

BOARD of SUPERVISORS



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MEMORANDUM

Date: September 18, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 250925
Public Works Code - Pollution Liability Insurance Requirements for Excavators

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure
- ☐ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - ☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (*Planning Code, Section 1004.3*)
 - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - ☐ Mills Act Contract (*Government Code, Section 50280*)
 - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

[Public Works Code - Pollution Liability Insurance Requirements for Excavators]

Ordinance amending the Public Works Code to authorize the Department of Public Works to determine the circumstances under which contractors performing excavation in the public right-of-way shall be required to obtain a pollution liability insurance policy; and affirming the Planning Department's determination under the California Environmental Quality Act.

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

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

Section 1. Environmental Findings.

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

Section 2. General Findings.

(a) San Francisco's fragmented and protracted permitting processes hinder small businesses and impede housing development. A fast, predictable, and transparent permitting process will create new jobs, businesses, and homes, as well as facilitate the City's economic

1 recovery from the COVID-19 pandemic. Commonly referred to as "PermitSF," the City's effort
2 to reform permitting consists of improving the customer experience by streamlining approval
3 processes; promoting government accountability to provide certainty about the delivery of
4 government services; and centralizing technology to create a single point of permitting
5 access.

6 (b) This ordinance authorizes the Department of Public Works to determine the
7 specific circumstances under which contractors performing excavation in the public right-of-
8 way shall be required to obtain a pollution liability insurance policy in lieu of the requiring all
9 excavators to obtain a pollution liability insurance policy.

10
11 Section 3. Article 2.4 of the Public Works Code is hereby amended by revising Section
12 2.4.23 to read as follows:

13 **SEC. 2.4.23. LIABILITY AND INDEMNIFICATION.**

14 Each permit, except one obtained by a municipal excavator, shall incorporate by
15 reference and require the owner and its agent, if any, to comply with the liability, indemnity,
16 insurance, and taxable possessory interest provisions set forth below in this Section;
17 provided, however, that the Director, with the concurrence of the City Controller and City Risk
18 Manager, may modify the indemnity and insurance provisions as they pertain to a particular
19 permit.

20
21 * * * *

22 **(c) Insurance.**

23 (i) Each owner or its agent shall maintain in full force and effect, throughout the
24 term of the permit, an insurance policy or policies issued by an insurance company or
25

1 companies satisfactory to the City's Controller and Risk Manager. Policy or policies shall
2 afford insurance covering all operations, vehicles, and employees, as follows:

3 (1) Workers' Compensation with employers' liability limits not less than
4 \$1,000,000 each accident;

5 (2) Commercial general liability insurance with limits not less than
6 \$1,000,000 each occurrence combined single limit for bodily injury and property damage,
7 including contractual liability; personal injury; explosion, collapse, and underground (xcu);
8 products; and completed operations;

9 (3) Business automobile liability insurance with limits not less than
10 \$1,000,000 each occurrence combined single limit for bodily injury and property damage,
11 including owned, nonowned, and hired auto coverage, as applicable;

12 (4) If required by Department regulations or a Public Works Order,
13 ~~Contractors'~~ pollution liability insurance, on an occurrence form, with limits not less than
14 \$1,000,000 each occurrence combined single limit for bodily injury and property damage and
15 any deductible not to exceed \$25,000 each occurrence.

16 * * * *

17
18 Section 4. Effective Date. This ordinance shall become effective 30 days after
19 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
20 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
21 of Supervisors overrides the Mayor's veto of the ordinance.

22
23 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Christopher T. Tom
CHRISTOPHER T. TOM
Deputy City Attorney

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LEGISLATIVE DIGEST

[Public Works Code - Pollution Liability Insurance Requirements for Excavators]

Ordinance amending the Public Works Code to authorize the Department of Public Works to determine the circumstances under which contractors performing excavation in the public right-of-way shall be required to obtain a pollution liability insurance policy; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Currently, each recipient of an excavation permit issued under Article 2.4 of the Public Works Code must maintain certain prescribed insurance policies, including contractors' pollution liability insurance, for the duration of the excavation permit.

Amendments to Current Law

This ordinance would amend the Public Works Code to authorize the Department of Public Works to determine the specific circumstances under which contractors performing excavation in the public right-of-way would be required to obtain a pollution liability insurance policy. In lieu of the requiring all excavators to obtain a pollution liability insurance policy, the ordinance would authorize Department of Public Works to issue regulations or orders that specify the circumstances under which a contractor performing excavation in the public right-of-way would need to obtain a pollution liability insurance policy.

Background Information

This ordinance furthers the City's efforts under "PermitSF" to reform permitting and improve the customer experience by streamlining approval processes, promoting government accountability to provide certainty about the delivery of government services, and centralizing technology to create a single point of permitting access.

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