

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

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

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

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

22 Section 1. Environmental Findings.

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

1 Section 2. Background and General Findings.

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

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

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

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

- 1 (2) The safety, needs, and convenience of humans shall be prioritized over any
2 emerging technology use;
- 3 (3) The needs of the most vulnerable members of our community, including
4 seniors, children, and those with mobility or other limitations, should be adequately
5 considered;
- 6 (4) The testing or piloting of any technology should provide the greatest
7 emphasis on ensuring public safety, including a manual human override as appropriate;
- 8 (5) Any direct or indirect costs on the use of public infrastructure should be paid
9 by the owner or operator of the technology and not by the public;
- 10 (6) Data sharing with relevant public agencies should be a condition of any
11 authorization to use the public realm;
- 12 (7) In evaluating the public benefit of any emerging technology, the potential
13 impact on congestion on roads, sidewalks, and public spaces should be carefully considered;
- 14 (8) Where appropriate, provide preference to those technologies that support
15 rather than reduce the labor force in San Francisco;
- 16 (9) Where appropriate and feasible, technologies should include labeling,
17 individual permit identifiers, business information, and emergency contact information for
18 those responsible for the deployment of products;
- 19 (10) Where technology should protect private information of individuals, such
20 information should be protected and appropriate informed consent given;
- 21 (11) Public-Private partnerships in Emerging Technology should be considered
22 and evaluated to the highest standard, including any benefits, impacts, and costs to the City
23 or the public infrastructure; and
- 24 (12) Any regulation should be nimble and responsive to changing conditions
25 and demands.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 “Charter” means the Charter of the City.

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

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

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

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

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

5 “Department” means the Department of Public Works.

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

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

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

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

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

10 “OET” means the Office of Emerging Technology

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

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

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

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

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

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

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

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

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

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

10 “State” means the State of California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (a) Pilot Project Approval Required. To operate an Emerging Technology upon, over, or
24 under City property or the public right-of-way, the Emerging Technology Company must obtain
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1 Approval of a Pilot Project Proposal from the OET Director, comply with all conditions of the
2 Approval, and receive a Notice to Proceed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (l) Approval Decision.

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

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

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

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

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

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

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

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

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

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

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

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

18 (p) Appeals.

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

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

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

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

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

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

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

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

16 (b) Definitions.

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

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

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

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

23 “Notice of Application” means a written notice on a form provided or approved by Public
24 Works that indicates an application for a Pilot Permit is being considered for approval by Public
25 Works.

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

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

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

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

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

8 "Pilot Project"

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

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

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

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

17 "Special Jurisdiction Agencies" has the same meaning as in Administrative Code Section
18 22G.2.

19 "Testing" means the operation and evaluation of an Emerging Technology or Emerging
20 Technology Device for research and development for anticipated commercial uses and for the City's
21 evaluation of whether the operation of the Emerging Technology Device would warrant the creation of
22 a permit program that would allow the Emerging Technology Device to operate beyond the Pilot Term
23 in light of the effects of the Emerging Technology on public health, safety, welfare, and convenience.

24 (c) **Permit Required.** It shall be unlawful for any person, including but not limited to natural
25 persons and businesses, to operate an Emerging Technology Device upon, above, or below any public

1 right-of-way (as defined in Article 2.4 of the Public Works Code) or public property within Public
2 Works' jurisdiction without a Pilot Permit, unless otherwise authorized by federal or state law.
3 Operation of an Emerging Technology Device upon, above, or below any public right-of-way or public
4 property without all required permits shall be deemed a public nuisance. To be eligible to apply for a
5 Pilot Permit under this Section 723.5, the applicant must first obtain Approval, as defined in
6 Administrative Code Section 22G.2, to perform a Pilot Project and pay all applicable fees.

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

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

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

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

24 (2) Copy of business license;

25 (3) Tax identification number;

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

3 (5) Description and purpose of Testing;

4 (6) Proposed dates and times of Testing;

5 (7) Proposed paths of travel and identification of any portion of the paths of travel that
6 are within or adjacent to the “High Injury Network” as designated by the City’s Vision Zero SF road
7 safety initiative;

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

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

12 (10) Proposed public notice plan.

