 1511. FINAL DETERMINATION.**

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

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

10 (1) The Department’s receipt of a determination from the Department of
11 Public Health that the Application does not satisfy the Public Health Compliance Standard;

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

17 (3) For an application to install a Personal Wireless Service Facility on a Stand-
18 alone Pole, the Department’s determination that: (A) the proposed location does not meet the Siting
19 Criteria; or (B) if the proposed location is a Disfavored Location, the Applicant did not show that there
20 is no other suitable location available in the Public Right-of-Way; or

21 ~~(3)~~(4) If any City department reviewing the Application adds any Conditions to
22 its approval of the Application, the Department’s receipt of a notice from the Applicant that it
23 rejects any of those Conditions.

24 (c) **Approval.** The Department shall issue a final approval of an Application within
25 three business days of the occurrence of the last of the following events:

1 (1) The Department's receipt of a determination from the Department of
2 Public Health that the Application complies with the Public Health Compliance Standard;

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

8 (3) For an application to install a Personal Wireless Service Facility on a Stand-
9 alone Pole, the Department's determination that: (A) the proposed location meets the Sting Criteria;
10 and (B) if the proposed location is a Disfavored Location, and the Applicant has shown that there is no
11 other suitable location available in the Public Right-of-Way; or

12 ~~(3)~~(4) If applicable, the Department's receipt of a notice from the Applicant that
13 it accepts any Conditions imposed by any City department that reviewed the Application.
14

15 **SEC. 1514. NOTICE OF FINAL DETERMINATION.**

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

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

20 (A) The Applicant shall promptly mail a copy of the Department's final
21 determination to approve an Application for a Personal Wireless Service Facility Site Permit
22 to: (i) any Person who owns property that is within 300 feet of the approved location for the
23 Personal Wireless Service Facility; (ii) any Person who is a tenant in any residential property
24 that is within 300 feet of the approved location for the Personal Wireless Service Facility; (iii)
25 any neighborhood association identified by the Planning Department for any neighborhood

1 that is within 600 feet of the approved location for the Personal Wireless Service Facility; and
2 (iv) the member of the Board of Supervisors who represents the district in which the approved
3 Personal Wireless Service Facility would be located.

4 (B) For a Permit to install a Personal Wireless Service Facility on a Utility
5 Pole, the Applicant shall promptly post notice of the Department's final determination to
6 approve an Application for a Personal Wireless Service Facility Site Permit on the Utility Pole
7 to be used for the proposed Personal Wireless Service Facility and on a minimum of four
8 other Utility Poles, other poles, or other conspicuous places located within 300 feet of the
9 approved location for the Personal Wireless Service Facility. The Applicant shall provide the
10 Department with ~~such~~ written proof evidence of compliance with this requirement including
11 photographs of the posted notices.

12 (C) For a Permit to install a Personal Wireless Service Facility on a Stand-
13 alone Pole, the Applicant shall promptly post notice of the Department's final determination to approve
14 an Application for a Personal Wireless Service Facility Site Permit on a temporary structure at the
15 approved location for the proposed Personal Wireless Service Facility and on a minimum of four other
16 Utility Poles, other poles, or other conspicuous places located within 300 feet of the approved location
17 for the Personal Wireless Service Facility. The Applicant shall provide the Department with written
18 proof of compliance with this requirement including photographs of the posted notices.

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

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

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

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

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

8 (E) ~~Specify the applicable grounds for appealing the approval of the~~
9 ~~Application set forth in Section 1530 below; and~~

10 (F) — Explain how any interested Person may obtain additional
11 information and documents related to the Permit.

