

1 [Street Space Occupancy.]

2  
3 **Ordinance amending Public Works Code Sections 724 through 724.9 concerning street**  
4 **space occupancy permits to modify the fee collection structure, provide for fee**  
5 **refunds, assess right-of-way occupancy costs, establish minimum notice**  
6 **requirements, and impose other related procedures; amending Traffic Code Section**  
7 **33.1A to replace existing provisions concerning special parking restrictions with a**  
8 **requirement that the Department of Parking and Traffic and Department of Public**  
9 **Works coordinate jurisdictional activities over street space occupancy permits.**

10 Note: Additions are single-underline italics Times New Roman;  
11 deletions are ~~strikethrough italics Times New Roman~~.  
12 Board amendment additions are double underlined.  
13 Board amendment deletions are ~~strikethrough normal~~.

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

15 Section 1. The San Francisco Public Works Code is hereby amended by amending  
16 Sections 724-724.9, to read as follows:

17 SEC. 724. TEMPORARY OCCUPANCY OF STREET - PERMITS REQUIRED.

18 (a) Street Space Occupancy Permit. A permit will be required for occupying any  
19 part of the street or sidewalk for building construction operations or for any other purpose, and  
20 shall be granted only to the owner or lessee of the premises fronting thereon or his authorized  
21 agent.

22 (1) Material and equipment shall not occupy more than ~~1/3 of the~~  
23 roadway the designated parking lane width and not more than 1/2 of the official sidewalk width  
24 along the boundary of the fronting property unless permission is granted pursuant to Sections  
25 724.7 and 724.8 for temporary occupancy of additional street space. For purposes of this  
Subsection, material and equipment shall mean only construction material used at the site, construction

1 equipment, vehicles bearing the logo or other identifying information so that the City could verify that  
2 it belongs to the contractor or a subcontractor working at the site and refuse containers for  
3 construction debris. For purposes of Section 724.1(b), material and equipment also shall include any  
4 material or equipment related to the proposed use. For purposes of this Subsection, parking lane width  
5 shall not exceed eight feet in width, and if such lane also is designated as a commute lane, such lane  
6 may not be occupied unless permission is granted pursuant to Sections 724.7 and 724.8 for temporary  
7 occupancy of additional street space.

8 (2) A minimum clearance of four feet, six inches must be maintained  
9 at all times between the materials and equipment and the outer rail of any railroad track. In  
10 addition, a minimum clearance of four feet must be maintained at all times to accommodate pedestrian  
11 path of travel requirements. Clearance of materials from fire hydrants, fire alarm boxes and  
12 value covers shall be as required by the Fire Department. Clearance of materials from traffic  
13 signal controllers and pull boxes shall be as required by the Department of Public Works.

14 (3) All sand, dirt or other materials shall be prevented from being  
15 blown or moved to other parts of the street, or from interfering with other property use. The  
16 gutters shall not be obstructed.

17 (4) Lights and barriers, barricades, signs, cones, and other devices for  
18 pedestrian and traffic safety, and other requirements shall be provided as ~~required by the~~ set forth  
19 in Department of Public Works orders or regulations. ~~The permit shall specify the allotted time of~~  
20 ~~occupancy, but such time shall terminate immediately upon the completion of the building operations~~  
21 ~~or other work for which the permit is issued or at such time prior thereto.~~

22 (5) For purposes of Sections 724 et seq., building construction operations  
23 shall include all work related to the construction, demolition, maintenance, repair, or replacement of a  
24 building.

25 (b) Permit Applications.

1                                   (1) An applicant for a permit shall submit to the Department a written  
2 request for a permit no sooner than fifteen days prior to the initiation of the proposed occupation of  
3 street space. The permit request shall specify the duration and extent of the proposed occupancy and  
4 all other information as set forth in Departmental orders or regulations.

5                                   (2) A permit applicant also shall request in writing the basis for any  
6 proposed modifications to standard permit requirements, such as extended hours of occupancy for the  
7 storage of materials and equipment.