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

17 (g) **Public Notice and Opportunity to Comment.** Upon receiving authorization to proceed to
18 post Notices of Application, the applicant shall post Notices of Application for a period of 20 calendar
19 days at the Testing site(s) according to a public notice plan approved by Public Works, and the
20 applicant shall also provide any Notice of Application to Stakeholders as defined in Administrative
21 Code Section 22G.2 and other interested persons, as may be prescribed by the Director’s Regulations.
22 The applicant shall submit to Public Works photographic evidence that the Notices of Application were
23 posted in accordance with this subsection (g). The applicant shall remove all Notices of Application
24 the day after the expiration of the 20-day notice period. Public Works shall accept public comments on
25 the Notice of Application for 20 calendar days from the first day the Notice of Application was posted.

1 Public Works shall also list pending applications and all approved Pilot Permits on the Public Works
2 website.

3 **(h) Public Hearings.**

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

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

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

15 **(1) Conditions of Approval.** The Director, in consultation with other City departments,
16 as applicable, shall impose any conditions of approval that the Director deems necessary or
17 appropriate to protect the public peace, safety, health, and welfare of pedestrians and other users of the
18 sidewalks, public right-of-ways, and public property ("Conditions of Approval"). The Director shall
19 have the authority to add Conditions of Approval to modify, or suspend the Pilot Permit to address
20 public peace, safety, health, and welfare issues arising from the Testing, including but not limited to
21 conditions intended to promote safe operations within the High Injury Network. Upon the Director's
22 determination that the permittee has failed to comply with the Conditions of Approval, the Director
23 shall provide the permittee with written notification of the time and date of a public hearing to consider
24 the grounds for revoking, modifying, or suspending the Pilot Permit. Following the public hearing, the
25 Director shall issue an order revoking or modifying the Pilot Permit for good cause. If the failure to

1 comply with the Conditions of Approval poses an imminent threat to public safety, health, or welfare,
2 the Director shall immediately suspend the permit pending a final decision to revoke or modify the
3 Pilot Permit. The Director’s modification, revocation, or suspension of the Pilot Permit may be
4 appealed to the Board of Appeals under subsection (h)(2).

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

9 (A) all data collected during the Testing of an Emerging Technology Device,
10 including any Global Positioning System (“GPS”) or photographic data;

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

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

18 (j) **Operational Requirements.** The Testing of Emerging Technology Devices shall comply
19 with the following requirements, if applicable, and any additional requirements adopted by the Public
20 Works Director as needed to protect the public health, safety, and welfare. To evaluate whether a
21 permittee has complied with these requirements, Public Works shall seek the review and consultation of
22 any other appropriate City department.

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

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

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

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

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

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

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

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

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

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

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

18 (l) Fines and Penalties.

19 (1) Criminal Penalty. Any permittee that violates any of the provisions of this Section
20 723.5 shall be guilty of an infraction. Every violation determined to be an infraction is punishable by
21 (A) a fine not exceeding \$100 for the first violation within one year; (B) a fine not exceeding \$200 for a
22 second violation within one year from the date of the first violation; (C) a fine not exceeding \$500 for
23 the third and each additional violation within one year from the date of the first violation. No criminal
24 penalty pursuant to this Section 723.5 may be imposed on the employee or staff of any company,
25 corporation, or other business entity that is operating an Emerging Technology Device in violation of

1 this Section 723.5. A permittee that has been fined for a second or subsequent infraction herein may be
2 authorized to submit a written request for a hardship waiver seeking to reduce the amount of the
3 second or subsequent fine on the grounds that the permittee made a bona fide effort to comply after the
4 first violation and that payment of the full amount of the fine would impose an undue financial burden
5 on the permittee.

