

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

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3 **Ordinance amending the Public Works Code to authorize the Department of Public**

4 **Works to determine the circumstances under which contractors performing excavation**

5 **in the public right-of-way shall be required to obtain a pollution liability insurance**

6 **policy; and affirming the Planning Department's determination under the California**

7 **Environmental Quality Act.**

8       **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.

9       **Additions to Codes** are in *single-underline italics Times New Roman font*.

10       **Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.

11       **Board amendment additions** are in double-underlined Arial font.

12       **Board amendment deletions** are in ~~strikethrough Arial font~~.

13       **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code

14       subsections or parts of tables.

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

16       Section 1. Environmental Findings.

17       The Planning Department has determined that the actions contemplated in this

18       ordinance comply with the California Environmental Quality Act (California Public Resources

19       Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

20       Supervisors in File No. 250925 and is incorporated herein by reference. The Board affirms

21       this determination.

22       Section 2. General Findings.

23       (a) San Francisco's fragmented and protracted permitting processes hinder small

24       businesses and impede housing development. A fast, predictable, and transparent permitting

25       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.

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

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

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

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

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

\* \* \* \*

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

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

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

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6 APPROVED AS TO FORM:  
7 DAVID CHIU, City Attorney

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

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