8                                   (c) Permit Decisions.

9                                   (1) The Director or the Department, in his or her discretion, may approve,  
10 conditionally approve, or disapprove a street space occupancy permit. When issuing permits, permit  
11 modifications or extending the duration of permits, the Director may impose any conditions consistent  
12 with the public health, safety, welfare, and convenience, including, but not limited to, appropriate time,  
13 place, and manner restrictions and considerations to minimize neighborhood impacts. If the Director  
14 of the Department approves or conditionally approves a permit, said permit shall be issued on a  
15 monthly basis with a minimum term of one month and a maximum term of six months. In the absence of  
16 special conditions, a permit shall entitle the permittee to occupy the specified street space for a period  
17 no longer than 7:00am-6:00pm, seven days a week for the term of the permit.

18                                   (2) Appeals. The Director's decision on a permit shall be appealable to the  
19 Board of Appeals.

20                                   (d) Permit Modification.

21                                   (1) On seven days prior written notice to the Department, a permittee may  
22 seek to modify any terms or conditions of an existing valid permit except to extend the duration of a  
23 permit pursuant to Subsection (e) or to obtain an additional street space occupancy pursuant to  
24 Section 724.7 and 724.8 .

1                                   (2) A request for a permit modification shall be accompanied by a \$50.00  
2 processing fee.

3                                   (e) Permit Extension.

4                                   (1) No later than fifteen days prior to expiration of a permit, a permittee may  
5 request in writing that a permit extension be granted to extend the duration of the street space  
6 occupancy.

7                                   (2) The Director shall treat a permit extension request like a new permit, and  
8 the Director, in his or her discretion, may issue or deny the extension or impose new or modified  
9 conditions on the permit extension.

10                                  (f) All street occupancy permits are revocable at the will of the Director. In  
11 addition, when, in the judgment of the Director of Public Works, the public interest or  
12 convenience will be served by the removal of the dirt, debris, materials and equipment or any  
13 portion thereof from the street or sidewalk space the Director shall modify, condition, or revoke  
14 the permit accordingly.

15                   SEC. 724.1. TEMPORARY OCCUPANCY OF STREET-FEES TO BE PAID.

16                                  (a) No permit shall be issued to a private or public entity for the temporary  
17 occupancy of the street for building construction operations unless a fee and public right-of-way  
18 occupancy assessment shall have been are paid, equal to 1/10 of one percent of the total estimated  
19 costs of the proposed construction, with a minimum fee of \$30. The fee shall be \$ 10.45, per month,  
20 per 20 linear feet, or fraction thereof, occupied as measured parallel with the face of curb. In addition  
21 to the fee, the permit applicant shall pay a public right-of-way occupancy assessment of \$ 29.55, per  
22 month, per 20 linear feet, or fraction thereof, occupied as measured parallel with the face of curb. For  
23 purposes of calculating fees and assessment costs, the Department shall use one-month increments  
24 even though the permittee may occupy for less than a one- month term.  
25

1           **(b)** For temporary street space occupancy for any purpose other than a  
2 building construction operation, the fee shall be ~~\$30~~ \$50 per day with no assessment cost. Unless  
3 specified otherwise, such occupation is subject to all provisions of Sections 724 et seq.

4           **(c)** Nonprofit organizations with tax exempt status under the Internal  
5 Revenue Code shall be exempt from payment of the fee where the street occupancy is  
6 necessary for the development of low and moderate income housing as defined by the United  
7 States Department of Housing and Urban Development.

8           **(d)** Refund. If a permittee elects to relinquish all or a portion of the occupied street  
9 space prior to termination of the permit, the permittee may seek a refund of fees and occupancy  
10 assessment from the Department. There shall be no fee charged for a refund request. Refunds shall be  
11 issued based only on one-month increments.

