

City of St. Helens  
**ORDINANCE NO. 3313**

AN ORDINANCE ADDING CHAPTER 12.36 TO THE ST. HELENS  
MUNICIPAL CODE ESTABLISHING A PAVEMENT CUT MORATORIUM  
ON NEWLY CONSTRUCTED OR RESURFACED STREETS

**WHEREAS**, pursuant to its Charter and other laws of the State of Oregon, the St. Helens City Council has the power to adopt reasonable ordinances, resolutions and regulations for the protection and preservation of City streets; and

**WHEREAS**, the City expends considerable funds for road maintenance, rehabilitation, and reconstruction and will continue to invest in paving City streets for the public health, safety, and welfare of its citizens; and

**WHEREAS**, cutting into newly constructed or resurfaced streets substantially degrades pavement condition, increase maintenance costs, and shortens pavement life expectancy; and

**WHEREAS**, the City of St. Helens wishes to protect its investment and prolong the life of new pavement and future resurfaced pavement by establishing a moratorium against pavement cuts on newly constructed or resurfaced streets; and

**WHEREAS**, implementing a pavement cut moratorium will promote coordinated planning and reduce unnecessary damage to City infrastructure;

**WHEREAS**, the St. Helens City Council finds an ordinance establishing a street cut moratorium advances the public welfare by regulating excavations into the City's roadway assets.

**NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:**

**Section 1.** The above recitations are true and correct and are incorporated by reference.

**Section 2.** The City of St. Helens Municipal Code is hereby amended to adopt new Article 12.36 (Pavement Cut Moratorium on Newly Constructed or resurfaced Streets) under Code Chapter 12 (Streets, Sidewalks and Public Places), as set out in **Exhibit A**, attached hereto, and incorporated herein by this reference.

**Section 3. Severability.** If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses, or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end

the provisions of this Ordinance are declared to be servable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**Section 4.** Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

**Section 5.** The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: June 18, 2025  
Read the second time: July 16, 2025

**APPROVED AND ADOPTED** this 16th day of July 2025 by the following vote:

Ayes:

Nays:

\_\_\_\_\_  
Jennifer Massey, Mayor

ATTEST:

\_\_\_\_\_  
Kathy Payne, City Recorder

**Ordinance No. 3313 – Exhibit A**

**CHAPTER 12.36**

**PAVEMENT CUT MORATORIUM ON  
NEWLY CONSTRUCTED OR RESURFACED STREETS**

**12.36.010 Purpose**

The purpose of this chapter is to protect and preserve the integrity of newly constructed or resurfaced streets within the City of St. Helens by regulating pavement cuts on these surfaces. This code establishes a pavement cut moratorium period and restoration requirements intended to extend pavement lifespan, reduce maintenance costs, and ensure safe and efficient transportation infrastructure.

**12.36.020 Definitions**

The following words, terms, and phrases, as used in this chapter, shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise,

- (1) *Asphalt Concrete Pavement* means a blend of aggregate and asphalt binder meeting the specifications set forth in the City of St. Helens standards or as specified by the Director.
- (2) *Compaction* means restoration and backfill of an excavation, trench, pothole, asphalt, etc.
- (3) *Director* means the Public Works Director or designee.
- (4) *Emergency* means an unforeseen condition that poses an immediate threat to public health, safety, or welfare that requires immediate action.
- (5) *Excavation or Excavate* means any cutting, digging, potholing or otherwise disturbing the street surface within the public right-of-way to access or install a utility line or any structure or facility.
- (6) *Full depth* means the thickness of asphalt from the top of asphalt to the top of base aggregate.
- (7) *Moratorium Street* means any street or portion thereof that has been constructed, reconstructed, or resurfaced within the preceding five years, regardless of width or method within the City of St. Helens right-of-way.
- (8) *Permittee* means any person, company, agency, or utility authorized to perform excavation under a city-issued permit.

- (9) *Public right-of-way* means the area in, upon, above, beneath, or across any public street, parking lot, or City-owned parcel or easement, including but not limited to, any highway, street, alley, sidewalk, or median reserved or dedicated to the City for public use.
- (10) *Restoration* means the process by which an excavated public right-of-way and surrounding area, including pavement and foundation, is returned to the same or better condition than existed before excavation.

#### **12.36.030      Applicability**

This standard applies to the following:

- (1) *New Streets/Reconstructed Streets*. New streets/reconstructed streets shall not be cut or cored for a period of five years from the date of the completed construction.
- (2) *Resurfaced Streets*. Resurfaced streets shall not be cut or cored for a period of five years from the date of the completion of the resurfacing.

