

1 [Public Works Excavation Code.]

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3 **Ordinance amending Public Works Code Sections 2.4.44 and 2.4.46 to delete the street**
4 **restoration fee and amending Section 2.4.55 to require restoration of all affected lanes**
5 **for the entire block when 25% or more of the block's length is excavated to extend to**
6 **the time required for backfill, replacement of pavement base, and finished pavement**
7 **associated with street restoration from 72 to 120 hours; and making environmental**
8 **findings.**

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

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

14 Section 1. The San Francisco Public Works Code is hereby amended by amending
15 Sections 2.4.44 and 2.4.46 to read as follows:

16 ~~SEC. 2.4.44. STREET DAMAGE RESTORATION FEE.~~

17 ~~(a) Calculation of Fee. Each applicant shall pay to the Department a street damage~~
18 ~~restoration fee to recover the increased repaving and reconstruction costs incurred by the City that are~~
19 ~~reasonably attributable to the impact of excavation in City streets. The fee shall not generate proceeds~~
20 ~~in excess of the City's costs of street repaving and reconstruction reasonably attributable to the~~
21 ~~excavation for which the fee is charged. The amount of the fee shall be calculated as follows:~~

22 ~~TABLE INSET:~~

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Age of Block (Years Since	Fee Amount
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1	Last Resurfacing)	
2	0-5 years	\$3.50 per square foot of excavation
3	6-10 years	\$3.00 per square foot of excavation
4	11-15 years	\$2.00 per square foot of excavation
5	15-20 years	\$1.00 per square foot of excavation

7 ~~Where an applicant proposes an excavation in a block whose age is unknown to the Department and~~
8 ~~the block's pavement condition score recorded in the Department's pavement management and~~
9 ~~mapping database is greater than 53, the applicant shall be charged the street damage restoration fee~~
10 ~~at the rate specified for streets 15 to 20 years old.~~

11 ~~—— (b) Exceptions from the Street Damage Restoration Fee to Encourage Coordination. To~~
12 ~~encourage coordination of excavation with the Department's repaving schedule and to encourage~~
13 ~~excavation in older blocks and those with lower pavement condition scores:~~

14 ~~—— (i) No fee will be assessed for excavation in blocks with a recorded pavement condition score~~
15 ~~of 53 or less, or a recorded age of greater than 20 years.~~

16 ~~—— (ii) No fee will be assessed for excavation in a block scheduled to be completed by an~~
17 ~~applicant less than two years prior to the Department's scheduled repaving of that block.~~

18 ~~—— (c) Fee Waived for Excavation that Includes Repaving. The street damage restoration fee shall~~
19 ~~be waived for an excavation where an applicant proposes to reconstruct and repave the entire block~~
20 ~~affected by the excavation or any and all traffic lanes affected by the excavation, where such~~
21 ~~reconstruction and repaving is performed consistent with all of the standards set forth in orders, rules,~~
22 ~~plans and specifications of the Department.~~

23 ~~—— (d) Fee Waiver for In-Kind Payment of Fee Installation of Conduit. With the approval of the~~
24 ~~Director of the Department of Public Works and the Director of the Department of~~

1 ~~Telecommunications and Information Services, where it would minimize neighborhood disruption, and~~
2 ~~where savings in street resurfacing costs through avoidance of future excavation are anticipated to~~
3 ~~exceed amounts that would otherwise be due from the street damage restoration fee, some portion or~~
4 ~~all of the otherwise applicable street damage restoration fee may be waived for an excavation in which~~
5 ~~the applicant installs: (i) conduit for City use or control or (ii) conduit made available via approval~~
6 ~~and coordination with the Department and Department of Telecommunications and Information~~
7 ~~Services to other subsequent applicants or excavators such that future excavation is permanently~~
8 ~~avoided. The City shall make any available space in such conduit available to subsequent applicants to~~
9 ~~avoid future excavation in the block. The Departments of Public Works and Telecommunications and~~
10 ~~Information Services shall adopt orders or regulations prescribing circumstances under which in-kind~~
11 ~~payment of all or some portion of the fee shall be permitted, prescribing specifications for the conduit~~
12 ~~to be installed, and prescribing terms under which the conduit shall be made available to interested~~
13 ~~parties on a competitively neutral and nondiscriminatory basis.~~

14 ~~—— (e) Exception for Excavation in Sidewalks, Concrete Blocks, or Unaccepted Blocks. No street~~
15 ~~damage restoration fee shall be assessed with respect to excavation in a sidewalk, block constructed~~
16 ~~solely of portland cement concrete, or a block that the City has not accepted for maintenance purposes.~~

17 ~~—— (f) Exception for Excavation to Accommodate the City's Use. No street damage restoration fee~~
18 ~~shall be assessed for excavation performed to relocate the facilities of a utility excavator to~~
19 ~~accommodate the City's use of the block.~~

20 **SEC. 2.4.46. COLLECTION, RETURN, AND REFUND OF DEPOSIT AND FEES.**

21 (a) Collection of Deposit and Fees. The Director shall establish procedures for billing,
22 collection, and refund of a deposit(s), fees, and other charges provided for in this Article. The Director
23 shall deposit all funds in accordance with Sections 10.117-119 and 10.117-120 of the San Francisco
24 Administrative Code.