6 **(2) Civil Penalty.**

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

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

21 **(3) Administrative Fine.** In addition to the criminal and civil penalties authorized by
22 subsections (1)(1) and (1)(2), Public Works employees designated in Section 38 of the Police Code may
23 issue administrative citations for such violations. The administrative penalty or fine shall not exceed
24 \$1,000 per day for each violation. Administrative penalties shall be assessed, enforced, and collected
25 in accordance with Section 39-1 of the Police Code and administrative fines shall be assessed,

1 enforced, and collected in accordance with Administrative Code Chapter 100, which is incorporated by
2 reference herein.

3 Section 5. The Administrative Code is hereby amended by revising Section 2A.190 to
4 read as follows:

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

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

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

16 (c) The Director of Public Works shall designate a deputy or other employee as City
17 Engineer. The City Engineer shall possess the same power in the City and County as is or
18 may from time to time be given by law to city engineers, and the official acts of the City
19 Engineer shall have the same validity and be of the same force and effect as are or may be
20 given by law to those of city engineers.

21 (d) The Director of Public Works shall designate a deputy or other employee as
22 County Surveyor. The County Surveyor shall possess the same power in the City and County
23 in making surveys, plats and certificates as is or may from time to time be given by law to
24 county surveyors, and the official acts and all plats, surveys and certificates of the County
25

1 Surveyor shall have the same validity and be of the same force and effect as are or may be
2 given by law to those of county surveyors.

3 (e) Any and all references to the "Bureau of Architecture," "Bureau of Engineering," or
4 "Bureau of Construction Management" in the San Francisco Municipal Code is deemed to be
5 a reference to the "Department of Public Works." Any reference to "San Francisco Public Works"
6 or "Public Works" in the Municipal Code is deemed to be a reference to the Department of Public
7 Works.

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

11 Section 6. The Public Works Code is hereby amended by revising Sections 2.1.3 and
12 723, to read as follows:

13 SEC. 2.1.3. ADDITIONAL FEES.

14 In instances where the actual costs of the administration or processing of any application,
15 approval, or permit is in excess of or will exceed the fee amount established pursuant to section
16 2.1.1, the Director, in his or her discretion, may require an applicant or permittee to pay a sum
17 in excess of the subject fee amounts. This additional sum shall be sufficient to recover actual
18 costs that the Department incurs and shall be charged on a time and materials basis. The
19 Director also may charge for any time and materials costs that other agencies, boards,
20 commissions, or departments of the City incur in connection with the processing or
21 administration of a particular application, approval, or permit. Whenever additional fees are or
22 will be charged, the Director, upon request of the applicant or permittee, shall provide in
23 writing the basis for the additional fees or an estimate of the additional fees to be charged.

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

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

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

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

14 **SEC. 39-1. PROCEDURE FOR ASSESSMENT AND COLLECTION OF**
15 **ADMINISTRATIVE PENALTIES FOR SPECIFIED LITTERING AND NUISANCE**
16 **VIOLATIONS.**

17 (a) This Section 39-1 shall govern the imposition, assessment, and collection of
18 administrative penalties imposed pursuant to Sections 37, 38, and 63 of the Police Code;
19 Sections 41.13, 283.1, 287, 288.1 and 600 of the Health Code; ~~and~~ Sections 170, 173, 174,
20 174.2, 723, 723.5, 724.5, and 794 of the Public Works Code; and Section 22G.4 of the
21 Administrative Code.

22 * * * *

23 Section 8. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

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

9 Section 10. Severability. If any section, subsection, sentence, clause, phrase, or word
10 of this ordinance, or any application thereof to any person or circumstance, is held to be
11 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
12 shall not affect the validity of the remaining portions or applications of the ordinance. The
13 Board of Supervisors hereby declares that it would have passed this ordinance and each and
14 every section, subsection, sentence, clause, phrase, and word not declared invalid or
15 unconstitutional without regard to whether any other portion of this ordinance or application
16 thereof would be subsequently declared invalid or unconstitutional.

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

22

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

25 By: _____

CHRISTOPHER T. TOM
Deputy City Attorney

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