ORDINANCE NO. 632

AN ORDINANCE OF THE CITY OF FOSTER CITY AMENDING THE INSURANCE AND INDEMNITY REQUIREMENTS CONTAINED IN CHAPTERS 1.04, 5.60, 6.04, 8.10, 10.49, 12.16, 12.20, AND 12.40 OF THE FOSTER CITY MUNICIPAL CODE.

CITY OF FOSTER CITY

WHEREAS, the Foster City Municipal Code (FCMC) includes many provisions regarding insurance and indemnity requirements for third parties using city-owned property, doing work in public space, or conducting business and activities which the City has determined requires liability insurance;

WHEREAS, City staff reviewed the insurance and indemnity requirements included in the Municipal Code with representatives from PLAN JPA, the insurance pool to which the City is a member;

WHEREAS, many of the indemnity and insurance coverage requirements contained in the Municipal Code were found to be insufficient and requiring update;

WHEREAS, the Council wishes to regularly review insurance coverage requirements to ensure that they remain adequate in the future; and

WHEREAS, City staff proposed that the Council create, regularly review, and update by resolution a Master Insurance and Indemnity Requirements Schedule, which shall govern the indemnification terms and coverages for third-party insurance required by the Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FOSTER CITY, CALIFORNIA, ORDAINS as follows:

SECTION 1. Section 1.04.120 is added to Chapter 1.04 of Title 1 of the Foster City Municipal Code as follows:

1.04.120 Master Insurance and Indemnity Requirements Schedule. The City will keep a Master Insurance and Indemnity Requirements Schedule, which the City Council shall adopt and update by resolution from time to time. The schedule shall govern the insurance and indemnity requirements for various City authorizations and approvals.

SECTION 2. Section 5.60.060 of Chapter 5.60 of Title 5 of the Foster City Municipal Code is amended as follows:

5.60.060 Insurance and indemnity requirements.
All tow car services on the towing list shall maintain with the chief of police evidence of the following insurance: in amounts consistent with the requirements set forth by the city council from time to time in the Master Insurance and Indemnity Requirements Schedule. All tow car services included on the towing list shall be subject to the indemnity and defense obligations as described in the Master Insurance and Indemnity Requirements Schedule.

A. Garage Keeper’s Policy. A garage keeper’s legal liability policy covering fire, theft, windstorm, vandalism and explosion in the amount of not less than one hundred thousand dollars, with each vehicle suffering damage being deemed a separate claim;

B. Garage Liability Policy. A garage liability policy covering the operation of the business, equipment and vehicles of the tow car service for any bodily injury or property damage in the minimum amount of three hundred dollars per occurrence and one hundred thousand dollars property damage.

Each policy required herein shall be endorsed to provide thirty days’ notice to the city of cancellation or change in coverage.

SECTION 3. Subsection (H)(3)(b) of Section 6.04.115 of Chapter 6.04 of Title 6 of the Foster City Municipal Code is amended as follows:

3. That the dangerous animal permit shall contain additional permit conditions to supplement the mandatory dangerous animal permit rules and regulations as defined in Section 6.04.120 of this chapter, including, but not limited to, the following:

b. That the owner prove financial responsibility by posting a bond or certificate of insurance for an amount consistent with the requirements set forth by the city council from time to time in the Master Insurance and Indemnity Requirements Schedule of one million dollars per animal as determined by the hearing officer,

SECTION 4. Subsection (D)(1) of Section 8.10.070 of Chapter 8.10 of Title 8 of the Foster City Municipal Code is amended as follows:

D. Insurance Requirements and Indemnity.

1. The licensee shall maintain comprehensive general liability and workers’ compensation insurance in amounts and of the types consistent with the requirements set forth by the city council from time to time in the Master Insurance and Indemnity Requirements Schedule.
Schedule that are acceptable to the city manager or designee. The city of Foster City shall be named as additional insured on all city-required policies.

2. Licensee shall be subject to the indemnity and defense obligations as described in the Master Insurance and Indemnity Requirements Schedule. To the extent permitted by law, the licensee shall indemnify, defend, and hold harmless the city, its city council, its officers, attorneys, employees and agents (“the indemnified parties”) from and against any claim, action or proceeding brought by a third party against the indemnified parties to attack, set aside or void any approval authorized hereby for the testing laboratory activity, including, without limitation, reimbursing the city for its actual attorney fees and costs incurred in defense of the action. The city may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

SECTION 5. Subsection (E) of Section 10.49.080 of Chapter 10.49 of Title 10 of the Foster City Municipal Code is amended as follows:

E. Insurance Required. Applicant shall procure and maintain for the duration of the permit insurance consistent with the requirements set forth by the city council from time to time in the Master Insurance and Indemnity Requirements Schedule. The following insurances: general liability in the amount of one million dollars combined single limit per occurrence for bodily injury, personal injury, and property damage; automobile liability in the amount of one million dollars combined single limit per accident for bodily injury and property damage. The policies are to contain or be endorsed to contain provisions ensuring that the city/district, its officers, officials, agents, employees and volunteers are covered as insureds as respects liability arising out of activities performed by or on behalf of the applicant in the execution of permitted activities.