12           **(e)** Fee and Assessment Review. Beginning with fiscal year 2003-2004, the permit  
13 fee and street occupancy assessment set forth in this Section may be adjusted each year, without further  
14 action by the Board of Supervisors, to reflect changes in the relevant Consumer Price Index, as  
15 determined by the Controller. No later than April 15th of each year, the Director shall submit its  
16 current fee and occupancy assessment schedule to the Controller, who shall apply the price index  
17 adjustment to produce a new fee schedule and occupancy assessment for the following year. No later  
18 than May 15th of each year, the Controller shall file a report with the Board of Supervisors reporting  
19 the new fee schedule and occupancy assessment and certifying that: (a) the permit fees produce  
20 sufficient revenue to support the costs of providing the services for which the permit fee is assessed,  
21 and (b) the permit fees do not produce revenue which is significantly more than the costs of providing  
22 the services for which each permit fee is assessed. Notwithstanding the above, the Board of  
23 Supervisors, in its discretion, may modify the street occupancy assessment at any time.

24           **(f)** Additional Fees. In instances where administration of this permit program or  
25 inspection of a street space occupancy is or will be unusually costly to the Department, the Director, in

1 his or her discretion, may require an applicant or permittee to pay any sum in excess of the amounts  
2 charged above. This additional sum shall be sufficient to recover actual costs incurred by the  
3 Department and shall be charged on a time and materials basis. The Director also may charge for any  
4 time and materials costs incurred by other agencies, boards, commissions, or departments of the City  
5 in connection with the administration or inspection of the street space occupancy. Whenever additional  
6 fees are charged, the Director, upon request of the applicant or permittee, shall provide in writing the  
7 basis for the additional fees and an estimate of the additional fees.

8 SEC. 724.2. TEMPORARY OCCUPANCY OF STREET-PERMITTEE TO REPAIR  
9 DEFECTS.

10 The permittee shall be required, ~~forthwith upon issuance of the permit, and the~~  
11 ~~permittee, by acceptance of the permit, agrees to repair or cause the repair of~~ all defects in, and to  
12 keep in repair, that part of the ~~roadway~~ public right-of-way and associated public infrastructure,  
13 including, but not limited to streets signs and parking meters, for which said permit is issued ~~and in~~  
14 ~~all parts of the sidewalk fronting on the premises owned by or leased to the permittee or his principal,~~  
15 which may be or become a hazard to any member of the public lawfully using the same during  
16 the time for which said permit shall be issued or upon termination or expiration of said permit, ~~;~~  
17 The permittee assumes this responsibility regardless of the cause of said defects and whether  
18 said defects ~~existed prior to the issuance of the permit or~~ develop while said permit is in effect. It  
19 shall be presumed that all defects were caused by the permittee unless the permittee can demonstrate  
20 otherwise to the satisfaction of the Director.

21 SEC. 724.3. ~~DEPOSIT REQUIRED. PLACARDS AND SIGNS.~~

22 ~~———— A refundable cash deposit of a minimum of \$10 per linear foot of the sidewalk frontage~~  
23 ~~of area occupied shall be required as a guaranty that the permittee will remove all dirt, debris,~~  
24 ~~materials and equipment from the street in the allotted time and restore the pavement or sidewalk to an~~  
25 ~~acceptable condition. The Department of Public Works shall determine the amount of the cash deposit~~

1 ~~based upon the condition of existing facilities and the potential damage thereto. If not so removed and~~  
2 ~~restored, the Director, after five days' notice in writing posted on the premises, may use as much of the~~  
3 ~~guaranty money as is necessary for cleaning the street, removing materials and equipment, and~~  
4 ~~restoring the pavement. For continuous building operations, a security bond, approved as to form by~~  
5 ~~the City Attorney, may be accepted in lieu of a cash deposit to guarantee that the work herein described~~  
6 ~~will be faithfully executed. The permittee shall deposit additional funds as required to maintain the~~  
7 ~~deposit in the above specified amount.~~

