

ORDINANCE NO. O21-73

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING
GLENDALE CITY CODE BY ADDING CHAPTER 30, ARTICLE
IV-PAVEMENT PRESERVATION ORDINANCE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the Glendale City Code, Chapter 30, Article IV, be amended by adding the following language and shall read as follows:

ARTICLE IV. – Pavement Preservation Ordinance.

Sec. 30-81 – Purpose.

- (a) The public right-of-way and street infrastructure are unique public resources held in trust for the benefit of the public. This physically limited resource requires proper management in order to: maximize its efficiency, minimize the costs to taxpayers, protect it against foreclosure of future economic expansion because of premature exhaustion of the public right-of-way, extend pavement life, and to minimize the inconvenience to and negative effects on the public from use of the public right-of-way for utility cuts.
- (b) To achieve the purpose of this Chapter, utility owners, franchisees and others shall coordinate their pavement cuts with the city so that all work is done simultaneously, and the pavement is not excavated or cut more than once within a twelve-month period, and (in accordance with Sec. 30-83) not within two (2) years after completion of street construction, reconstruction or renovation.

Sec. 30-82 – Definitions.

The Following definitions are applicable within this Chapter:

ASPHALT PATCH/SEAL MATERIAL: Any bituminous based material that is used to patch/repair an asphalt surface; limited to the top 1 – 2 inches of the existing asphalt surface layer; considered a pre-treatment for a SURFACE TREATMENT.

MILL AND OVERLAY/INLAY: The addition of another layer of asphalt material or rubberized asphalt pavement on the existing roadway. This can be performed either through the removal and replacement of a 1 to 2-inch thick layer to maintain the current surface elevations or by placing an additional layer of pavement on top of the existing surface, as determined by the city designated pavement manager.

CITY ENGINEER: The City's Engineer and his or her designee.

CITY TRANSPORTATION DIRECTOR and his or her designee.

GLENDALE PROJECTS: Public improvement projects for which the City of Glendale is the general contracting agency.

NEW PAVEMENT: Paving material applied in or near the right-of-way to construct a new street, highway, alley, road or bikeway where no such material previously existed.

PAVEMENT RECONSTRUCTION: Rebuilding a portion of the street by removing all the pavement material and re-paving.

PAVEMENT RENOVATION: A major rehabilitation of street pavement, which includes mill and overlay, cold in place recycle, hot in place recycle, fractured aggregate surface treatment, cape seal, and stress absorbing membrane interlayer or other similar roadway improvement that physically modifies the surface of the roadway.

PAVEMENT CUT PERMIT FEE: The fee required by the City and deposited into the Transportation Department's Street Maintenance Program to supplement restoration cost when a permittee cuts into, excavates, opens, bores, trenches, potholes, damages, or disturbs pavement in the right-of-way.

PERMIT CHARGES: Fees assessed at the time of issuance of a right-of-way permit that are intended to cover costs incurred by the City for permit processing, plan review services, materials testing and inspections. Refer to latest schedule of fees and charges.

PERMITTEE: The governmental entity, person, or business entity that has received a right-of-way permit pursuant to this section or engaged in construction or maintenance in the right-of-way.

RIGHT-OF-WAY: An area of land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved or dedicated to the City for public purposes including, but not limited to, street, highway, alley, public utility, pedestrian walkway, bikeway, or drainage. Within public right-of-way, the City of Glendale coordinates the locations of public or private improvements, underground or overhead; including electricity, gas, steam, communication, telecommunications, data transmission, cable TV, water, storm drainage, sewage, sidewalks, landscaping, traffic signals, streetlights, flood control, pedestrian, roadway purposes, etc. owned and operated by any person, firm, company, corporation, municipal department, or board duly authorized by federal, state, or municipal regulations.

RIGHT-OF-WAY IMPROVEMENT STANDARDS: A set of regulations setting forth the details, specifications, instructions, and procedures to be followed in the planning, design, installation, and construction of public or private improvements within the right-of-way or within easements; formulated

by the City Engineer, the County Health Department, the Maricopa Association of Governments, and other City departments.

RIGHT-OF-WAY PERMIT: An official document issued by the City authorizing performance of a specified activity or work within the right-of-way and public easements of the City of Glendale by a person, contractor, company, firm, or corporation duly qualified under the statutes and rules of the Arizona Registrar of Contractors, unless exempted thereunder. A Right-of-Way Permit may also authorize specified activity or work involving City utilities or facilities outside the corporate limits when issued in conjunction with the appropriate permit required for specified activity or work within another jurisdiction.

STREET MAINTENANCE: Application of slurry and fog seals to street pavement or other typical street maintenance activities.

SURFACE TREATMENT: Any bituminous surface treatment that is a thin (usually less than 1”) protective wearing surface that is applied to an existing pavement or base course.

Sec. 30-83 – Pavement Preservation Ordinance; Exceptions.

