[Public Works Code, Administrative Code - Personal Wireless Service Facility Site Permits and Associated Fees]

Ordinance amending the San Francisco Public Works Code by (1) adding Article 25, Sections 1500 through 1528, to establish new requirements for Personal Wireless Service Facility Site Permits and to increase certain fees for obtaining such permits, (2) amending the San Francisco Administrative Code by amending Chapter 11, Article 1, Section 11.9, to eliminate obsolete provisions related to such permits, (3) making the provisions of the ordinance retroactive, and (4) making environmental findings.

NOTE: Additions are *single-underlined* italics Times New Roman; deletions are *strike-through* italics Times New Roman. Board amendment additions are *double-underlined*; Board amendment deletions are strikethrough normal.

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

Section 1. Findings.

(a) **Background**

(1) Growing demand for wireless telecommunications services has resulted in increasing requests from the wireless industry to place wireless antennas and other equipment on utility and street light poles in the public-rights of way.

(2) Federal law limits the authority of local governments to enact laws that prohibit or have the effect of prohibiting the provision of telecommunications service. At the same time, federal law allows local governments to regulate the use of the public rights-of-way to provide telecommunications service.

(3) The permissible boundaries of local government regulation under federal law have been the subject of considerable litigation. In 2008, the United States Court of Appeals for the Ninth Circuit interpreted a key provision of federal law to allow local governments to...
regulate the placement of wireless facilities in the public rights-of-way based on, among other factors, aesthetic impacts, provided that such regulation does not have the effect of prohibiting the provision of telecommunications service.

(4) Federal law also limits the authority of local governments to regulate wireless facilities based on the environmental effects of radio frequency emissions. Local governments may only ensure that such wireless facilities comply with the regulations of the Federal Communications Commission regarding radio frequency emissions.

(5) Under state law, “telephone corporations” have a right to use the public rights-of-way to install and maintain “telephone lines” and related facilities required to provide telephone service. Local governments, however, may enact laws that limit the intrusive effect of these lines and facilities.

(6) As of the date of this Ordinance, state law is unresolved as to: (a) whether the rights of “telephone corporations” to install and maintain “telephone lines” in the public rights-of-way apply to companies that install and maintain wireless facilities; and (b) whether and to what extent local governments may regulate the installation and maintenance of “telephone lines” in the public rights-of-way based on aesthetic impacts. While a state court has yet to decide these issues, in 2009 the United States Court of Appeals for the Ninth Circuit interpreted state law to authorize local governments to consider aesthetics in deciding whether to permit the installation of wireless facilities in the public rights-of-way.

(7) The City has been regulating the installation of wireless facilities in the public rights-of-way since 2007. At that time, the Board of Supervisors adopted Ordinance No. 214-07 to amend Chapter 11, Article 1, Section 11.9(b) of the San Francisco Administrative Code to require a telecommunications carrier seeking to install a personal wireless service facility in the public rights-of-way to obtain a personal wireless service facilities site permit from the Department of Public Works.
(b) **The Need to Regulate the Size and Appearance of Wireless Facilities**

(1) Surrounded by water on three sides, San Francisco is widely recognized to be one of the world's most beautiful cities. Scenic vistas and views throughout San Francisco of both natural settings and human-made structures contribute to its great beauty.

(2) The City's beauty is vital to the City's tourist industry and is an important reason for businesses to locate in the City and for residents to live here. Beautiful views enhance property values and increase the City's tax base. The City's economy, as well as the health and well-being of all who visit, work or live in the City, depends in part on maintaining the City's beauty.

(3) The types of wireless antennas and other associated equipment that telecommunications providers install in the public rights-of-way can vary considerably in size and appearance. The City does not intend to regulate the technologies used to provide personal wireless services. However, the City needs to regulate the placement of such facilities in order to prevent telecommunications providers from installing wireless antennas and associated equipment in the City's public rights-of-way either in manners or in locations that will diminish the City's beauty.

Section 2. The San Francisco Public Works Code is hereby amended to add Article 25, to read as follows:

**ART. 25 PERSONAL WIRELESS SERVICE FACILITIES.**

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

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

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

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

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

(B) The pole owner has authorized the Applicant to use or replace the Utility or Street Light Pole identified in the Application; and

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

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

(1) Install a new Utility or Street Light Pole on a Public Right-of-Way where there presently are no overhead utility facilities; or

(2) Add a Personal Wireless Service Facility on a Utility or Street Light Pole for which a Personal Wireless Service Facility Site Permit has already been approved.

(d) Permit Conditions. The Department may include in a Personal Wireless Service Facility Site Permit such conditions, in addition to those already set forth in this Article 25 and other Applicable Law, as may be required to govern the construction, installation, or maintenance of Personal Wireless Service Facilities in the Public Rights-of-Way, and to protect and benefit the public health, safety, welfare, and convenience, provided that no such conditions may concern the particular
technology used for a Personal Wireless Service Facility. Such conditions may also govern the
installation and use of equipment that is not located on a Utility or Street Light Pole, but that is
necessary for the use of a permitted Personal Wireless Service Facility.

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

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

SEC. 1501. DEPARTMENT ORDERS AND REGULATIONS.

The Department may adopt such orders or regulations as it deems necessary to implement the
requirements of this Article 25, or to otherwise preserve and maintain the public health, safety,
welfare, and convenience, as are consistent with this requirements of this Article 25 and Applicable
Law.

SEC. 1502. DEFINITIONS.

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

(a) "Adjacent" means:

(i) On the same side of the street and in front of the building or the next building on either side, when used in connection with a national historic landmark, California landmark, San Francisco landmark, structure of merit, architecturally significant building, or locally significant building; and

(ii) In front of and on the same side of the street, when used in connection with a City park or open space.

(b) "Applicable Law" means all applicable federal, state, and City laws, ordinances, codes, rules, regulations and orders, as the same may be amended or adopted from time to time.

(c) "Applicant" means any Person submitting an Application for a Personal Wireless Service Facility Site Permit under this Article 25.

(d) "Application" means an application for a Personal Wireless Service Facility Site Permit under this Article 25.

(e) "City" means the City and County of San Francisco.

(f) "Conditions" means any additional requirements that a City department reviewing an Application for a Personal Wireless Service Facility Site Permit has determined are necessary for the Application to comply with those requirements of this Article 25 that are within that department’s purview, provided that no such Conditions may include a requirement that an Applicant use a particular technology for a Personal Wireless Service Facility.

(g) "Department" means the Department of Public Works.

(h) "Director" means the Director of Public Works.

(i) "FCC" means the Federal Communications Commission.

(j) "Immediate Vicinity" means:
Within one (1) block in any direction from the boundary of a Planning Protected Location that is a national historic landmark district, listed or eligible national register historic district, listed or eligible California register historic district, San Francisco landmark district, local historic or conservation district, or locally significant district;

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

Within one (1) block in any direction from the boundary of a Zoning Protected Location; and

Within one (1) block in any direction from the boundary of a Park Protected Location.

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

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

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

"Person" means any individual, group, company, partnership, association, joint stock company, trust, corporation, society, syndicate, club, business, or governmental entity. "Person" shall not include the City.

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

"Personal Wireless Service Facility" or "Facility" means antennas and related facilities used to provide or facilitate the provision of Personal Wireless Service.
(q) "Personal Wireless Service Facility Site Permit" or "Permit" means a permit issued by the Department pursuant to this Article 25 authorizing a Permittee to construct, install, and maintain a Personal Wireless Service Facility.

(r) "Planning Protected Location" means any of the following proposed locations for a Personal Wireless Service Facility:

(1) On an historic, historically or architecturally significant, decorative, or specially designed Street Light Pole located in the Public Rights-of-Way:

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

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

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

(5) On a Utility or Street Light Pole that is on a Public Right-of-Way that the San Francisco General Plan has designated as having views that are rated “excellent” or “good.”

(s) "Planning Protected Location Compatibility Standard" means whether an Applicant for a Personal Wireless Service Facility Site Permit demonstrates that a proposed Personal Wireless Service Facility would be compatible with any of the Planning Protected Locations as follows:

Supervisors Avalos, Campos, Mar
BOARD OF SUPERVISORS

Page 8
December 6, 2010
(1) For a historic, historically or architecturally significant, decorative, or specially designed Street Light Pole, the applicable standard is whether a proposed Personal Wireless Service Facility would significantly degrade the aesthetic attributes that distinguish the Street Light Pole as historic, historically significant, architecturally significant, decorative, or specially designed.

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

(3) For a Utility or Street Light Pole that is Adjacent to a national historic landmark, California landmark, San Francisco landmark, structure of merit, architecturally significant building, or locally significant building, the applicable standard is whether a proposed Personal Wireless Service Facility would significantly degrade the aesthetic attributes that were the basis for the special designation of the building.