8 (a) Placards. A permittee shall display a placard at the site subject to a street space  
9 occupancy permit. The placard shall be mounted on the exterior of the fronting property, or where the  
10 site is vacant or it is impractical to mount the placard on the fronting property, the permittee may  
11 attach the placard on a post, pole, wall, or other object. A permittee shall mount the placard in a  
12 location where members of the public can easily read the required information but cannot tamper with  
13 the placard. The permittee shall mount the placard 72 hours in advance of the occupancy authorized  
14 in the permit, shall keep the placard posted for the entire term of the permit, and shall remove the it  
15 immediately upon termination of the permit. All information contained on the placard shall be legible.  
16 The placard shall contain the following information: name of the permittee, a telephone number where  
17 the permittee can be reached during the hours of the permit, the duration of the permit including start  
18 and stop dates and hours of use, a geographic description of the street space occupied under the  
19 permit, the permit number, and the Department's street space hotline telephone number. The  
20 Department shall provide a placard to each permittee. It shall be the responsibility of the permittee to  
21 insert the required information, mount the placard, and ensure proper maintenance of the placard. If  
22 any required information on a placard must be modified, the permittee shall obtain a new placard  
23 rather than change the information on the existing placard.

24 (b) Signs. Signs containing the same information as required for placards shall be  
25 posted every 20 linear feet of occupied space with at least one sign at each end of the occupied space.

1 The permittee shall post signs 72 hours in advance of the occupancy authorized in the permit and  
2 remove such signs upon the termination of the permit. A permittee must maintain signs during the  
3 entire term of occupancy and during the hours specified in the permit. If any information required on a  
4 sign must be modified, the permittee shall install new signs rather than change the information on the  
5 existing sign. If signs are removed, modified, or altered in any way, it shall be the permittee's  
6 responsibility to install new signs containing the required information.

7 (c) Good neighbor policy. Notwithstanding the above, if a permittee does not  
8 require use of the permit area for all hours covered by the permit, the permittee, at his or her option,  
9 may allow members of the public to park vehicles in legal parking spaces. Rules governing the good  
10 neighbor policy shall be developed pursuant to Section 724.4(b).

11 SEC. 724.4. CONSTRUCTION AND DEMOLITION SITES; ~~PENALTY~~ DEPARTMENTAL  
12 ORDERS AND REGULATIONS.

13 (a) All construction or demolition contractors shall be responsible for  
14 maintaining their work-sites in a reasonably clean and litter-free condition, including the  
15 removal of all refuse blown or deposited upon the site. The contractor shall provide a sufficient  
16 number of refuse receptacles or bulk containers for the disposal of loose debris, building  
17 material waste, and other refuse produced by those working on the site and shall maintain the  
18 site in such a manner as to prevent its dispersal by the wind or other elements. The sidewalks  
19 and streets shall be maintained in a clean manner and free from dirt or other materials  
20 produced by the demolition or construction. ~~Any person who shall violate any of the provisions of~~  
21 ~~this Section shall be guilty of an infraction and, upon conviction thereof, shall be punished by a fine of~~  
22 ~~not less than \$25 nor more than \$500.~~

23 (b) In addition to the requirements set forth in this Section, the Director may adopt  
24 such orders, policies, regulations, rules, or standard plans and specifications as he or she deems  
25 necessary in order to preserve and maintain the public health, safety, welfare, and convenience. Such



1 orders, policies, regulations, or rules may included, but are not limited to, permit application  
2 materials, placement of placards and signs, implementation of the good neighbor policy, site  
3 conditions, accessibility of sidewalks and streets. When such orders, policies, regulations or rules will  
4 affect the operations and enforcement of the Department of Parking and Traffic, the Director of the  
5 Department of Public Works shall consult with and provide an opportunity to comment to the Director  
6 of the Department of Parking and Traffic prior to adoption of such orders, policies, regulations, or  
7 rules.

