



## Staff Report

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### Honorable Mayor and Members of the Hermosa Beach City Council Regular Meeting of November 14, 2023

#### **ESTABLISHMENT OF A CITYWIDE PAVEMENT MORATORIUM**

(Public Works Director Joe SanClemente)

##### **Recommended Action:**

Staff recommends City Council introduce by title only and waive first full reading of an ordinance of the City of Hermosa Beach to add Chapter 12.09 to the Hermosa Beach Municipal Code (HBMC) to establish a citywide pavement moratorium and to modify Chapter 1.10 of the HBMC to include violation of the pavement moratorium as a code violation subject to administrative penalty procedures and determine the ordinance to be exempt from the California Environmental Quality Act (CEQA) (**Attachment 1**).

##### **Executive Summary:**

The City is responsible for maintenance of its infrastructure and expends significant resources, both time and money, to do so. Under current procedures, a utility company or other entity could cut a trench in a newly constructed roadway and the City would have limited recourse to prevent the work from happening or to claim compensation for the damage.

To protect the City's investment, staff recommends establishment of a pavement moratorium, which would temporarily prohibit excavations in newly constructed or maintained roadways. If approved, staff would notify utility companies and other entities with infrastructure in the roadway of upcoming projects so that they may plan any necessary work in advance of the City's roadway project(s). Staff would also ensure that information about the moratorium and a list or map of impacted streets, both current and future, are publicly available.

##### **Background:**

As part of roadway maintenance, cities periodically perform various interventions to either extend the life of existing pavement or replace pavement when the condition substantially deteriorates. These interventions require substantial investment to implement, and it is in the best interest of the City and roadway users to prevent excavation in newly treated roadways for as long as possible. It is industry standard practice for public agencies to adopt and implement pavement moratoria to protect newly maintained or constructed roadways.

Pavement moratoria are temporary prohibitions of excavation in recently maintained, repaired, or reconstructed roadways. Excavations in new streets create joints for moisture intrusion, disrupt the

smooth driving surface, and degrade the aesthetics of the roadway.

A goal of the implementation of a moratorium is to encourage proactive coordination between the City and persons or entities who perform work in the City's roadways to complete excavations ahead of City projects. However, in the absence of that coordination, a pavement moratorium protects the City's investment in its infrastructure by:

- Prohibiting excavation in new roadways for a reasonable amount of time following completion of City projects; or
- Imposing more extensive restoration requirements on any excavations in roadways subject to the moratorium.

### ***Past Commission Actions***

<b>Meeting Date</b>	<b>Description</b>
Special Public Works Commission Meeting of October 18, 2023	Commission recommended that City Council approve the pavement moratorium with the incorporation of their comments.

### **Analysis:**

The Public Works Department is working hard to deliver three paving projects in FY2023-24 and FY2024-25 with anticipated combined design and construction cost totaling nearly \$4,000,000. In preparation for these public infrastructure projects, staff recommends establishment of a citywide pavement moratorium to protect these substantial investments, as well as those made by the City in the future.

It is standard practice for staff to distribute letters to notify utility companies of upcoming roadway work. As part of a pavement moratorium, staff would publish and periodically update a map or list of streets both under the moratorium, and anticipated for upcoming projects, for planning of permitted roadway work in coordination with the schedules of City roadway projects.

Once a City roadway project is complete, the pavement moratorium would take effect for the improved roadway segments or sections. Based on a review of industry standard practice, staff recommends prohibiting excavation on roadways throughout the City via the pavement moratorium for:

- Three years following roadway maintenance, including but not limited to chip seal, cape seal, slurry seal, micro paving, or other maintenance of asphalt concrete roadway;
- Five years following roadway construction, including but not limited to reconstruction, grind and overlay, or other replacement of asphalt concrete roadway; and
- Ten years following roadway construction, including but not limited to, reconstruction of Portland cement concrete roadway.

The lengths of these moratoria are generally consistent with other cities in California as researched by staff (**Attachment 4**) and reflect the relative cost, lifespan, and construction impact of each intervention type on each roadway surface type. These lengths are intended to be reasonable in protecting the City while considering the needs of those who require construction within the roadway for maintenance of subgrade infrastructure or improvement of adjacent private properties.