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

(5) For a Public Right-of-Way that the San Francisco General Plan has designated as having views that are rated “excellent” or “good,” the applicable standard is whether a proposed Personal Wireless Service Facility would significantly impair the views of any of the important buildings, landmarks, open spaces, or parks that were the basis for the designation of the street as a view street.
(t) "Public Health Compliance Standard" means whether: (i) any potential human exposure to radio frequency emissions from a proposed Personal Wireless Service Facility described in an Application is within the FCC guidelines; and (ii) noise at any time of the day or night from the proposed Personal Wireless Service Facility described in an Application is not greater than forty-five (45) dBA as measured at a distance three (3) feet from any residential building facade.

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

(v) "Step-Down Tier III Facility" means a Personal Wireless Service Facility that would be a Tier III Facility because of the size of the antenna enclosure(s) being added to a Utility or Street Light Pole, but that would not add any equipment enclosure(s) to any Utility or Street Light Pole.

(w) "Step-Down Tier II Facility" means a Personal Wireless Service Facility that would be a Tier II Facility because of the size of the antenna enclosure(s) being added to a Utility or Street Light Pole, but that would not add any equipment enclosure(s) to any Utility or Street Light Pole.

(x) "Street Light Pole" means a pole used solely for street lighting and which is located in the Public Rights-of-Way.

(y) "Tier III-A Compatibility Standard" means a Planning Protected Location Compatibility Standard or Zoning Protected Location Compatibility Standard by which the Planning Department shall make a compatibility determination based on an analysis of the additional impact, if any, that a proposed Tier III-A Facility would have on the character of the neighborhood, as compared to the impact a Tier II Facility would have at the same location.

(z) "Tier III-B Compatibility Standard" means a Planning Protected Location Compatibility Standard by which the Planning Department.....
Department shall make a compatibility determination based on an analysis of the additional impact, if any, that a proposed Tier III-B Facility would have on a Planning Protected Location or Zoning Protected Location, as compared to the impact a Tier II Facility would have at the same location.

(aa) "Tier III-C Compatibility Standard" means a Park Protected Location Compatibility Standard by which the Recreation and Park Department shall make a compatibility determination based on an analysis of the additional impact, if any, that a Proposed Tier III-C Facility would have on a Park Protected Location, as compared to the impact a Tier II Facility would have at the same location.

(bb) "Tier II-B Compatibility Standard" means a Planning Protected Location Compatibility Standard or Zoning Protected Location Compatibility Standard by which the Planning Department shall make a compatibility determination based on an analysis of the additional impact, if any, that a proposed Tier II-B Facility would have on a Planning Protected Location or Zoning Protected Location, as compared to the impact a Tier I Facility would have at the same location.

(cc) "Tier II-C Compatibility Standard" means a Park Protected Location Compatibility Standard by which the Recreation and Park Department shall make a compatibility determination based on an analysis of the additional impact, if any, that a Proposed Tier II-C Facility would have on a Park Protected Location, as compared to the impact a Tier I Facility would have at the same location.

(dd) "Tier I Criteria" is the criteria for the equipment allowed to be used with a Tier I Personal Wireless Service Facility, as set forth in Section 1503(a) below.

(ee) "Tier II Criteria" is the criteria for the equipment allowed to be used with a Tier II Personal Wireless Service Facility, as set forth in Section 1503(b) below.

(ff) "Tier I Facility" is a Personal Wireless Service Facility that meets the Tier I Criteria.

(gg) "Tier III Facility" is a Personal Wireless Service Facility that does not meet the Tier I or Tier II Criteria.
(hh) “Tier II Facility” is a Personal Wireless Service Facility that meets the Tier II Criteria.
(ii) “Tier I Facility Permit” is a Permit to install a Tier I Facility.
(iii) “Tier III Facility Permit” is a Permit to install a Tier III Facility.
(hk) “Tier II Facility Permit” is a Permit to install a Tier II Facility.
(li) “Tier III Necessity Standard” means whether a Tier II Facility is insufficient to meet the Applicant’s service needs because the Applicant has demonstrated one of the following:

(1) A Tier II Facility would not provide the coverage or functionality the Applicant requires to meet its service needs in the vicinity of the proposed Tier III Facility.

(2) Approval of the Application for a Tier III Facility Permit would reduce the number of Personal Wireless Service Facilities that the Applicant would otherwise need to install in the vicinity of the proposed Tier III Facility.

(3) Any other showing related to the Applicant’s service needs that the Department may allow by order or regulation.

(mm) “Unprotected Location” means a proposed location for a Personal Wireless Service Facility that is neither a Planning Protected, Zoning Protected, nor a Park Protected Location.

(nn) “Utility Pole” means a power pole, telephone pole, or other similar pole located within the Public Rights-of-Way.

(oo) “Zoning Protected Location” means on a Utility or Street Light Pole that is on a Public Right-of-Way that is within a Residential or Neighborhood Commercial zoning district under the San Francisco Planning Code.

(pp) “Zoning Protected Location Compatibility Standard” means whether an Applicant for a Personal Wireless Service Facility Site Permit on a Public Right-of-Way that is within a Zoning Protected Location demonstrates that a proposed Personal Wireless Service Facility would not significantly detract from the character of the Residential or Neighborhood Commercial zoning district.
SEC. 1503. TYPES OF PERSONAL WIRELESS SERVICES FACILITIES.

(a) Tier 1 Facility. The Department shall not approve an Application for a Tier 1 Facility
Permit unless the Application meets the following Tier 1 Criteria:

(1) Antenna Facilities.

(A) A Tier 1 Facility may add no more than three (3) antenna enclosures to a Utility or
Street Light Pole mounted to either the top or the side of the Utility or Street Light Pole as follows:

(i) If only one (1) antenna enclosure is to be added to a Utility or Street Light Pole, then
the antenna enclosure shall be no more than four (4) feet high and have a diameter that is not greater
than the diameter of the Utility or Street Light Pole at the point to which it is attached.

(ii) If more than one (1) antenna enclosure is to be added to a Utility or Street Light Pole,
then each antenna enclosure shall be no more than four (4) feet high and three (3) inches in diameter.

(2) Supporting Elements. If Applicable Law, or generally applicable written rules of the
pole owner, require a supporting element for any antenna enclosure such as a cross-arm or pole top
extension, such supporting element shall be no larger, longer, or bulkier than is necessary to comply
with Applicable Law or such generally applicable written rules.

(3) Equipment Enclosures. A Tier 1 Facility may add no more than two (2) equipment
enclosures to a Utility or Street Light Poles, as follows:

(A) A primary equipment enclosure installed on the same Utility or Street Light Pole as the
antenna enclosure(s), preferably facing the street or perpendicular to the street, shall be no larger
than three (3) cubic feet in volume with a width not exceeding twelve (12) inches and a depth not
exceeding ten (10) inches. An electric meter and a cut-off switch may be located outside of the
primary equipment enclosure; and

(B) A secondary equipment enclosure installed on a Utility or Street Light Pole that is near
the Utility or Street Light Pole to be used for the antenna enclosure(s) and primary equipment
enclosure, preferably facing the street or perpendicular to the street, shall be no larger than three (3)
cubic feet in volume with a width not exceeding twelve (12) inches and a depth not exceeding ten (10)
inches.

(3) The Department may, by order, allow a larger primary equipment enclosure if the
Applicant demonstrates that the enclosure will contain an electricity meter and cut-off switch,
provided that the width of the enclosure does not exceed twelve (12) inches and the depth does not
exceed ten (10) inches.

(b) Tier II Facility. The Department shall not approve an Application for a Tier II Facility
Permit unless the Application meets the following Tier II Criteria:

(1) Antenna Facilities. A Tier II Facility may add one (1) or more antenna enclosures to a
Utility or Street Light Pole mounted to either the top or the side of the Utility or Street Light Pole as
follows:

(A) For an installation on top of a Utility or Street Light Pole, the antenna enclosure(s)
shall:

(i) Be cylindrical in shape;

(ii) Not exceed four (4) feet in height; and

(iii) Not exceed the diameter of the top of the pole.

(B) For an installation on the side of a Utility or Street Light Pole, the size of the antenna
enclosure(s) shall:

(i) Not exceed four (4) feet in height; and

(ii) In the case of a cylindrical antenna enclosure, not exceed eighteen (18) inches in
diameter; or

(iii) In the case of a rectangular antenna enclosure, not exceed eighteen (18) inches in
width or depth.

(2) Supporting Elements. If Applicable Law, or generally applicable written rules of the
pole owner, require a supporting element for any antenna enclosure such as a cross-arm or pole top

Supervisors Avalos, Campos, Mar
BOARD OF SUPERVISORS
December 6, 2010
extension, such supporting element shall be no larger, longer, or bulkier than is necessary to comply with Applicable Law or such generally applicable written rules.