8 SEC. 724.5. EXCEEDING PERMISSIBLE USE OR OCCUPATION WITHOUT  
9 PERMISSION - PENALTY FEE AND CRIMINAL PENALTY.

10 (a) If the Director of Public Works determines that the permittee has  
11 exceeded the scope of the temporary street occupancy permit, either in terms of duration or  
12 area, or determines any other violation of the permit terms or conditions has occurred the Director of  
13 Public Works shall order the permittee to correct the violation within a specified time period. If  
14 any person has occupied public right-of-way without permission for purposes of building construction  
15 operation or for any other purpose, the Director shall immediately order the violator to vacate the  
16 occupied area. Should the violation not be corrected as ordered or in the case of occupation  
17 without a permit, the permittee or person shall pay a penalty fee of up to \$1,000 per day for each  
18 day of violation. Failure to pay any fee assessed under these provisions shall constitute good  
19 cause for immediate revocation of the temporary street occupancy permit or removal of  
20 unpermitted obstructions, and the project property shall be subject to a lien in the same amount  
21 in accordance with the requirements of Article XX of Chapter 10 of the San Francisco  
22 Administrative Code, commencing with Section 10.230.

23 (b) Criminal Penalty.

24 (1) Any person who shall violate any of the provisions of this Section shall be  
25 guilty of an infraction at each location where such violation occurs. Every violation determined to be

1 an infraction is punishable by (1) a fine not exceeding \$100 for the first violation within one year; (2) a  
2 fine not exceeding \$200 for a second violation within one year from the date of the first violation; (3) a  
3 fine not exceeding \$500 for the third and each additional violation within one year from the date of the  
4 first violation.

5 (2) When a government official authorized to enforce this Section has  
6 reasonable cause to believe that any person has committed an infraction in the official's presence that  
7 is a violation of this Section, the official may issue a citation to that person pursuant to California  
8 Penal Code, Part II, Title 3, Chapters 5, 5C, and 5D.

9 SEC. 724.6. UNPAID FEES AND FAILURE TO RESTORE PAVEMENT; WILFUL  
10 NONCOMPLIANCE.

11 The Central Permit Bureau shall not issue a Certificate of Final or Temporary  
12 Completion and Occupancy for any project for which temporary street occupancy applications,  
13 permit fees or penalty fees are outstanding, or for which any required pavement or sidewalk  
14 restoration has not been satisfactorily completed. In addition, a person who is in wilful  
15 noncompliance with this Section shall not apply for nor be issued a new street space occupancy permit  
16 unless the Director, by written authorization, grants a waiver to this prohibition. Wilful noncompliance  
17 shall include, without limitation, deliberate acts that result in failure to: (a) satisfy any requirements,  
18 terms, or conditions of this Section, or the orders, policies, regulations, rules, or standard plans and  
19 specifications of the Department or (b) pay any outstanding assessments, fees, penalties set forth in this  
20 Section that have been finally determined by the City or a court of competent jurisdiction.

21 SEC. 724.7. TEMPORARY OCCUPANCY OF STREET-ADDITIONAL PERMIT  
22 REQUIRED.

23 (a) Any person seeking to close off more than ~~1/3 of the roadway~~ the designated  
24 parking lane width, as established in Section 724, and more than 1/2 of the official sidewalk width  
25 along the boundary of the fronting property must apply for an additional temporary street

1 occupancy permit as provided for herein. ~~No~~A revocable permit for ~~an~~ additional temporary  
2 street occupancy ~~permit for more than three months, as authorized by resolution of the Board of~~  
3 ~~Supervisors, shall be issued~~ shall not be issued unless an application therefor is made to the  
4 Director of Public Works, and a fee and a public right-of-way assessment cost, as set forth in  
5 Section 724.8, are paid in an amount to be established as hereinafter provided shall have been paid;  
6 provided, however, that the ~~board of Supervisors~~ Director may waive payment of the fee and  
7 assessment cost provided for herein if ~~it~~ he or she finds that a benefit will accrue to the public  
8 from the issuance of the permit. The content of applications shall be in accordance with the  
9 policies, rules and regulations of the Director of Public Works. All applications shall be on  
10 forms prescribed therefor and shall contain or be accompanied by all information required to  
11 assure the presentation of pertinent facts for proper consideration of the case. The application  
12 shall include both a reasonable estimate of the duration of construction, and an explanation of  
13 why an additional temporary street occupancy permit of the particular dimensions requested is  
14 necessary and shall be accompanied by a nonrefundable additional permit application fee ~~in~~  
15 ~~an amount determined by the Director but in any case not more than~~ of \$500 \$353. Requests for  
16 extensions of the original term shall be treated as new applications except that the application fee shall  
17 be \$200.

