

**CITY OF HERMOSA BEACH**  
**RESOLUTION 23-XXXX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH,  
CALIFORNIA ADOPTING PAVEMENT MORATORIUM GUIDELINES AND  
DIRECTING THE CITY MANAGER OR DESIGNEE TO ADMINISTER AND  
MODIFY THESE GUIDELINES AND FINDING THE SAME EXEMPT FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")**

**WHEREAS**, on November 28, 2023, the City Council adopted an ordinance adding Chapter 12.09 to the Hermosa Beach Municipal Code establishing a street cut/pavement moratorium in the city in order to protect the public right-of-way and making violations subject to the city administrative citation procedure; and

**WHEREAS**, the City's pavement/street cut moratorium is designed to protect the City's investment in its street infrastructure and provide a safe driving surface for roads that have recently undergone maintenance or repair work; and

**WHEREAS**, the City Council desires to adopt regulations relating to implementation and processes related to the ordinance and to allow the City Manager or Designee the power to implement and modify these regulations to adjust to changing circumstance and techniques to ensure that the purpose of the ordinance is effectuated.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The City Council hereby adopts the Pavement Moratorium Guidelines attached hereto as Exhibit "A" and grants the City Manager or designee the authority to enforce and/or modify these regulations to implement the purposes of Chapter 12.09.

**SECTION 2.** The City Council hereby finds that the ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines sections 15060(c)(2), 15061(b)(3), and 15378(b)(5). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable physical change in the environment; and the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a

significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 4.** The City Clerk shall certify to the adoption of this Resolution and this Resolution shall go into effect on the same day Ordinance No. 23-1472 shall go into effect.

**PASSED, APPROVED, and ADOPTED** on this 28<sup>th</sup> day of November, 2023.

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Mayor Justin Massey  
**PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, CA

**ATTEST:**

**APPROVED AS TO FORM:**

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Myra Maravilla  
City Clerk

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Patrick Donegan,  
City Attorney

## **EXHIBIT A**

### **PAVEMENT MORATORIUM GUIDELINES**

#### **I. PURPOSE**

The purpose of these Guidelines is to effectuate, administer, and implement the pavement moratorium established and codified in the City of Hermosa Beach Municipal Code (HBMC) Chapter 12.09 Pavement Moratorium.

#### **II. MORATORIUM**

Any excavation (as defined in Chapter 12.09) in any area of the public rights-of-way subject to this moratorium is prohibited. Pursuant to Chapter 12.09, there shall be a moratorium on excavation in any area of the public rights-of-way as follows:

1. Three (3) years following roadway maintenance, including but not limited to chip seal, cape seal, slurry seal, micro paving, or other maintenance of an asphalt concrete roadway;
2. Five (5) years after the completion date of roadway construction, including but not limited to reconstruction, grind and overlay, or other replacement of an asphalt concrete roadway; or
3. Ten (10) years following roadway construction, including but not limited to reconstruction of a Portland cement concrete roadway.

Utilities shall plan well enough in advance to determine alternate methods for making necessary repairs to avoid excavating in newly resurfaced roadways.

Notwithstanding the above, an applicant who qualifies may apply for a written waiver from the City through the process outlined in this document.

#### **III. WAIVER PROCESS**

To excavate within an area of the public rights-of-way subject to this moratorium, a waiver must be obtained in writing. To request a waiver, the applicant shall submit, with their application for a right-of-way permit, a written request for a waiver to the Public Works Director. The request shall include:

1. The location of the excavation;
2. Description of the work to be performed;

3. A statement from the applicant setting forth good cause for why the work was not performed before the roadway was resurfaced;
4. A statement from the applicant setting forth good cause for why the work cannot be deferred until after the moratorium period; and
5. A statement from the applicant setting forth good cause for why the work cannot be performed at another location.

Incomplete applications will be denied. The Public Works Director will respond within 15 business days from the date of the submittal. Any decision will be provided in writing, either via issuance of a permit if the request is approved or a letter detailing the decision if the request is denied. The decision of the Public Works Director is final.

In the event that a waiver is approved, excavation(s) in the roadway shall be restored as follows:

1. Slurry sealed, cape sealed, chip sealed, micro paved streets, or similar resurfacing:

The affected streets shall be fully resurfaced over the entire width of the roadway and ten (10) feet beyond each side of the excavated area with a treatment like what was previously applied.

2. Overlaid or reconstructed asphalt concrete (AC) roadway:

The affected street shall be cold milled two (2) inches and paved with two (2) inches of similar asphalt concrete material as the previous treatment (conventional AC, ARHM, etc.). Paving shall extend the entire width of the roadway (e.g., gutter to gutter or curb to curb) and extend ten (10) feet beyond each side of the excavated area.

3. Portland cement concrete (PCC) streets:

All panels affected by the excavation shall be replaced from joint to joint or to the full width of the roadway where no joint exists. The thickness of PCC and base material shall be restored to match the existing section. Dowels shall be used as indicated in the applicable details.

Specific restoration requirements shall be detailed in the permit documentation as conditions of each permit issued for excavation within an area subject to this moratorium.

Pavement restoration work described above shall include restoration of any pavement markings and striping disturbed, partially or fully, during the execution of the work which shall include both the planned work covered by the waiver and subsequent restoration work as required above.

For roadway work subject to Section 12.08 of the City of Hermosa Beach Municipal Code, as it relates to improvements in the public rights-of-way tied to private developments, and in areas of the public rights-of-way subject to this moratorium, restoration is required as described above. If the work does not require a cut in the pavement but is otherwise subject to pavement restoration under the above referenced code section, the permittee shall pay the in-lieu fee as described in the above referenced code section.

#### IV. EMERGENCIES

Excavations required to address or mitigate risk due to emergencies which endanger life, property, or public health and safety or to restore essential utility services may proceed without a written excavation waiver. As soon as possible, however, the contractor shall submit the required after-the-fact permit application and perform restoration as described herein and per the conditions of their after-the-fact permit.

#### V. STREET LISTS

The City will maintain active lists that will reflect the streets currently under moratorium and those anticipated to be included in upcoming projects. The list of anticipated streets is subject to change based on the needs of the City. Map(s) or lists detailing these streets will be made available to the public on the City's website and may be requested from the Public Works Department.