(3) Equipment Enclosures. A Tier II Facility may add no more than two (2) equipment enclosures to a Utility or Street Light Pole, as follows:

(A) A primary equipment enclosure installed on the same Utility or Street Light Pole as the antenna enclosure(s), preferably facing the street or perpendicular to the street, shall be no larger than four (4) cubic feet in volume, with a width not exceeding twelve (12) inches and a depth not exceeding ten (10) inches. An electric meter and a cut-off switch may be located outside of the primary equipment enclosure; and

(B) A secondary equipment enclosure installed on a Utility or Street Light Pole that is near the Utility or Street Light Pole to be used for the antenna enclosure(s) and primary equipment enclosure, preferably facing the street or perpendicular to the street, shall be no larger than four (4) cubic feet in volume with a width not exceeding twelve (12) inches and a depth not exceeding ten (10) inches.

(C) The Department may, by order, allow a larger primary equipment enclosure if the Applicant demonstrates that the enclosure will contain an electricity meter and cut-off switch, provided that the width of the enclosure does not exceed twelve (12) inches and the depth does not exceed ten (10) inches.

(5) Types of Tier II Facilities.

(A) A Tier II Facility shall be designated a Tier II-A Facility if the proposed location for the facility is in an Unprotected Location.

(B) A Tier II Facility shall be designated a Tier II-B Facility if the proposed location for the facility is in a Planning Protected Location or Zoning Protected Location.

(C) A Tier II Facility shall be designated a Tier II-C Facility if the proposed location for the facility is in a Park Protected Location.
(c) Tier III Facility.

(1) No Limitations on Equipment. The Department shall not place any limitations on the antennas, antenna enclosures or other equipment that may be contained in an Application for a Tier III Facility Permit.

(2) Types of Tier III Facilities.

(A) A Tier III Facility shall be designated a Tier III-A Facility if the proposed location for the facility is in an Unprotected Location.

(B) A Tier III Facility shall be designated a Tier III-B Facility if the proposed location for the facility is in a Planning Protected Location or Zoning Protected Location.

(C) A Tier III-C Facility shall be designated a Tier III-C Facility if the proposed location for the facility is in a Park Protected Location.

(d) Step-Down Facilities.

(1) Step-Down Tier II Facility. A Step-Down Tier II Facility shall be designated a Tier I Facility.

(2) Step-Down Tier III Facility. A Step-Down Tier III Facility shall be designated a Tier II Facility.

SEC 1504. INITIAL REVIEW OF A PERSONAL WIRELESS FACILITY SITE PERMIT APPLICATION.

(a) Completeness Review.

(1) Initial Determination. Following receipt of an Application for a Personal Wireless Service Facility Site Permit, the Department shall make an initial determination whether the Application is complete.

(2) Notice of Completeness Determination. The Department shall promptly notify an Applicant for a Personal Wireless Service Facility whether the Application is complete.
(b) Tier Review.

(1) Initial Determination. Following a Department determination that an Application for a Personal Wireless Service Facility Site Permit is complete, the Department shall make an initial determination as follows:

(A) The Application is for a Tier I, Tier II, or Tier III Facility Permit.

(B) The Department is required to refer the Application to the Planning Department, and/or the Recreation and Park Department under Sections 1509(a)(1) and 1510(a)(1) below.

(C) The Department is exercising its discretion to refer an Application for a Tier II-A Facility Permit to the Planning Department and/or the Recreation and Park Department under Sections 1509(a)(2) and 1510(a)(2) below.

(2) Notice of Tier Determination. The Department shall promptly notify an Applicant for a Personal Wireless Service Facility of the Department’s tier determination.

SEC. 1505. CONDITIONS OF APPROVAL.

(a) Conditions of Approval. Any City department reviewing an Application for a Personal Wireless Service Facility Site Permit, as required by this Article 25, may add Conditions to its approval, tentative approval, or determination.

(b) Conditions in Writing. Any Conditions that a City department includes in its approval, tentative approval, or determination with respect to an Application for a Personal Wireless Service Facility Site Permit shall be in writing.

(c) Notice of Conditions. The Department shall promptly notify the Applicant of any such Conditions and shall give the Applicant a reasonable time to accept or reject the Conditions.

(d) Acceptance of Conditions Required. The Department shall not approve an Application for a Personal Wireless Service Facility Site Permit unless the Applicant accepts all of the Conditions.
added to an approval, tentative approval, or determination by any City department that reviewed the Application.

SEC. 1506. STREET TREE.

(a) Condition of Approval. When reviewing an application for a Tier II or Tier III Facility Permit, the Planning Department and/or Recreation and Park Department (as appropriate) may require as a Condition of approval that the Permittee plant and maintain an appropriate street tree adjacent to the Utility or Street Light Pole so as to provide a screen for a permitted Tier II or Tier III Facility.

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

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

(2) In any instance in which the Department cannot require the Permittee to install a street tree, on the basis of inadequate sidewalk width, interference with utilities, or other reasons regarding the public health, safety, or welfare, the Department shall instead require the Permittee to make an “in-lieu” payment into the Department’s “Adopt-A-Tree” fund. This payment shall be in the amount specified in San Francisco Public Works Code § 807(f), and shall be payable prior to the Department’s issuance of the Personal Wireless Service Facility Site Permit.

(c) Care and Maintenance of Street Trees. The Permittee shall be responsible for the care and maintenance of any street tree required to be installed in the Public Rights-of-Way under this Section. In this regard, the Permittee shall assume the duty of a “property owner” as set forth in San Francisco Public Works Code § 805.
SEC. 1507. DEPARTMENT OF PUBLIC HEALTH REVIEW.

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

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

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

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

(a) Tier I Facility Permit. The Department shall review an Application for a Tier I Facility Permit to determine whether the Application:

(1) Satisfies the Tier I Criteria; and

(2) Receives an affirmative determination from the Department of Public Health under the Public Health Compliance Standard.

(b) Tier II-A Facility Permit. The Department shall review an Application for a Tier II-A Facility Permit to determine whether the Application:

(1) Satisfies the Tier II Criteria; and
(2) Receives an affirmative determination from the Department of Public Health under the Public Health Compliance Standard.

(c) Tier II-B or Tier II-C Facility Permit. The Department shall review an Application for a Tier II-B or Tier II-C Facility Permit to determine whether the Application:

(1) Satisfies the Tier II Criteria;

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

(3) Receives an affirmative determination from the Planning Department or the Recreation and Park Department (or both if required) under the applicable Tier II-B or Tier II-C Compatibility Standard.

(d) Tier III Facility Permit. The Department shall review an Application for a Tier III Facility Permit to determine whether the Application:

(1) Satisfies the Tier III Necessity Standard;

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

(3) Receives an affirmative determination from the Planning Department or the Recreation and Park Department (or both if required) under the applicable Tier III-A, Tier III-B, or Tier III-C Compatibility Standard.

SEC. 1509. PLANNING DEPARTMENT REVIEW OF A TIER II-B, TIER III-A, OR TIER III-B FACILITY PERMIT APPLICATION.

(a) Referral to Planning Department.

(1) Referral Required.
(A) The Department shall refer an Application for a Tier II-B Facility Permit to the Planning Department for a review of the proposed Personal Wireless Service Facility under the applicable Tier II-B Compatibility Standard.

(B) If the Department determines that an Application for a Tier III-A, or Tier III-B Facility Permit satisfies the Tier III Necessity Standard, the Department shall refer the Application to the Planning Department for a review of the proposed Personal Wireless Service Facility under the applicable Tier III-A, or Tier III-B Compatibility Standard.

(2) Referral Allowed. The Department may refer an Application for a Tier II-A Facility Permit to the Planning Department if the proposed location for the Personal Wireless Service Facility is in the Immediate Vicinity of a Planning Protected or Zoning Protected Location. The Department shall designate such a facility a Tier II-B Facility. The Planning Department shall then review the Application under the Tier II-B Compatibility Standard that would apply to the Planning Protected or Zoning Protected Location that is in the Immediate Vicinity of the proposed Tier II-A Facility.

(b) Planning Department Determination.

(1) The Planning Department shall make a determination whether an Application for a Personal Wireless Service Facility Site Permit referred to the Planning Department under this Section satisfies the applicable Tier II-B, Tier III-A, or Tier III-B Compatibility Standard. The Planning Department’s determination shall be in writing and shall set forth the reasons therefor. The Planning Department shall transmit its determination to the Department within twenty (20) business days of receipt of the Application from the Department. With the concurrence of the Applicant, the Planning Department may extend this review period beyond twenty (20) business days.