18 (b) No additional temporary street occupancy permit shall have a term of  
19 more than ~~one year~~ six months nor less than one month from the date of issuance. At the end of  
20 the original term or of any subsequent extension, the permittee may apply to the Director of  
21 Public Works for an extension not to exceed ~~one year~~ six months in duration. The Director of  
22 Public Works, in his or her discretion, may, ~~for good reason shown, deny~~ approve, conditionally  
23 approve, or disapprove the request for an extension. Said ~~denial~~ decision will be appealable to  
24 the Board of ~~Supervisors~~ Appeals.

25

1 (c) ~~The Director of Public Works is hereby authorized to issue additional temporary~~  
2 ~~street occupancy permits for periods of less than three months, and may grant a single three-month~~  
3 ~~extension for the same. Applicants for additional street space shall make a written request for such~~  
4 ~~permit no sooner than 30 days prior to initiation of the proposed occupation of additional street space.~~

5 (d) Notwithstanding the time period for occupancy and permit requests specified  
6 above, an additional street space permit may be obtained on a daily basis, but in no case shall such  
7 occupancy extend beyond a 2-week term. The fee for such daily permits shall be \$50 per day with no  
8 assessment cost. An applicant shall make a written request for such daily permit no sooner than 3 days  
9 prior to initiation of the proposed occupation of additional street space.

10 (e) Unless otherwise specified, all ~~All~~ provisions of Sections 724 et seq., 724.1,  
11 724.2, 724.3, 724.5 and 724.6 shall be applicable to permits granted additional street space  
12 occupancy under this Section.

13 (e) ~~Any person applying for a permit under this Section shall also deposit with the~~  
14 ~~Director of Public Works an amount sufficient to cover the costs of inspection as estimated by the~~  
15 ~~Director, which sum shall be paid into the Special Engineering Inspection Fund.~~

16 SEC. 724.8. PERMIT FEES ASSESSMENT COSTS FOR ADDITIONAL STREET SPACE.

17 An additional ~~permit fee public right-of-way assessment cost, in an amount to be~~  
18 ~~determined by order of the Director of Public Works, and based upon the square footage of the area~~  
19 ~~occupied,~~ shall be paid upon the issuance of such additional temporary street occupancy  
20 permit. The assessment cost shall be as follows: (a) for a building in Planning Code height district of  
21 80 feet or less, the cost shall be \$4 per additional square foot of occupation per month and (b) for a  
22 building in Planning Code height district of greater than 80 feet, the cost shall be \$10 per additional  
23 square foot of occupation per month. For purposes of calculating the assessment costs, the Department  
24 shall use one-month increments even though the permittee may occupy for less than a one-month term.

1 For the purpose of calculating ~~fees~~ the assessment cost, requests for extensions of permits shall  
2 be treated as new applications.

