

1 [Public Works Code - Excavation by Microtrenching for Fiber]

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3 **Ordinance amending the Public Works Code to allow the use of microtrenching to**
4 **install fiber-optic facilities; and affirming the Planning Department’s determination**
5 **under the California Environmental Quality Act.**

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

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

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13 Section 1. Findings.

14 (a) The Planning Department has determined that the actions contemplated in this
15 ordinance comply with the California Environmental Quality Act (California Public Resources
16 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
17 Supervisors in File No. 230867 and is incorporated herein by reference. The Board affirms
18 this determination.

19 (b) The City enacted Article 2.4 of the Public Works Code to regulate excavating in the
20 public right-of-way under the jurisdiction of the Department of Public Works (“Department”). In
21 addition to the requirements set forth in Article 2.4, the Department has the authority to adopt
22 orders, regulations, standard plans, and specifications in order to preserve and maintain the
23 public health, safety, welfare, and convenience. The Department has used this authority to
24 regulate the technical means and methods of excavation through the adoption of various
25 Department regulations and orders.

1 (c) Recently-enacted state law (California Government Code Section 65964.5)
2 requires local governments to allow microtrenching in the public right-of-way for the
3 installation of underground fiber-optic facilities, subject to certain conditions. This ordinance
4 codifies the definitions and standards in state law to facilitate the Department's permitting of
5 microtrenching for fiber-optic facilities, including the further implementation of this ordinance
6 through the adoption of Department regulations and orders.

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8 Section 2. Article 2.4 of the Public Works Code, Subarticle I, is hereby amended by
9 revising Sections 2.4.2, 2.4.3, and 2.4.4, to read as follows:

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11 **SEC. 2.4.2. PERMITS REQUIRED TO EXCAVATE.**

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13 (e) The Department shall issue permits to excavate that allow the permittee to use
14 microtrenching to install fiber-optic facilities in the public right-of-way, subject to any orders,
15 regulations, or standard plans and specifications the Department may adopt.

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17 **SEC. 2.4.3. DEPARTMENT ORDERS AND REGULATIONS.**

18 (a) In addition to the requirements set forth in this Article, the Department may adopt
19 such orders or regulations as it deems necessary in order to preserve and maintain the public
20 health, safety, welfare, and convenience. Each excavation in the public right-of-way pursuant
21 to this Article shall be performed in accordance with the standard plans and specifications of
22 the Department and any Department orders or regulations, except where the Director, in ~~his or~~
23 ~~her~~ the Director's discretion, grants prior written approval to deviate from such standard plans
24 and specifications, orders, or regulations. The Director shall develop guidelines to implement
25 the granting of waivers authorized pursuant to this Article. Furthermore, excavation in the

1 public right-of-way shall conform to the orders, regulations, and rules of the Municipal
2 Transportation Agency.

3 (b) The Department may adopt such orders, regulations, or standard plans and specifications
4 as it deems necessary or appropriate to allow a permittee to use microtrenching to install fiber-optic
5 facilities in the public right-of-way; provided, however, the Department shall (1) not require any
6 increase in the requested width or depth of any microtrench unless it specifically finds that the increase
7 would be necessary to preserve and maintain the public health, safety, welfare, and convenience, and
8 (2) not require any restoral or modification to any area outside the microtrench, provided that the
9 microtrenching complies with the orders, regulations, standard plans, specifications, and any other
10 conditions imposed on the permit. In such orders, regulations, standard plans, specifications, and
11 conditions, the Director may specify in an order those standard plans and specifications that the
12 Department may waive in a permit that allows for the use of microtrenching.

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14 **SEC. 2.4.4. DEFINITIONS.**

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16 "Facility" or "facilities" shall include, but not be limited to, any and all cables, cabinets,
17 ducts, conduits, converters, equipment, drains, handholds, manholes, pipes, pipelines, splice
18 boxes, surface location markers, tracks, tunnels, utilities, vaults, and other appurtenances or
19 tangible things owned, leased, operated, or licensed by an owner or person, that are located
20 or are proposed to be located in the public right-of-way.

21 "Fiber-optic facilities" shall mean fiber-optic cables, and related ancillary equipment such as
22 conduit, ancillary cables, hand holes, vaults, and terminals.

23 "Incremental cost" shall mean the cost associated with adding City communications
24 infrastructure to an excavation project, including the cost of the materials needed by the City
25 and any additional labor cost.

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2 "Medium excavation project" shall mean any excavation of more than 100 but no
3 greater than 1,000 square feet.

4 "Microtrench" shall mean an open trench that is less than or equal to 4 inches in width and not
5 less than 12 inches nor more than 26 inches in depth, and that is created for the purpose of installing a
6 subsurface pipe or conduit for fiber-optic facilities.

7 "Microtrenching" shall mean excavation of a microtrench.

8 "Moratorium street" shall mean any block that has been reconstructed, repaved, or
9 resurfaced by the Department or any other owner or person in the preceding five-year period.

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12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

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

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Giulia Gualco-Nelson
11 GIULIA GUALCO-NELSON
 Deputy City Attorney

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