(2) The Planning Department’s determination that an Application for a Personal Wireless Service Facility Site Permit satisfies the Tier II-B of Tier III-B Compatibility Standard for a Zoning Protected Location may include a Condition that the Personal Wireless Service Facility not obstruct the view from or the light into any adjacent residential window.
Affirmative Determination Required. The Department shall not approve an Application for a Tier II-B, Tier III-A, or Tier III-B Facility Permit unless the Planning Department makes a determination that the Application satisfies the applicable Tier II-B, Tier III-A, or Tier III-B Compatibility Standard.

SEC. 1510. RECREATION AND PARK DEPARTMENT REVIEW OF A TIER II-C OR TIER III-C FACILITY PERMIT APPLICATION.

(a) Referral to Recreation and Park Department.

(1) Referral Required.

(A) The Department shall refer an Application for a Tier II-C Facility Permit to the Recreation and Park Department for a review of the proposed Personal Wireless Service Facility under the Tier II-C Compatibility Standard.

(B) If the Department determines that an Application for a Tier III-C Facility Permit satisfies the Tier III Necessity Standard, the Department shall refer the Application to the Recreation and Park Department for a review of the proposed Personal Wireless Service Facility under the Tier III-C Compatibility Standard.

(2) Referral Allowed. The Department may refer an Application for a Tier II-A or Tier III-A Permit to the Recreation and Park Department if the proposed location for the Personal Wireless Service Facility is in the Immediate Vicinity of a Park Protected Location. The Department shall designate such a facility a Tier II-C or Tier III-C Facility. The Recreation and Park Department shall then review the Application under the applicable Tier II-C or Tier III-C Compatibility Standard.

(b) Recreation and Park Department Determination. The Recreation and Park Department shall make a determination whether an Application for a Personal Wireless Service Facility Site Permit referred to the Planning Department under this Section satisfies the applicable Tier II-C or Tier III-C Compatibility Standard. The Recreation and Park Department’s determination...
shall be in writing and shall set forth the reasons therefor. The Recreation and Park Department shall transmit its determination to the Department within twenty (20) business days of receipt of the Application from the Department. With the concurrence of the Applicant, the Recreation and Park Department may extend this review period beyond twenty (20) business days.

(c) Affirmative Determination Required. The Department shall not approve an Application for a Tier II-C or Tier III-C Facility Permit unless the Recreation and Park Department makes a determination that the Application satisfies the applicable Tier II-C or Tier III-C Compatibility Standard.

SEC. 1511. DEPARTMENT DETERMINATION.

(a) Determination in Writing.

(1) Tentative Approval. A Department tentative approval of an Application for a Tier III Facility Permit shall be in writing and shall set forth the reasons therefor. If a Department tentative approval contains any Conditions, the Conditions shall also be in writing.

(2) Final Determination. A Department final determination to approve or deny an Application for a Personal Wireless Service Facility Site Permit shall be in writing and shall set forth the reasons therefor. If a Department final determination to approve an Application contains any Conditions, the Conditions shall also be in writing.

(b) Tier I or Tier II-A Facility Permit.

(1) Denial. The Department shall issue a final determination denying an Application for a Tier I or Tier II-A Facility Permit within three (3) business days of any of the following events:

(A) The Department making a determination that the Application does not meet the Tier I or Tier II Criteria, as applicable;

(B) The Department’s receipt of a determination from the Department of Public Health that the Application does not comply with the Public Health Compliance Standard; or
(C) If the Department or the Department of Public Health adds any Conditions to its approval of the Application, the Department’s receipt of a notice from the Applicant that it rejects any of those Conditions.

(2) Approval without Conditions. If neither the Department nor the Department of Public Health adds any Conditions to its approval of an Application for a Tier I or Tier II-A Facility Permit, the Department shall issue a final determination approving the Application within three (3) business days of the occurrence of the last of the following events:

(A) The Department making a determination that the Application meets the Tier I or Tier II Criteria, as applicable; or

(B) The Department’s receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard.

(3) Approval with Conditions. If the Department or the Department of Public Health adds any Conditions to its approval of an Application for a Tier I or Tier II-A Facility Permit, the Department shall issue a final determination approving the Application within three (3) business days of the occurrence of the last of the following events:

(A) The Department making a determination that the Application meets the Tier I or Tier II Criteria, as applicable;

(B) The Department’s receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard; or

(C) The Department’s receipt of a notice from the Applicant that it accepts all of those Conditions.

(c) Tier II-B or Tier II-C Facility Permit.

(1) Denial. The Department shall issue a final determination denying an Application for a Tier II-B or Tier II-C Facility Permit within three (3) business days of any of the following events:
(A) The Department making a determination that the Application does not meet the Tier II Criteria;

(B) The Department's receipt of a determination from the Department of Public Health that the Application does not comply with the Public Health Compliance Standard;

(C) The Department's receipt of a determination from the Planning Department or the Recreation and Park Department that the Application does not meet the applicable Compatibility Standard; or

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

(2) Approval without Conditions. If no City department reviewing an Application for a Tier II-B or Tier II-C Facility Permit adds any Conditions to its approval of the Application, the Department shall issue a final determination approving the Application within three (3) business days of the occurrence of the last of the following events:

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

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

(3) Approval with Conditions. If any City department reviewing an Application for a Tier II-B or Tier II-C Facility Permit adds any Conditions to its approval of the Application, the Department shall issue a final determination approving the Application within three (3) business days of the occurrence of the last of the following events:

(A) The Department's receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard;
(B) The Department’s receipt of a determination from the Planning Department or the Recreation and Park Department (or both if required) that the Application meets the applicable Compatibility Standard; or

(C) The Department’s receipt of a notice from the Applicant that it accepts all of those Conditions.

(d) Tier III Facility Permit

(I) Denial. The Department shall issue a final determination denying an Application for a Tier III Facility Permit within three (3) business days of any of the following events:

(A) The Department making a determination that the Application does not meet the Tier III Necessity Standard;

(B) The Department’s receipt of a determination from the Department of Public Health that the Application does not comply with the Public Health Compliance Standard;

(C) The Department’s receipt of a determination from the Planning Department or the Recreation and Park Department (or both if required) that the Application does not meet the applicable Compatibility Standard; or

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

(2) Approval without Conditions.

(A) If no City department reviewing an Application for a Tier III Facility Permit adds any Conditions to its approval of the Application, the Department shall issue a tentative approval of an Application for a Tier III Facility Permit without Conditions within three (3) business days of the occurrence of the last of the following events:

(i) The Department’s receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard; and
(ii) The Department’s receipt of a determination from the Planning Department or the Recreation and Park Department (or both if required) that the Application meets the applicable Compatibility Standard.

(B) Following the Department’s tentative approval of an Application for a Tier III Facility Permit without any Conditions, the Department shall issue a final determination as follows:

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

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

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

(3) Approval with Conditions.

(A) If any City department reviewing an Application for a Tier III Facility Permit adds any Conditions to its approval of the Application, the Department shall issue a tentative approval of the Application with Conditions within three (3) business days of the occurrence of the last of the following events:

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

(ii) The Department’s receipt of a determination from the Planning Department or the Recreation and Park Department (or both if required) that the Application meets the applicable Compatibility Standard; or

(iii) The Department’s receipt of a notice from the Applicant that it accepts all of those Conditions.
Following the Department's tentative approval of an Application for a Tier III Facility Permit with Conditions, the Department shall issue a final determination as follows:

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

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

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

SEC. 1512. NOTICE FOLLOWING TENTATIVE APPROVAL OF A TIER III FACILITY PERMIT APPLICATION.

(a) Notice Required. The Department shall require an Applicant for a Tier III Facility Permit to notify the public of a tentative approval of the Application under Sections 1511(d)(2) or 1511(d)(3) above, and to provide the Department with evidence, as the Department may require, of compliance with this requirement.

(b) Types of Notice Required.

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

(A) Any Person owning property or residing within one hundred and fifty (150) feet of the proposed location of the Tier III Facility; and

(B) Any neighborhood association identified by the Planning Department for any neighborhood within three hundred (300) feet of the proposed Tier III Facility.

(2) Notice by Posting. The Applicant shall post a copy of the notice in conspicuous places throughout the block face where the proposed Tier III Facility is to be located.
(c) Contents and Form of Notice. The notice shall contain such information, and be in such form, as the Department reasonably requires in order to inform the general public as to the nature of the Application for a Tier III Facility Permit. At a minimum, the notice shall:

1. Provide a description and a photo-simulation of the proposed Tier III Facility;

2. Summarize the determinations of any City departments that were necessary for the tentative approval of the Application;

3. Identify any Conditions added by any City departments that have been accepted by the Applicant and are now part of the Application;

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

5. Describe the procedure for submitting a timely protest;

6. Specify the applicable grounds for protesting the Application under this Article 25; and

7. Explain how any interested Person may obtain additional information and documents related to the Application.

SEC. 1513. PROTEST OF A TIER III FACILITY PERMIT.