3 SEC. 724.9. TEMPORARY OCCUPANCY OF STREET - PERMITTEE TO DEFEND  
4 AND INDEMNIFY CITY AND COUNTY.

5 (a) \_\_\_\_\_ The permittee, or its successors or assigns in interest, by acceptance of  
6 the permit agrees to indemnify ~~and hold the City and County of San Francisco and its officers,~~  
7 ~~employees and agents harmless from and against any and all claims, demands, actions or causes for~~  
8 ~~action which may be made against the City and County of San Francisco, or its officers, employees and~~  
9 ~~agents for the recovery of damages for the injury to or death of any person or persons or for the~~  
10 ~~damage to any property resulting directly or indirectly from the street occupancy authorized by this~~  
11 ~~permit regardless of the negligence of the City and County of San Francisco., defend, protect, and hold~~  
12 ~~harmless the City, including, without limitation, each of its commissions, departments, officers, agents,~~  
13 ~~and employees (hereinafter in this subsection collectively referred to as "San Francisco") from and~~  
14 ~~against any and all actions, claims, costs, damages, demands, expenses, fines, injuries, judgments,~~  
15 ~~liabilities, losses, penalties, or suits including, without limitation, attorneys' fees and costs (collectively,~~  
16 ~~"claims") of any kind allegedly arising directly or indirectly from:~~

17 (1) \_\_\_\_\_ Any act by, omission by, or negligence of the permittee, its contractors,  
18 ~~subcontractors, or the officers, agents, or employees such entities, while engaged in the performance of~~  
19 ~~the work authorized by the permit, or while in or about the property subject to the permit for any~~  
20 ~~reason connected in any way whatsoever with the performance of the work authorized by the permit, or~~  
21 ~~allegedly resulting directly or indirectly from the maintenance, installation, or storage of any~~  
22 ~~materials, equipment, or structures authorized under the permit;~~

23 \_\_\_\_\_ (2) \_\_\_\_\_ Any accident, damage, death, or injury to any contractor  
24 ~~or subcontractor, or any officer, agent or employee of either of them, while engaged in the performance~~  
25 ~~of the work authorized by the permit, or while in or about the property for any reason connected with~~

1 the performance of the work authorized by the permit, or arising from liens or claims for services  
2 rendered or labor or materials furnished in or for the performance of the work authorized by the  
3 permit;

4 \_\_\_\_\_ (3) Any accident, damage, death, or injury to any person(s) or  
5 accident, damage, or injury to any real or personal property in, upon, or in any way allegedly  
6 connected with the work authorized by the permit from any cause or claims arising at any time; and,

7 \_\_\_\_\_ (4) Any release or discharge, or threatened release or  
8 discharge, of any hazardous material caused or allowed by permittee about, in, on, or under the public  
9 right-of-way subject to the permit or the environment. As used herein, "hazardous material" means any  
10 gas, material, substance, or waste which, because of its quantity, concentration, or physical or  
11 chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a  
12 present or potential hazard to human health or safety or to the environment. "Release" when used with  
13 respect to hazardous materials shall include any actual or imminent disposing, dumping, emitting,  
14 emptying, escaping, injecting, leaching, leaking, pumping, pouring, or spilling.

15 (b) Upon the request of San Francisco, the permittee, at no cost or expense to San  
16 Francisco, must indemnify, defend, and hold harmless San Francisco against any claims, regardless of  
17 the alleged negligence of San Francisco or any other party, except only for claims resulting directly  
18 from the sole negligence or wilful misconduct of San Francisco. Each permittee specifically  
19 acknowledges and agrees that it has an immediate and independent obligation to defend San Francisco  
20 from any claims which actually or potentially fall within the indemnity provision, even if the allegations  
21 are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is  
22 tendered to permittee by San Francisco and continues at all times thereafter. In addition, San  
23 Francisco shall have a cause of action for indemnity against each permittee for any costs San  
24 Francisco may be required to pay as a result of defending or satisfying any claims that arise from or in  
25 connection with the permit, except only for claims resulting directly from the sole negligence or wilful

1 misconduct of San Francisco. Permittee agrees that the indemnification obligations assumed under the  
2 permit shall survive expiration of the permit.