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1 (b) Refunds.

2 (i) When an application is either withdrawn by the applicant or denied by the Department
3 before the start of construction, the applicant's administrative fee assessed under Section 2.4.41 shall
4 be retained and those fees assessed under Sections 2.4.42, and 2.4.43, ~~and 2.4.44~~ shall be returned
5 to the applicant.

6 (ii) In the event that the Director determines, after preparing a report pursuant to Section
7 2.4.45, that there has been an over collection of any of the fees identified in this Subarticle, the
8 Director shall establish procedures to refund excess fee proceeds in a manner which fairly and
9 reasonably reimburses those excavators who paid the fee during the relevant period consistent with
10 their level of excavation.

11 (iii) In the event that a project is completed prior to the permit expiration date, a permittee may
12 make a written request for a refund of the inspection fee that is proportionate to the number of
13 calendar days the project was completed early. Prior to the issuance of any refund, the Department
14 shall verify the date of completion, that the project has been satisfactorily completed, that all punch list
15 work has been completed, and that there are no outstanding fines or penalties pending against the
16 permittee or its agent. The Department shall not release the requested refund until any and all
17 outstanding fines or penalties pending against the permittee and its agent have been paid. The
18 permittee seeking a refund shall pay the Department a fee of \$110 for the cost of the calculation and
19 processing of the refund.

20 (c) Deductions for Deposits. The Director may make deductions from the balance of a
21 permittee's deposit(s) to ensure the faithful performance of the obligations under a permit to excavate,
22 to pay fees, to offset the costs for any excavation done or repairs made by the Department, or to pay
23 any assessed penalties or costs associated with violations of this Article.

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1 (d) Retention of Deposit for Three Years. Each deposit made pursuant to Section 2.4.40 shall
2 be retained by the City for a period of three years after the satisfactory completion of the excavation to
3 secure the obligations in the permit and this Article.

4 (e) Return of Deposit. Upon expiration of three years from the satisfactory completion
5 of the excavation, a permittee's deposit(s), less the deductions made pursuant to Subsection
6 (c), shall be returned to the permittee or to its assigns.

7 Section 2. The San Francisco Public Works Code is hereby amended by deleting
8 Section 2.4.55, to read as follows:

9 SEC. 2.4.55. RESTORATION OF THE PUBLIC RIGHT-OF-WAY.

10 (a) Restoration. In any case in which the sidewalk, street, or other public right-of-way
11 is or is caused to be excavated, the owner and its agent shall restore or cause to be restored
12 such excavation in the manner prescribed by the orders, regulations, and standard plans and
13 specifications of the Department. At a minimum, trench restoration shall include resurfacing to
14 a constant width equal to the widest part of the excavation in accordance with the following
15 diagram; provided, however, that the width of resurfacing need not exceed 13 feet;
16 Notwithstanding the trench restoration provision set forth herein, if 25% or more of the length of any
17 block is excavated, then all affected lanes for the entire block shall be restored.

18 (b) Backfill, Replacement of Pavement Base, and Finished Pavement. Activities
19 concerning backfilling, replacement of pavement base, and finished pavement shall be
20 performed in a manner specified by the orders, regulations, and standard plans and
21 specifications of the Department. In addition, these activities shall be subject to the following
22 requirements:

23 (i) Backfill. Each excavation shall be backfilled and compacted within ~~72~~ 120 hours
24 from the time the construction related to the excavation is completed.

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1 (ii) Replacement of pavement base. Replacement of the pavement base shall be
2 completed within ~~72~~ 120 hours from the time the excavation is backfilled.

3 (iii) Finished pavement. Finished pavement restoration shall be completed within ~~72~~
4 120 hours of replacement of the pavement base.

5 (c) Modification to Requirements. Upon written request from the permittee, the
6 Director may grant written approval for modifications to the requirements of Subsection (b).

7 (d) Incomplete Excavation; Completion by the Department. In any case where an
8 excavation is not completed or restored in the time and manner specified in the permit, this
9 Article, or the orders, regulations, and standard plans and specifications of the Department,
10 the Director shall order the owner or its agent to complete the excavation as directed within 24
11 hours. If the owner or its agent should fail, neglect, or refuse to comply with the order, the
12 Director may complete or cause to be completed such excavation in such manner as the
13 Director deems expedient and appropriate. The owner or its agent shall compensate the
14 Department for any costs associated with the administration, construction, consultants,
15 equipment, inspection, notification, remediation, repair, restoration, or any other actual costs
16 incurred by the Department or other agencies, board, commissions, or departments of the City
17 that were made necessary by said excavation. The cost of such work also may be deducted
18 from the permittee's deposit pursuant to Section 2.4.46(c). The Director's determination as to
19 the cost of any work done or repairs made shall be final. In addition, the owner, its agent, or
20 other responsible party may be subject to those enforcement actions set forth in Subarticle
21 VII.

22 (e) Subject to the limitation set forth in Section 2.4.70, completion of an excavation or
23 restoration by the Department in accordance with Subsection (d) shall not relieve the owner or
24 its agent from liability for future pavement failures at the excavation site.

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

By: _____
John D. Malamut
Deputy City Attorney