(a) Protest Allowed. Any Person may protest a tentative approval of an Application for a Tier III Facility Permit. A protest must be in writing and must be submitted to the Department within twenty (20) days of the date the notice was mailed and posted as required under Section 1512 above.

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

(c) Notice of Hearing Date. At least ten (10) days before the hearing, the Department shall notify in writing any Person submitting a protest, the Applicant, and any City department that...
reviewed the Application of the date set for the hearing. The Department shall follow its regular procedures for notifying the general public of the hearing.

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

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

(1) The Application and the Department's tentative approval of the Application;
(2) Any written determination from the Department, the Planning Department, the Recreation and Park Department, and the Department of Public Health (as applicable);
(3) Any further written evidence from any City departments submitted either prior to or during the hearing;
(4) Any written submissions from the Applicant, any Person submitting a protest, or any other interested Person submitted either prior to or during the hearing; and
(5) Any oral testimony from any City departments, the Applicant, any Person submitting a protest, or any interested Person taken during the hearing.

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

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

(h) Grounds for Granting a Protest. The Director may grant a protest of a tentative approval of Application for a Tier III Facility Permit only if the Director finds that the evidence at the hearing supports any one of the following findings:
(1) The Department of Public Health incorrectly determined that the Application complies with the Public Health Compliance Standard;

(2) The Department incorrectly determined that the Application meets the Tier III Necessity Standard;

(3) In the case of an Application for a Tier III-A or Tier III-B Facility Permit, the Planning Department incorrectly determined that the Application meets the Tier III-A or Tier III-B Compatibility Standard, as applicable; or

(4) In the case of an Application for a Tier III-C Facility Permit, the Recreation and Park Department incorrectly determined that the Application meets the Tier III-C Compatibility Standard.

SEC. 1514. NOTICE OF FINAL DETERMINATION.

(a) Approval. The Department shall provide notice of a final determination to approve an Application for a Personal Wireless Service Facilities Site Permit.

(1) Notice Required.

(A) The Department shall promptly mail a notice of final determination to approve an Application for a Personal Wireless Service Facility Site Permit to both the Applicant and to any neighborhood association identified by the Planning Department for any neighborhood within three hundred (300) feet of the approved Personal Wireless Service Facility.

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

(C) The Department shall require an Applicant for a Personal Wireless Service Facility Site Permit to promptly post notice of a Department final determination to approve an Application for a Personal Wireless Service Facility Site Permit in conspicuous places throughout the block face.
where the approved Personal Wireless Service Facility is to be located and to provide the Department
with evidence, as the Department may require, of compliance with this requirement.

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

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

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

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

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

(E) Specify the applicable grounds for appealing the approval of the Application under this
Article 25; and

(F) Explain how any interested Person may obtain additional information and documents
related to the Application.

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

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

(2) Contents of Notice. A notice of final determination to deny an Application for a
Personal Wireless Service Facility Site Permit shall at a minimum:
(A) Summarize the determinations of any City departments that were necessary for the
denial of the Application, including any Conditions added by any City departments that were rejected
by the Applicant.

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

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

(D) Specify the applicable grounds for appealing the denial of the Application under this
Article 25.

SEC. 1515. APPEALS.

(a) Appeal Permitted. Any Person may appeal a Department final determination with
respect to an Application for a Personal Wireless Service Facility Site Permit to the Board of Appeals.

(b) Final Determination.

(1) Approval or Denial. The Department’s approval or denial of an Application for a
Personal Wireless Service Facility Site Permit shall be an appealable final determination under this
Section.

(2) Refusal To Accept Conditions. The Department’s denial of an Application for a
Personal Wireless Service Facility Site Permit based on the Applicant’s refusal to accept any
Conditions imposed by a City department shall be an appealable final determination under this
Section.

(c) Board of Appeals Review. Upon such appeal, the Board of Appeals shall determine
whether the final determination was correct under the provisions of this Article 25.
SEC. 1516. NOTICE OF COMPLETION AND INSPECTION.

(a) Notice of Completion. A Permittee shall notify the Department immediately upon completion of the installation of a Personal Wireless Service Facility. The notice of completion must include a written statement from a certified engineer confirming that the permitted Personal Wireless Service Facility complies with the Public Health Compliance Standard.

(b) Inspection.

(1) Required After Installation. The Department shall inspect a Personal Wireless Service Facility installed in the Public Rights-of-Way within a reasonable time after a Permittee provides the Department with a notice of completion required under Section 1516(a) above. The Department shall determine during the inspection whether:

(A) The installation is in accordance with the requirements of the Personal Wireless Service Facility Site Permit; and

(B) The permitted Personal Wireless Service Facility complies with the Public Health Compliance Standard.

(2) Subsequent Inspection. If at any time the Department has a valid reason to believe that a permitted Personal Wireless Service Facility does not comply with the Public Health Compliance Standard, the Department shall require the Permittee to provide additional proof of compliance with the Public Health Compliance Standard. The Department may also request that the Department of Public Health inspect the facility.

SEC. 1517. COMPLIANCE.

(a) Compliance Required. Any Personal Wireless Service Facility installed in the Public Rights-of-Way pursuant to a Personal Wireless Service Facility Site Permit issued under this Article must comply with the terms and conditions of the Permit and this Article 25.

(b) Notice of Deficiency.
(1) Non-Compliance with Permit. If the Department determines, either after an inspection required under Section 1516(b) above or at any other time, that a Personal Wireless Service Facility is not in compliance with the Personal Wireless Service Facility Site Permit or this Article 25, the Department shall issue a notice of deficiency and require the Permittee to take corrective action to bring the Personal Wireless Service Facility into compliance.

(2) Radio Frequency Emissions. If the Department determines, either after an inspection required under 1515(b) above or at any other time, that potential human exposure to radio frequency emissions from a permitted Personal Wireless Service Facility exceeds FCC guidelines, the Department shall issue a notice of deficiency and require the Permittee to take corrective action to bring the Personal Wireless Service Facility into compliance with FCC guidelines.

(3) Noise. If the Department determines, either after an inspection required under 1516(b) above or at any other time, that noise from a permitted Personal Wireless Service Facility at any time of the day or night exceeds forty-five (45) dBA as measured at a distance three (3) feet from any residential building facade, the Department shall issue a notice of deficiency and require the Permittee to take corrective action to bring the Personal Wireless Service Facility into compliance with the noise limit.

(c) Department Remedies.

(1) Required Action. If a Permittee fails to take corrective action with respect to a Personal Wireless Service Facility within a reasonable time after receiving a notice of deficiency the Department shall:

(A) Take all reasonable, necessary, and appropriate action to remedy a Permittee's non-compliance; or

(B) Require a Permittee to remove the non-compliant Personal Wireless Service Facility from the Public Rights-of-Way; and
(C) Charge to a Permittee the reasonable costs that the City has actually incurred including, but not limited to, administrative costs.

(2) Discretionary Action. In addition to the foregoing, if a Permittee fails to take corrective action with respect to a Personal Wireless Service Facility within a reasonable time after receiving a notice of deficiency the Department may deny any pending Application for a Personal Wireless Service Facility Site Permit.

SEC. 1518. ABANDONMENT.

(a) Permittee Must Maintain Facilities. Any Personal Wireless Service Facility installed in the Public Rights-of-Way pursuant to a Personal Wireless Service Facility Site Permit issued under this Article 25 must be properly maintained and used to provide Personal Wireless Services.

(b) Notice of Abandonment. A Permittee shall notify the Department, or the Department may determine and notify a Permittee, that a Personal Wireless Service Facility installed in the Public Rights-of-Way has been abandoned either because it has not been properly maintained or because it is no longer being used to provide Personal Wireless Services. In such event, a Permittee shall promptly remove the abandoned Personal Wireless Service Facility as required by the Department and at Permittee’s expense.

(c) Remedy for Non-Compliance. If a Permittee fails to remove an abandoned Personal Wireless Service Facility within a reasonable period of time after receiving a notice of abandonment, the Department shall take all reasonable, necessary, and appropriate action to remedy the Permittee’s failure to comply with the notice (including removing the Personal Wireless Service Facility) and may charge to the Permittee the reasonable costs the City has actually incurred including, but not limited to, administrative costs.
SEC. 1519. TERM OF PERMIT.

A Personal Wireless Service Facility Site Permit shall have a term of two (2) years. The term shall commence upon the completion of the inspection required under Section 1516(b)(1) above.

SEC. 1520. RENEWAL.