SECTION 6. Section 12.16.160 of Chapter 12.16 of Title 12 of the Foster City Municipal Code is amended as follows:

12.16.160 Liability insurance.
All persons, groups and organizations shall agree to hold the city, the Estero-San Mateo County building authority Municipal Improvement District and their elective and appointive boards, commissions, officers, agents and employees harmless from any liability or damages and claims for damages for personal injury, including death, as well as from claims for property damage which might arise from the use of community parks and their
furnishings. All noncity persons, groups and organizations and all commercial classifications using community parks pursuant to this policy shall file a certificate of public liability insurance with the director of parks and recreation at least one week in advance of the time of anticipated use, file with the City certificates or other documentation evidencing insurance and endorsements consistent with the requirements set forth by the city council from time to time in the Master Insurance and Indemnity Requirements Schedule, in an amount not less than one hundred thousand dollars for injury including but not limited to death to any one person and subject to the same limit for each person in an amount not less than three hundred thousand dollars on account of any one occurrence, and of property damage insurance in an amount of not less than fifty thousand dollars for damage to property of each person on account of any one occurrence, naming the city, the Estero-San Mateo County building authority and their elective and appointive boards, commissions, officers, agents and employees as additional insureds.

Single limit policies of three hundred thousand dollars on account of any one occurrence may be supplied.

SECTION 7. Section 12.70.170 of Chapter 12.20 of Title 12 of the Foster City Municipal Code is amended as follows:

12.20.170 Liability insurance.

A. The person or organization to whom the permit is issued shall agree to hold the city, the Estero Municipal Improvement District and their elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damages and claims for damages including personal injury, including death, as well as for claims for property damage which might arise from the use of community buildings and their furnishings. The person or organization using community buildings pursuant to this chapter may be required, at the discretion of the director, to file a certificate of public liability insurance with the director not less than one week month in advance of the time of anticipated use, certificates or other documentation evidencing insurance and endorsements consistent with the requirements set forth by the city council from time to time in the Master Insurance and Indemnity Requirements Schedule, in an amount not less than one million dollars for injury including, but not limited to, death or any one person and subject to the same limit for each person in an amount not less than one million dollars on account of one occurrence, and of property damage insurance in an amount of not less than one million dollars for damage to the property of each person on account of any occurrence, naming the city, the Estero Municipal Improvement District and their elective and appointive boards, commissions, officers, agents and employees as additional insureds.
B. At the discretion of the director a single limit policy of one million dollars on account of any one occurrence may be supplied as an alternative.

SECTION 8. Sections 12.40.090 and 12.40.100 of Chapter 12.40 of Title 12 of the Foster City Municipal Code is amended as follows:

12.40.090 Permittee’s liability.
The permittee is responsible for all liability for personal injury or property damage which may arise out of work permitted in this chapter or which may arise out of failure on the permittee’s part to perform his obligations under this permit in respect to maintenance. In the event any claim of such liability is made against the city or any department, officer or employee thereof, the permittee shall defend, indemnify and hold them and each of them harmless from such claim, which obligations are more fully described in the Master Insurance and Indemnity Requirements Schedule.

12.40.100 Insurance.
The permit shall not be effective for any purpose unless and until the permittee files with the department the following certificates of insurance:

- Public liability in amounts consistent with the requirements set forth by the city council from time to time, as specified in the Master Insurance and Indemnity Requirements Schedule; the amounts of two hundred fifty thousand dollars and five hundred thousand dollars, and property damage in the amount of fifty thousand dollars. The permittee shall carry workmen’s compensation insurance to cover all labor employed on work covered by this permit; provided, however, that public utilities operating under the supervision of the Public Utilities Commission, public utilities holding a franchise from the city, city departments and other governmental agencies may be relieved of the obligation of submitting such certificates by the city engineer.

SECTION 9. Severability. If any section, subsection, sentence, clause of phrase of the Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION 10. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.
SECTION 11. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 17th day of August, 2020, and passed and adopted on the 8th day of September, 2020, by the following vote.

AYES: Councilmembers Awasthi, Froomin, Gehani, Hindi, and Mayor Mahanpour

NOES: None

ABSENT: None

ABSTAIN: None

Catherine Mahanpour, Mayor

ATTEST:

Priscilla Schaus, City Clerk
CERTIFICATE OF POSTING

I, Priscilla Schaus, hereby certify as follows:

That I am, and at all time herein mentioned, was the duly acting and qualified City Clerk/District Secretary of the City of Foster City, Foster City, San Mateo County, California.

I further certify to the proper posting of:

Ordinance No. 632, “An Ordinance of the City of Foster City Amending the Insurance and Indemnity Requirements Contained in Chapters 1.04, 5.60, 6.04, 8.10, 10.49, 12.16, 12.20, and 12.40 of the Foster City Municipal Code (First Reading August 17, 2020)”

in the following three public places of the City of Foster City, Foster City, San Mateo County, California:

1. Recreation Center Lobby
   650 Shell Boulevard
2. Council Chambers (not a mandatory posting site)
   620 Foster City Boulevard
3. Foster City Public Library
   1000 E. Hillsdale Boulevard

Executed at the City of Foster City, Foster City, San Mateo County, California this 8th day of September, 2020.

Priscilla Schaus
City Clerk