3 Section 2. The San Francisco Traffic Code is hereby amended by amending Section  
4 33.1A, to read as follows:

5 SEC. 33.1A. ~~VEHICULAR OR PEDESTRIAN TRAFFIC AND PARKING PROHIBITED OR~~  
6 ~~RESTRICTED IN CERTAIN CASES – RESIDENTIAL AND NEIGHBORHOOD COMMERCIAL~~  
7 ~~AREAS. COORDINATION OF CITY DEPARTMENTAL ACTIVITIES CONCERNING STREET~~  
8 ~~SPACE OCCUPANCY PERMITS.~~

9 ~~———— The prohibition imposed by Section 33.1 shall not apply on any street in any area zoned~~  
10 ~~for residential or neighborhood-commercial uses when the construction work has not begun by 12:00~~  
11 ~~noon. Any permittee who begins work by 12:00 noon and where construction activity is not in~~  
12 ~~continuous progress shall place barricades, signs, cones, or other device on the street where the~~  
13 ~~parking is restricted as visible evidence that work has begun and to protect the construction area. In a~~  
14 ~~case where the restricted parking is not entirely necessary for any day as originally posted, the~~  
15 ~~permittee shall erect appropriate signs giving a minimum of 24 hours' notice of the revised and~~  
16 ~~decreased hours of the temporary parking prohibition.~~

17 ~~———— Signs posted pursuant to this Section shall include within the notice that the temporary~~  
18 ~~parking prohibition is in effect pursuant to Section 33.1A, Residential Areas, of the San Francisco~~  
19 ~~Traffic Code and shall include a contact person and telephone number for information regarding the~~  
20 ~~reasons for the restrictions. The contact person shall be available to respond to inquiries during~~  
21 ~~business hours.~~

22 ~~———— Signs, as determined by the Department of Parking and Traffic to maintain a moving~~  
23 ~~traffic lane, shall be placed to inform the public of a temporary parking prohibition that is in effect for~~  
24 ~~24 hours. Such signs shall be of a color that is different than the sign that informs the public of a~~  
25 ~~temporary parking prohibition that is in effect less than 24 hours per day.~~

1           ~~———— This Section shall not apply on any street within the area defined as the Metropolitan~~  
2 ~~Traffic District by Section 3-a of this Code and State highways within the City and County.~~

3           ~~———— The provisions of this Section shall not apply to a vehicle that is actually engaged in~~  
4 ~~making delivery or pickup of construction materials being used at the site of the construction work that~~  
5 ~~necessitated issuance of the permit.~~

6           ~~———— For any sign which is posted and not in compliance with this Section, the temporary~~  
7 ~~parking restriction shall not be effective, and the Department of Parking and Traffic shall not cite or~~  
8 ~~tow vehicles at these locations. When a vehicle is removed from a street at the request of a permittee~~  
9 ~~pursuant to this Section and a post-storage hearing determines that as a result of the permittee's~~  
10 ~~improper posting of the required signs, reasonable grounds did not exist for removal, the responsible~~  
11 ~~permittee shall reimburse the City and County of San Francisco for the cost incurred in storage and~~  
12 ~~towing. If a permittee fails to provide reimbursement or to agree to assume all liability for any~~  
13 ~~improper posting future requests by that permittee for removal of vehicles in violation of this Section~~  
14 ~~shall be denied.~~

15           ~~———— The responsible permittee shall be given timely notice of the vehicle owner's request for~~  
16 ~~a post-storage hearing and the time and place of such hearing.~~

17           ~~———— This Section shall not apply to a utility or public utility, whether privately, municipally,~~  
18 ~~or publicly owned, as defined by State law, nor shall it apply to vehicles of cable television services,~~  
19 ~~when the utility or cable television provider undertakes emergency repairs to utility or cable facilities~~  
20 ~~necessary for the preservation and maintenance of public utility or cable television services.~~

21           The Department of Parking and Traffic and the Department of Public Works shall adopt  
22 memoranda of understanding or other similar documents that address how the departments will  
23 coordinate, manage, and enforce their respective jurisdictional mandates concerning street space  
24 occupancy permits issued pursuant to Sections 724 et seq. of the Public Works Code.



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

3 By: \_\_\_\_\_  
4 JOHN D. MALAMUT  
5 Deputy City Attorney  
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