(a) Renewal Permitted. At the end of the term set forth in Section 1519 above, the Department may renew a Personal Wireless Service Facility Site Permit for the identical Personal Wireless Service Facility at the same permitted location for four (4) additional two (2)-year terms.

(b) Renewal Application Required. A Permittee seeking to renew a Personal Wireless Service Facility Site Permit must file a renewal Application with the Department prior to the end of the existing term. The renewal Application shall include a written report from a certified engineer confirming that the permitted Personal Wireless Service Facility complies with the Public Health Compliance Standard.

(c) Approval of Renewal Application.

(1) Approval Required. The Department shall approve a renewal Application using the existing equipment at the same permitted location provided that, since the commencement of the Permit term as set forth in Section 1519 above, there have been no changes to: (A) Applicable Law that would allow the Department to deny a new Application for a Personal Wireless Service Facility Site Permit for the identical Personal Wireless Service Facility at the permitted location; or (B) readily available technology for Personal Wireless Service Facilities that would make it feasible for the Applicant for a renewal Permit to replace the existing equipment with less visually obtrusive equipment.

(2) Denial Required. The Department shall deny a renewal Application if the Permittee fails to provide the Department with a written report from a certified engineer confirming that the permitted Personal Wireless Service Facility complies with the Public Health Compliance Standard.
(d) Referral to Other Departments. The Department shall refer a renewal Application to other City departments for review before approving or denying the Application under the following circumstances.

(1) Department of Public Health. If Applicable Law with respect to human exposure to radio frequency emissions has changed since the date of the approval of the original Application for a Personal Wireless Service Facility Site Permit, the Department shall refer the renewal Application to the Department of Public Health for further review. The Department may not renew the Permit unless the Department of Public Health makes a determination that the Application satisfies the Public Health Compliance Standard and/or other Applicable Law related to human exposure to radio frequency emissions.

(2) Planning Department and Recreation and Park Department.

(A) If a renewal Application is for a Personal Wireless Service Facility that is in a location that was not a Planning Protected, Zoning Protected, or Park Protected Location on the date of the approval of the original Application for a Personal Wireless Service Facility Site Permit, the Department shall determine whether changes to Applicable Law since that date have made the location a Planning Protected, Zoning Protected, or Park Protected Location. If so, the Department shall refer the renewal Application to the appropriate City department for review under any Compatibility Standard that did not apply to the original Application.

(B) The Department may also exercise its discretion to refer a renewal Application to the Planning Department and/or Recreation and Park Department if the location of the Personal Wireless Service Facility is in the Immediate Vicinity of a Planning Protected, Zoning Protected, or Park Protected Location, whether or not the Department referred the original Application to the applicable City department.

(C) If the Department refers a renewal Application to the Planning Department and/or Recreation and Park Department under this Section, the Department shall not renew the Permit unless
the Planning Department and/or Recreation and Park Department recommends approval under the newly applicable Compatibility Standard.

(e) Applicability of Other Provisions of this Article. The other provisions of this Article 25 related to approval of an Application for a Personal Wireless Service Facility Site Permit shall only apply to the Department’s review of a renewal Application if the Department refers a renewal Application to the Planning and/or Recreation and Park Departments. These provisions shall include, but are not limited to, Notice of Final Determination (Section 1514 above) and Appeals (Section 1515 above).

SEC. 1521. REPLACEMENT OF EQUIPMENT.

During the term of a Personal Wireless Service Facility Site Permit, a Permittee may replace equipment that is part of a permitted Personal Wireless Service Facility; provided that the replacement equipment would be of substantially the same size, appearance, and power as the previously permitted equipment. The Permittee shall notify the Department prior to replacing any permitted equipment. The Permittee shall not install the proposed replacement equipment unless and until the Department notifies Permittee in writing that the Department has determined that the proposed replacement equipment complies with the requirements of this Section.

SEC. 1522. MODIFICATION OF PERMIT.

A Permittee may file an Application with the Department to modify a Personal Wireless Service Facility Site Permit to replace any equipment that is part of a permitted Personal Wireless Service Facility if the proposed replacement equipment would not be of substantially the same size, appearance, and power as the previously permitted equipment. The Department shall not approve an Application to modify a Permit unless the Application complies with all of the requirements of this Article 25.
SEC. 1523. DEPOSIT.

Each Permittee shall submit and maintain with the Department a bond, cash deposit, or other security acceptable to the Department securing the faithful performance of the obligations of the Permittee and its agents under any and all Personal Wireless Service Facility Site Permits issued to the Permittee under this Article 25. The deposit shall be in the sum of twenty-five thousand dollars ($25,000) in favor of the “Department of Public Works, City and County of San Francisco.” If, in accordance with this Article 25, the Director deducts any amounts from such a deposit, the Permittee must restore the full amount of the deposit prior to the Department’s issuance of a subsequent Permit. The Department shall return the deposit to the Permittee should Permittee cease to operate any Personal Wireless Service Facilities in the Public Rights-of-Way.

SEC. 1524. LIABILITY.

As a condition of a Personal Wireless Service Facility Site Permit, each Permittee agrees on its behalf and on behalf of any agents, successors, or assigns to be wholly responsible for the construction, installation, and maintenance of any permitted Personal Wireless Service Facility. Each Permittee and its agents are jointly and severally liable for all consequences of such construction, installation, and maintenance of a Personal Wireless Service Facility. The issuance of any Personal Wireless Service Facility Site Permit, inspection, repair suggestion, approval, or acquiescence of any person affiliated with the City shall not excuse any Permittee or its agents from such responsibility or liability.

SEC. 1525. INDEMNIFICATION AND DEFENSE OF CITY.

(a) Indemnification of City. As a condition of a Personal Wireless Service Site Facility Site Permit, each Permittee agrees on its behalf and on behalf of its agents, successors, or assigns, to indemnify, defend, protect, and hold harmless the City from and against any and all claims of any kind.
arising against the City as a result of the issuance of a Personal Wireless Service Facility Site Permit including, but not limited to, a claim allegedly arising directly or indirectly from the following:

(1) Any act, omission, or negligence of a Permittee or its any agents, successors, or assigns while engaged in the permitting, construction, installation, or maintenance of any Personal Wireless Service Facility authorized by a Personal Wireless Service Facility Site Permit, or while in or about the Public Rights-of-Way that are subject to the Permit for any reason connected in any way whatsoever with the performance of the work authorized by the Permit, or allegedly resulting directly or indirectly from the permitting, construction, installation, or maintenance of any Personal Wireless Service Facility authorized under the Permit;

(2) Any accident, damage, death, or injury to any of a Permittee’s contractors or subcontractors, or any officers, agents, or employees of either of them, while engaged in the performance of the construction, installation, or maintenance of any Personal Wireless Service Facility authorized by a Personal Wireless Service Facility Site Permit, or while in or about the Public Rights-of-Way that are subject to the Permit, for any reason connected with the performance of the work authorized by the Permit, including from exposure to radio frequency emissions;

(3) Any accident, damage, death, or injury to any Person or accident, damage, or injury to any real or personal property in, upon, or in any way allegedly connected with the construction, installation, or maintenance of any Personal Wireless Service Facility authorized by a Personal Wireless Service Facility Site Permit, or while in or about the Public Rights-of-Way that are subject to the Permit, from any causes or claims arising at any time, including any causes or claims arising from exposure to radio frequency emissions; and

(4) Any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by a Permittee or its agents about, in, on, or under the Public Rights-of-Way.
(b) Defense of the City. Each Permittee agrees that, upon the request of the City, the Permittee, at no cost or expense to the City, shall indemnify, defend, and hold harmless the City against any claims as set forth in Sections 1525(a) above, regardless of the alleged negligence of City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. Each Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claims that actually or potentially fall within the indemnity provision, even if the allegations are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered to the Permittee or its agent by the City and continues at all times thereafter. Each Permittee further agrees that the City shall have a cause of action for indemnity against the Permittee for any costs the City may be required to pay as a result of defending or satisfying any claims that arise from or in connection with a Personal Wireless Service Facility Site Permit, except only for claims resulting directly from the sole negligence or willful misconduct of the City. Each Permittee further agrees that the indemnification obligations assumed under a Personal Wireless Service Facility Site Permit shall survive expiration of the Permit or completion of installation of any Personal Wireless Service Facility authorized by the Permit.

(c) Additional Requirements. The Department may specify in a Personal Wireless Service Facility Site Permit such additional indemnification requirements as are necessary to protect the City from risks of liability associated with the Permittee’s construction, installation, and maintenance of a Personal Wireless Service Facility.

SEC. 1526. INSURANCE.