- (a) Pavement Restoration Fees. A permittee shall pay a pavement restoration fee in connection with any Right-of-Way Permit to cut into, excavate, open, bore trench or disturb street pavement within a period of five (5) years after the City's acceptance of street construction that includes new pavement, pavement renovation or pavement reconstruction at the location for which the Right-of-Way Permit is being sought. The amount of the pavement restoration fee shall be deposited into the city's street fund as established in the **City's fee schedule**. The pavement restoration fee shall be paid for a Right-of-Way Permit that is issued unless the permittee has a written agreement with the City that allows for payment of the pavement restoration fee after the pavement cut is made. The pavement restoration fee will be in addition to, and will not be offset by, all license and franchise fees, expenses and taxes.
- (b) Pavement Cut Restrictions. The City Engineer shall not approve a Right-of-Way Permit to cut into, excavate, open, bore, trench, or disturb street pavement for a period of two (2) years after the City's acceptance of street construction that includes new pavement, pavement renovation, pavement reconstruction, or street maintenance at the location for which the permit is being sought. The City Engineer, in consultation with the Transportation Director, may authorize an exception to this pavement cut restriction under any one of the following conditions:
1. A verifiable emergency or safety condition exists that endangers life or property;
 2. There is an interruption of essential utility service;

3. Utility or other service for buildings is required where no other feasible means of providing such service exists; or

4. A pavement cut is required by city, county, state or federal regulation.

(c) Between one (1) year and two (2) years after acceptance of a street reconstruction, reconfiguration, or other improvement, if the City Engineer determines, upon reviewing evidence submitted by the permittee, that the cost to mill and overlay/inlay is substantially less than the cost of alternate routing for permittee's facilities, the City Engineer may consider allowing the permittee to cut the pavement and perform a mill and overlay/inlay as described in Subsection (e) below.

(d) If the City Engineer authorizes a pavement cut pursuant to an exception set forth in Subsection (b) the permittee shall:

1. Pay the pavement restoration fee established by the City Council in the City's fee schedule; and

2. Repair the pavement, after making the permitted cut, to meet right-of-way improvement standards.

(e) If the City issues a street cut permit within one (1) year of construction, reconstruction or renovation of pavement, permittee shall renovate such street by mill and overlay/inlay, for a minimum of the full width of all lanes impacted by the cut(s) (outside lane includes to the curb) and for arterial streets extending a minimum length of fifty (50) feet in both directions from the area of the cut(s) and for collector and residential streets extending a minimum length of twenty-five (25) feet both directions from the area of the cut(s), or as more specifically directed by the City Engineer/designee. Provided, however, for two potholes each smaller than two (2) square feet, the requirement to renovate the street by mill and overlay/inlay shall not apply.

(f) Entities wanting to re-imburse the city for restoration may request a separate restoration agreement.

Secs. 30-84-30-85. Reserved.

Sec. 30-86 – Supervision and Inspection of Work.

(a) The city may make any inspections deemed necessary regarding permits issued under this Article IV. During the construction, the city will inspect all trenching, backfilling, Pavement Cut(s), and other work as deemed necessary by the City Engineering Department, such as maintaining the integrity of the existing subgrade, and compaction conforming to City

Engineering Design Standards. Any construction utilizing electrical connections must obtain an electrical inspection from the city.

- (b) In addition to obtaining a Right of Way and Pavement Cut Permit pursuant to this chapter, before beginning any excavation in any city right-of-way, construction of or on any highway, sidewalk, curb, gutter or driveway approach, planting, trimming or removing trees, making, placing or causing an obstruction in any city right-of-way, the permittee shall notify the Engineering Department at least seventy-two (72) hours in advance of the exact date and time work will commence unless, in the case of a continuing maintenance permit this requirement is not imposed. Upon completion of all work authorized in the permits, the applicant shall notify the Engineering Department. Applicants are to comply with Chapter 24, Article III, Division 2 of the City Code regarding traffic management.

- (c) No work shall be deemed to be completed until notification of completion is given and the work is approved by the City Engineer or designee. Any public service corporation as defined in Title 40, Arizona Revised Statutes and any holder of a Telecommunications license or franchise from the city shall be permitted to pay the city monthly the amount billed for city inspection, review and plan review services provided to public service corporations and telecommunications licensees due to construction activities in the public right of way during the prior month. The amount shall be due within thirty days of the date of the billing and if unpaid shall accrue interest from the due date at the rate of one and one-half percent per month, not to exceed eighteen percent per year. A public service corporation or telecommunications licensee shall have the right during regular business hours upon reasonable notice to examine and make copies of the city's records pertaining to costs for inspection, review and plan review services.

Sec. 30-87 – Termination.

The Pavement Cut Permit is subject to termination by the City Engineering Department if:

- (a) The applicant fails to comply with the requirements of the Permit or this chapter or any other rule or regulation validly adopted by the City Council applicable to the Pavement Cut Permit.

- (b) The applicant fails to pay when due, any fee as required by the Pavement Cut Permit.

- (c) If the applicant fails to pay any fee, the applicant cannot begin any new Pavement Cut(s) until such fee is paid in full to bring them current. A penalty amount of up to twice the original Permit fee may be assessed for failing to pay or for failing to obtain a Pavement Cut Permit prior to conducting any Pavement Cut(s).

Sec. 30-88 – Cease and desist orders.

Whenever any work is being done contrary to the provisions of this Article IV., the Transportation Director and/or the City Engineer may order the unauthorized work stopped by notice in writing served on any person engaged in the doing or causing such unauthorized work to be done, and any such person shall immediately upon receipt of such notice stop such unauthorized work. Any person performing work in the right-of-way shall have a copy of a valid encroachment permit and Pavement Cut Permit issued by the city at the site and make such permit available for inspection by the city at all times work is being performed or property or equipment is located in the right-of-way.

Secs. 30-89—30-100. – Reserved.

SECTION 2. That the provisions of this ordinance shall be effective thirty (30) days after passage of this ordinance by the Glendale City Council.

SECTION 3. That the City Clerk is accordingly instructed and authorized to forward a certified copy of this ordinance for recording to the Maricopa County Recorder's Office.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 26th day of October, 2021.

Mayor Jerry P. Weiers

ATTEST:

Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

REVIEWED BY:

Kevin R. Phelps, City Manager