Staff recommends that the above moratorium details be added to the Hermosa Beach Municipal Code (HBMC) via a new Chapter 12.09 Pavement Moratorium (**Attachment 1**). The new HBMC section would reference a guidelines document (**Attachment 2**), which would detail additional requirements under the pavement moratorium and map(s) or lists of streets under moratorium and anticipated roadway segments to be included in upcoming projects (**Attachment 3**). The guidelines document and map, or lists, would be updated periodically to reflect industry best practices and the streets under the moratorium and planned for future construction.

A permit applicant who needs to excavate in a roadway subject to the pavement moratorium would be required to submit a written application to the Public Works Department for an excavation waiver as part of their right-of-way permit application. The Public Works Director would respond to the applicant in writing with a determination. If a waiver is granted, and as a condition of said waiver, the applicant would be required to restore the roadway(s) above and beyond what is typically required by the City as detailed in the guidelines document (**Attachment 2**) or pay in lieu fees to compensate the City for the damage to the roadway. Roadway restoration would be required for the full width of the roadway and minimum 10 feet in each direction longitudinally along the asphalt concrete roadway or to the nearest joint in all directions on a Portland cement concrete roadway.

Per the City's standard detail, depending on the type of pavement, restoration is currently required a minimum of 18 or 24 inches outside of the excavated area in all directions. Sheet 3 of **Attachment 5** shows some typical examples. The requirements under this moratorium would extend the restoration to the full width of the roadway and an additional 16 to 17 feet longitudinally. This would create less of a "patchwork"-like look to the roadway and mitigate concerns about differential settlement between the excavation area and the rest of the roadway. The expanded restoration requirements would also mandate a more aesthetic restoration than simply restoring a trench as shown in the City's roadway utility trench restoration detail (**Attachment 5**).

In an emergency, where work is required in the roadway to mitigate risk to life, property, or public health and safety or to restore essential utility services, work would be allowed to proceed without written waiver. However, as soon as possible, the contractor would be required to apply for an after-the-fact permit and perform restoration as described in the guideline document.

If an excavation is cut into a roadway without a permit, and/or an entity does not perform restoration as required by the proposed moratorium documents, they would be in violation of the HBMC. Under

Chapter 1.10, violations of the HBMC are punishable by administrative citations and other penalties; administrative citations can be issued for:

- \$100 for a first violation;
- \$200 for a second violation of the same provision of the HBMC within one year; and
- \$500 for each additional violation of the same provision of the Code within one year.

Each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed, continued, or permitted. Therefore, the violations would be cumulative until they are addressed. The titles, chapters, and sections of the HBMC subject to these administrative penalty procedures are listed in Chapter 1.10.040. Staff recommends adding violation of the pavement moratorium to this list.

### **General Plan Consistency:**

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

#### *Infrastructure Element*

#### **Goal 1. Infrastructure systems are functional, safe, and well maintained.**

Policy:

- **1.1 Infrastructure systems plan.** Establish and adopt an integrated, holistic systems approach to guide infrastructure development, improvement, maintenance, and resilience.

#### **Goal 2. Roadway infrastructure maintenance supports convenient, attractive, and complete streets and associated amenities.**

Policy:

- **2.7 Restore to City Standards.** Require utility, other service providers, and private construction projects working in the public right-of-way to restore or improve trench areas to return the site to conditions that comply with City standards and prevent roadway and sidewalk deterioration.
- **2.8 Timely repairs and maintenance.** Ensure that repairs and maintenance are completed in a timely manner when reported.

### **Fiscal Impact:**

There is no fiscal impact related to the recommended action.

### **Attachments:**

1. Draft Ordinance
2. Draft Pavement Moratorium Guidelines
3. Draft Pavement Moratorium List of Streets

4. Pavement Moratorium Precedents
5. City of Hermosa Beach Roadway Utility Trench Detail (Std. No. 117)

**Respectfully Submitted by:** Stephanie Holst, Senior Engineer

**Concur:** Saad Malim, Senior Engineer

**Concur:** Lucho Rodriguez, City Engineer

**Concur:** Joe SanClemente, Public Works Director

**Legal Review:** Patrick Donegan, City Attorney

**Approved:** Suja Lowenthal, City Manager