(a) Minimum Coverages. The Department shall require that each Permittee maintain in full force and effect, throughout the term of a Personal Wireless Service Facility Site Permit, an insurance policy or policies issued by an insurance company or companies satisfactory to the City’s
Risk Manager. Such policy or policies shall, at a minimum, afford insurance covering all of the Permittee’s operations, vehicles, and employees, as follows:

(1) Workers’ compensation, in statutory amounts, with employers’ liability limits not less than one million dollars ($1,000,000) each accident, injury, or illness.

(2) Commercial general liability insurance with limits not less than one million dollars ($1,000,000) each occurrence combined single limit for bodily injury and property damage, including contractual liability, personal injury, products and completed operations.

(3) Commercial automobile liability insurance with limits not less than one million dollars ($1,000,000) each occurrence combined single limit for bodily injury and property damage, including owned, non-owned and hired auto coverage, as applicable.

(4) Contractors’ pollution liability insurance, on an occurrence form, with limits not less than one million dollars ($1,000,000) each occurrence combined single limit for bodily injury and property damage and any deductible not to exceed twenty five thousand dollars ($25,000) each occurrence.

(b) Other Insurance Requirements.

(1) Said policy or policies shall include the City and its officers and employees jointly and severally as additional insureds, shall apply as primary insurance, shall stipulate that no other insurance effected by the City will be called on to contribute to a loss covered thereunder, and shall provide for severability of interests.

(2) Said policy or policies shall provide that an act or omission of one insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to any other insured. Said policy or policies shall afford full coverage for any claims based on acts, omissions, injury, or damage which occurred or arose, or the onset of which occurred or arose, in whole or in part, during the policy period.
(3) Said policy or policies shall be endorsed to provide thirty (30) days advance written notice of cancellation or any material change to the Department.

(4) Should any of the required insurance be provided under a claims-made form, a Permittee shall maintain such coverage continuously throughout the term of a Personal Wireless Service Facility Site Permit, and, without lapse, for a period of three (3) years beyond the expiration or termination of the Permit, to the effect that, should occurrences during the term of the Permit give rise to claims made after expiration or termination of the Permit, such claims shall be covered by such claims-made policies.

(5) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified in Section 1526(a) above.

(c) Indemnity Obligation. Such insurance shall in no way relieve or decrease a Permittee's or its agent's obligation to indemnify the City under Section 1525 above.

(d) Proof of Insurance. Before the Department will issue a Personal Wireless Service Facility Site Permit, a Permittee shall furnish to the Department certificates of insurance and additional insured policy endorsements with insurers that are authorized to do business in the State of California and that are satisfactory to the City evidencing all coverages set forth in Section 1526(a) above.

(e) Self-Insurance. Where a Permittee is self-insured, and such insurance is no less broad and affords no less protection to the City than the requirements specified in Section 1526(a) above, the Department, in consultation with the City's Risk Manager, may accept such insurance as satisfying the requirements of Section 1526(a) above. Evidence of such self-insurance shall be provided in the manner required by the City's Risk Manager.
SEC. 1527. FEES AND COSTS.

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

(I) Department Application Fee. Each Applicant for a Personal Wireless Service Facility Site Permit shall pay to the Department a non-refundable Application fee of one hundred dollars ($100.00) for each Personal Wireless Service Facility proposed in the Application.

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

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

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

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

(b) Inspection Fees. The Department and the Department of Public Health shall impose fees for the inspection of a permitted Personal Wireless Service Facility. The purpose of these fees is to enable these City departments to recover their costs related to inspecting a permitted Personal Wireless Service Facility.
(1) **Department Inspection Fee.** Each Permittee shall pay the Department a non-refundable time and materials inspection fee not to exceed one hundred fifty dollars ($150.00) to inspect a permitted Personal Wireless Service Facility as required under Section 1516(b) above.

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

(c) **Adjustment of Fees for CPI.** Beginning with fiscal year 2011-2012, the fees established herein may be adjusted each year, without further action by the Board of Supervisors, to reflect changes in the relevant Consumer Price Index ("CPI") (as determined by the Controller). No later than April 15th of each year, the Director shall submit the current fee schedule to the Controller, who shall apply the CPI adjustment to produce a new fee schedule for the following year. No later than May 15th of each year, the Controller shall file a report with the Board of Supervisors reporting the new fee and certifying that the fees produce sufficient revenue to support the costs of providing the services for which the Permit fee is charged, and that the fees do not produce revenue that exceeds the costs of providing the services for which each Permit fee is charged.

(d) **Discretion to Require Additional Fees.** In instances where the review of an Application for a Personal Wireless Service Facility Site Permit is or will be unusually costly to the Department or to other City departments, the Director, in his or her discretion, may, after consulting with other applicable City departments, agencies, boards, or commissions, require an Applicant for a Personal Wireless Service Facility Site Permit to pay a sum in excess of the amounts charged pursuant to this Section 1527. This additional sum shall be sufficient to recover actual costs incurred by the Department and/or other City departments, agencies, boards, or commissions, in connection with an Application for a Personal Wireless Service Facility Site Permit and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees.
(e) Deposit of Fees. All fees paid to the Department for Personal Wireless Service Facility Site Permits shall be deposited in the Public Works Excavation Fund established by San Francisco Administrative Code Section 10.100-230. All other fees shall go directly to the appropriate City department.

(f) Reimbursement of City Costs. A City department may determine that it requires the services of a technical expert in order to evaluate an Application for a Personal Wireless Service Facility. In such case, the Department shall not approve the Application unless the Applicant agrees to reimburse the applicable City department for the reasonable costs incurred by that department for the services of a technical expert.

SEC. 1528. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Article or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivision paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid or ineffective.

Section 3. The San Francisco Administrative Code is hereby amended to read as follows:

Sec. 11.9 UTILITY CONDITIONS PERMIT, PERSONAL WIRELESS SERVICE FACILITIES SITE PERMIT.

(a) Utility Conditions Permit.
Required for Providers of Telecommunications Service, State Video Service and Personal Wireless Service. The Department of Public Works shall require a Person to obtain a Utility Conditions Permit prior to the construction, installation, or maintenance of Facilities in the Public Rights-of-Way that will be used to provide Telecommunications Service, State Video Service or Personal Wireless Service. UCPs shall be issued by the Department of Public Works in a manner consistent with Applicable Law to Persons who are willing to comply with the City's requirements regarding the physical use and occupation of the Public Rights-of-Way and who have: (A) authority to occupy the Public Rights-of-Way pursuant to California Public Utilities Code Section 7901; (B) authority to occupy the Public Rights-of-Way pursuant to California Public Utilities Code Section 5885; or (C) a license to provide Personal Wireless Service issued under federal law. Persons intending to construct, install, or maintain Facilities to provide Telecommunications Services, State Video Service or Personal Wireless Service shall prove their legal right to occupy and use the Public Rights-of-Way by providing the Department of Public Works a copy of their current: (a) certificate of public convenience and necessity issued by the CPUC (which shall expressly state the Person's authority to provide facilities-based Telecommunications Service); (b) State Video Service Franchise issued by the CPUC; or (c) license to provide Personal Wireless Service issued by the FCC. The Department of Public Works shall include in a UCP such conditions, in addition to those already set forth in Applicable Law, as may be required to govern the Permittee's construction, installation, or maintenance of Facilities in the Public Rights-of-Way to protect and benefit the public health, safety and welfare. The terms and conditions of a UCP shall be limited to those areas consistent with the City's authority under Applicable Law. A UCP shall have a term of no longer than two (2) years and may be renewed in accordance with requirements established by the Department in the UCP. A UCP shall provide that the Permittee is not entitled to construct, install, or maintain Personal Wireless Service Facilities.
in the Public Rights-of-Way without obtaining a Personal Wireless Service Facilities Site Permit under Section 11.9(b) below Article 25 of the San Francisco Public Works Code.

(2) (b) UCP Fee. Any Person required to obtain or renew a UCP shall pay to the Department of Public Works a non-refundable application fee of two thousand dollars ($2,000.00) to compensate the City for all costs (including the City Attorney's costs) related to: -(A) establishing the Person's authority to occupy the Public Rights-of-Way; (B) establishing the terms on which Persons may occupy the Public Rights-of-Way; and (C) granting, monitoring, enforcing, renewing, revising or revoking UCPs. These fees shall be deposited in the Public Works Excavation Fund established by Section 10.100-230 of the San Francisco Administrative Code.

(b)—Personal Wireless Service Facilities Site Permit:

(1) Required for Personal Wireless Service Facilities. The Department of Public Works shall require a Permittee to obtain a Personal Wireless Service Facilities Site Permit to install, construct, and maintain Personal Wireless Service Facilities in the Public Rights-of-Way. The Department of Public Works shall include in a Personal Wireless Service Facilities Site Permit such conditions, in addition to those already set forth in Applicable Law, as may be required to govern the construction, installation, or maintenance of Personal Wireless Service Facilities in the Public Rights-of-Way to protect and benefit the public health, safety, and welfare. The terms and conditions of a Personal Wireless Service Facilities Site Permit shall be limited to those areas consistent with the City's authority under Applicable Law. A Personal Wireless Service Facilities Permit shall have a term of no longer than two (2) years and may be renewed in accordance with requirements established by the Department in the Personal Wireless Service Facilities Site Permit.