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

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

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

19 (A) Summarize the determinations of any City departments that were
20 necessary for the denial of the Application, including any Conditions added by any City
21 departments that were rejected by the Applicant;

22 (B) State that the Applicant may file an appeal of the denial of the
23 Application with the Board of Appeals within 15 days of the Department's mailing of the
24 notice; *and*

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

1 (D) — *Specify the applicable grounds for appealing the approval of the*
2 *Application set forth in Section 1530 below.*

3
4 **SEC. 1521. REPLACEMENT OR REMOVAL OF EQUIPMENT.**

5 (a) Replacement. During the term of a Personal Wireless Service Facility Site
6 Permit, a Permittee may Replace equipment that is part of a permitted Personal Wireless
7 Service Facility without obtaining a Modification Permit.

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

11 (c) Department Procedures.

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

15 (A) Identify the use and size of each piece of equipment that the
16 Permittee is seeking to remove from the Utility Pole or Stand-alone Pole;

17 (B) Identify the use and size of the equipment that the Permittee is
18 seeking to install on the Utility Pole or Stand-alone Pole to Replace existing equipment; and

19 (C) If any new equipment will Replace existing equipment, provide
20 drawings and photo-simulations of the existing and new equipment the Permittee is seeking to
21 install on the Utility Pole or Stand-alone Pole.

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

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

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

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

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

14 (b) **Department Procedures.**

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

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

19 (B) Identify the use and size of any piece of equipment that the
20 Applicant is seeking to remove from the Utility Pole or Stand-alone Pole;

21 (C) Identify the use and size of any equipment that the Applicant is
22 seeking to add to the Utility Pole or Stand-alone Pole;

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

1 (E) Provide drawings and photo-simulations of the existing and new
2 equipment the Permittee is seeking to install on the Utility Pole or Stand-alone Pole; and

3 (F) State whether the proposed modification will result in a Substantial
4 Change to the Physical Dimensions of the Utility Pole or Stand-alone Pole.

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

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

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

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

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

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

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

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

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

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

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

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

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

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17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

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20 By: /s/
21 WILLIAM K. SANDERS
22 Deputy City Attorney

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LEGISLATIVE DIGEST

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

Ordinance amending the Public Works Code to authorize the Department of Public Works to issue Personal Wireless Service Facility Site Permits to install Personal Wireless Service Facilities on stand-alone poles; and making certain corrections to other provisions.

Existing Law

Under Article 25 of the Public Works Code, Public Works may issue permits to allow telecommunications providers to install Personal Wireless Service Facilities on existing utility poles in the public right-of-way.

Amendments to Current Law

The proposed ordinance would authorize Public Works to issue Personal Wireless Service Facility Site Permits ("Permits") to allow telecommunications providers to install Personal Wireless Service Facilities on stand-alone poles in public right-of-ways with existing overhead utility facilities when those existing overhead utility facilities cannot be used for safety reasons. The proposed ordinance would also establish placement and siting criteria to ensure, among other things, that stand-alone poles would not: (i) incommode the public's use of the public right-way; (ii) impact streets where the City has completed, or has plans, for major capital improvements, including streetscape and pedestrian safety improvement; (iii) require the removal of special paving or other special design features; (iv) impact streets that the City has plans to underground in the immediate future; or (v) be installed too close to one another.

Background Information

Wireless carriers seeking to deploy 5G are experiencing obstacles installing new Personal Wireless Service Facilities on existing utility poles as permitted by Article 25 of the Public Works Code. Recently, Pacific Gas and Electric Company ("PG&E") has imposed new pole safety standards that prohibit wireless carriers from using many of PG&E's poles to install Personal Wireless Service Facilities. While these carriers could install their facilities on poles owned by the Public Utilities Commission and Municipal Transportation Agency, on many streets where the utility facilities are aboveground there are only PG&E poles. For this reason, on streets where PG&E has notified carriers that its poles are unavailable, the carriers are unable to install Personal Wireless Service Facilities in the public right-of-way.

Public Works has started receiving applications for Permits to install Personal Wireless Service Facilities on stand-alone poles. To date, Public Works has not issued any Permits for

FILE NO. 210328

use of stand-alone poles, because Article 25 does to authorize Public Works to issue Permits to install Personal Wireless Service Facilities on stand-alone poles.

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