(2) Procedure for Personal Wireless Service Facilities Site Permits. The Department of Public Works shall implement a procedure for issuing Personal Wireless Service Facilities Site Permits that is consistent with Applicable Law and the requirements of this Section.

Supervisors Avalos, Campos, Mar
(A) Review by the Planning Department. The Department of Public Works shall submit to the Planning Department for review any application for a Personal Wireless Service Facilities Site Permit allowing for the construction, installation, or maintenance of Personal Wireless Service Facilities: (i) on historic, historically or architecturally significant, decorative, or specially designed utility poles; (ii) in a historic or locally significant district; (iii) adjacent to a historic, architecturally significant or locally significant building; or (iv) on a street where the City and County of San Francisco General Plan has identified the presence of valued scenic resources that should be protected and conserved. The Planning Department shall not recommend approval of a Personal Wireless Service Facilities Site Permit unless the Planning Department determines that a Personal Wireless Service Facilities in the proposed location is consistent with the public health, safety, convenience and general welfare and will not unreasonably affect, intrude upon or diminish any of the identified City resources. Where review by the Planning Department is required, the Department of Public Works shall not issue a Wireless Services Facilities Site Permit unless the Planning Department has recommended approval.

(B) Review by the Recreation and Park Department. The Department of Public Works shall submit to the Recreation and Park Department for review any application for a Personal Wireless Service Facilities Site Permit allowing for the construction, installation, or maintenance of a Personal Wireless Service Facility adjacent to a City park or open space. The Recreation and Park Department shall not recommend approval of a Personal Wireless Service Facilities Site Permit unless the Recreation and Park Department determines that a Personal Wireless Service Facility in the proposed location will not unreasonably affect, intrude upon or diminish a City park or open space. Where review by the Recreation and Park Department is required, the Department of Public Works shall not issue a Wireless Services Facilities Site Permit unless the Recreation and Park Department has recommended approval.

(C) Review by the Department of Public Health. The Department of Public Works shall submit to the Department of Public Health for review any application for a Personal Wireless Service
Facilities Site Permit allowing for the construction, installation, or maintenance of a Personal Wireless Service Facility. The Department of Public Health shall not recommend approval of a Personal Wireless Service Facilities Site Permit unless the Department of Public Health determines that any human exposure to radio-frequency emissions from the proposed Personal Wireless Service Facility is within limits established by the FCC. The Department of Public Works shall not issue a Wireless Services Facilities Site Permit unless the Department of Public Health has recommended approval.

(3) Personal Wireless Service Facilities Site Permit Fees:

(A) Fees of the Department of Public Works. An applicant for a Personal Wireless Service Facilities Site Permit shall pay to the Department of Public Works: (i) a non-refundable application fee of seventy-five dollars ($75.00) for each Personal Wireless Service Facility contained in the application to compensate the Department of Public Works for all costs related to reviewing the application and; (ii) a non-refundable time and materials inspection fee not to exceed one hundred fifty dollars ($150.00) for each Personal Wireless Service Facility contained in the application to compensate the Department of Public Works for all costs related to inspecting any Personal Wireless Service Facility constructed under a Personal Wireless Service Facilities Site Permit to ensure compliance with all of the terms and conditions contained therein, including any costs incurred by the Department of Public Health to confirm that human exposure to radio frequency emissions from the Personal Wireless Services Facility is within FCC limits.

(B) Fees of Other City Departments. Where as required under this Section the Department of Public Works has referred an application for a Personal Wireless Service Facilities Site Permit to the Planning Department, the Recreation and Park Department or the Department of Public Health, the applicant shall pay the following additional fees for each Personal Wireless Service Facility contained in an application for a Personal Wireless Service Facilities Site Permit: (i) a Planning Department non-refundable fee of one hundred five dollars ($105.00) plus time and materials; (ii) a Recreation
and Park Department non-refundable fee of one hundred twenty-five dollars ($125.00) and (iii) a Department of Public Health non-refundable fee of one hundred thirty-five dollars ($135.00) plus time and materials for any review that takes more than thirty (30) minutes. The purpose of these fees is to compensate the applicable City department for all costs related to reviewing an application for a Personal Wireless Service Facilities Site Permit.

(C) Adjustment of Fees for CPI. Beginning with fiscal year 2008-2009, the fees established herein may be adjusted each year, without further action by the Board of Supervisors, to reflect changes in the relevant Consumer Price Index ("CPI") (as determined by the Controller). No later than April 15th of each year, the Director of Public Works shall submit the current fee schedule to the Controller, who shall apply the CPI adjustment to produce a new fee schedule for the following year. No later than May 15th of each year, the Controller shall file a report with the Board of Supervisors reporting the new fee and certifying that: (i) the fees produce sufficient revenue to support the costs of providing the services for which the fee is charged; and (ii) the fees do not produce revenue that exceeds the costs of providing the services for which each permit fee is charged.

(D) Discretion to Require Additional Fees. In instances where the review of an application for a Personal Wireless Service Facilities Site Permit is or will be unusually costly to the Department of Public Works or to other City agencies, the Director of Public Works, in his or her discretion, may require a Person filing an application for a Personal Wireless Service Facilities Site Permit to pay a sum in excess of the amount charged pursuant to this section. This additional sum shall be sufficient to recover actual costs incurred by the Department of Public Works and/or other agencies, boards, commissions, or departments of the City in connection with an application for approval of a Personal Wireless Service Facilities Permit and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director of Public Works, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees.
(E) Deposit of Fees. All fees paid to the Department of Public Works for Personal Wireless Service Facilities Site Permits shall be deposited in the Public Works Excavation Fund established by Section 10.100-230 of the San Francisco Administrative Code. All other fees shall go directly to the appropriate City department.

Section 4. Retroactivity and Applicability. This section shall not be codified. This ordinance repeals Chapter 11, Article 1, Section 11.9(b) of the San Francisco Administrative Code, which was enacted in Ordinance No. 214-07.

(a) Retroactivity. The Board of Supervisor intends that the requirements of this ordinance shall be retroactive. Any pending application for a permit under Chapter 11, Article 1, Section 11.9(b) of the San Francisco Administrative Code that is not final on the effective date of this ordinance shall be subject to the requirements of this ordinance.

(b) Applicability. The Board of Supervisor intends that the requirements of this ordinance shall apply to Personal Wireless Service Facilities installed in the Public Rights-of-Way prior to the effective date of this ordinance as follows:

(1) The Department shall not renew any permit issued under former Section 11.9(b). The Department shall instead require that any Personal Wireless Service Facility permitted under that section be subject to all of the requirements of this ordinance.

(2) The Department shall require that any Personal Wireless Service Facility installed in the Public Rights-of-Way prior to the effective date of Ordinance No. 214-07 be subject to all of the requirements of this ordinance.

Section 5. Environmental Findings. The Planning Department has reviewed the ordinance in accordance with the California Environmental Quality Act (California Public Resources Code Section 21000, et seq.). The Board of Supervisors hereby affirms the
determination of the Planning Department, which is on file with the Clerk of the Board of
Supervisors in File No. 100041, and which is hereby declared to be a part of this ordinance
as if set forth fully herein.

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

By:

WILLIAM K. SANDERS
Deputy City Attorney

Supervisors Avalos, Campos, Mar
BOARD OF SUPERVISORS

Page 54
December 6, 2010
File Number: 100041  Date Passed: January 04, 2011

Ordinance amending the San Francisco Public Works Code by: (1) adding Article 25, Sections 1500 through 1528, to establish new requirements for Personal Wireless Service Facility Site Permits and to increase certain fees for obtaining such permits, (2) amending the San Francisco Administrative Code by amending Chapter 11, Article 1, Section 11.9, to eliminate obsolete provisions related to such permits, (3) making the provisions of the ordinance retroactive, and (4) making environmental findings.

December 06, 2010 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

December 06, 2010 Land Use and Economic Development Committee - CONTINUED AS AMENDED

December 13, 2010 Land Use and Economic Development Committee - RECOMMENDED AS COMMITTEE REPORT

December 14, 2010 Board of Supervisors - PASSED, ON FIRST READING
   Ayes: Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

January 04, 2011 Board of Supervisors - FINALLY PASSED
   Ayes: Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100041

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/4/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

UNSIGNED

Mayor Gavin Newsom

1-14-11
Date Approved
Date: January 14, 2011

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

Clerk of the Board

File No. 100041