#### **12.36.040      Moratorium on Pavement Cuts in Public Streets**

- (1) Except as otherwise provided in this Chapter, it is unlawful for any person, utility, contractor, or other entity to cut or open the surface of a public street that has been newly constructed, reconstructed, or resurfaced for a period of five (5) years following the date of project completion and acceptance of such improvements by the Director. Moratorium shall apply to, but not be limited to, pavement cutting, removal, or replacement; sidewalk cutting, removal, or replacement; curb and gutter cutting, removal, or replacement; utility installation, repair, or replacement; driveway approach repair, removal, or replacement; or potholing or drilling.
- (2) Excavation shall not be permitted on a moratorium street without a valid moratorium waiver issued by the Director pursuant to SHMC 12.36.060.
- (3) The City Engineering Division shall maintain a current list of streets under pavement cut moratorium which shall be available to the public.

#### **12.36.050      Moratorium Exceptions**

- (1) Exceptions to the moratorium may be permitted in the following situations, at the discretion of the Director:
  - (a) In the event of an emergency—including but not limited to situations that endanger life, property, or public health and safety; require immediate utility or infrastructure repair; or result in the interruption of essential utility service—an entity making an emergency pavement cut must apply for a written Moratorium

Excavation Waiver within twenty-four (24) hours of making the pavement cut, beginning with the first business day that City offices are open.

- (b) Work explicitly authorized by the Director, where no feasible alternative exists and where restoration will meet or exceed City standards
  - (c) Pre-approved capital improvement projects or public works initiated or contracted by the City.
  - (d) Other situations deemed by the Director to be in the best interest of the general public.
- (2) Exceptions to the pavement cut moratorium, including emergencies, do not exempt the entity from any requirements to restore the pavement as provided in this chapter or in conditions of approval of a right-of-way permit.
- (3) The provisions of this chapter shall not apply to officers or employees of the City acting in the discharge of their official duties.

#### **12.36.060 Moratorium Excavation Waiver**

- (1) To excavate within a moratorium street a waiver must be obtained. To request a waiver, the applicant must submit a Moratorium Street Excavation Waiver Request to the Director. The request must include all of the following:
- (a) The location of the excavation.
  - (b) A detailed scope of work and justification for excavation.
  - (c) Statement and other applicable evidence from the applicant setting forth good cause for why the work was not performed before the public street was resurfaced.
  - (d) Statement and other applicable evidence from the applicant setting forth good cause for why the work cannot be performed at another location.
  - (e) An explanation of why trenchless or alternative construction methods are not feasible.
- (2) In the event a waiver is granted, any excavation within a moratorium street shall be repaired in accordance with Subsection 12.36.070, Restoration Standards for Moratorium Streets, and City of St. Helens standards, and the permittee shall obtain a right-of-way permit from the City's Engineering Division and shall pay all associated costs of the permit.

- (3) In granting an exception, the Director may impose conditions determined to be appropriate to completely restore the street and provide equivalent surface quality, durability and rideability. Conditions may include surface grinding, base and sub-base repairs, or similar work, and may include full-depth and full-width surface paving of the roadway.

#### **12.36.070 Restoration Standards for Moratorium Streets**

- (1) Permittees who are authorized to cut into a moratorium street must complete restoration work within ten (10) business days following completion of underground work, unless otherwise approved. Any delay without written approval may be deemed a violation subject to penalty.
- (2) In general, full-depth restoration is required where all pavement layers, including surface, base, and subbase, shall be removed and replaced to a depth and material standard approved by the City.
- (3) Full Restoration Policy: Pavement cuts shall be full depth and shall extend 2 feet (2' – 0') beyond nominal trench edge longitudinally and transversely. There shall be no gaps  $\leq$  four feet (4'-0") from edge of pavement, curb or gutter. Paving shall extend the full width of an established travel lane. Full restoration policy shall apply to arterial and collector streets.
- (4) Modified Restoration Policy: Pavement cuts shall be full depth and shall extend 1 foot (1' – 0') beyond nominal trench edge longitudinally and transversely. There shall be no gaps  $\leq$  four feet (4'-0") from edge of pavement, curb or gutter. Paving shall extend beyond the wheel path to the middle of the travel lane. Modified restoration policy shall apply to local streets, non-linear excavations, asphalt paths, and cycle tracks.
- (5) Procedures used for the pavement removal and replacement shall not cause spalling or cracking of adjacent pavement.
- (6) Repairs to pavement under moratorium, both emergency and non-emergency, shall follow the below requirements,

<u><b>Pavement or Excavation Type</b></u>	<u><b>Required Restoration</b></u>
(a) Minor Arterial Street	Full-depth pavement restoration required. Paving shall extend the full width of an established travel lane. 4-inch grind and overlay. Overlay shall be performed in two 2-inch lifts with approved Level 3 asphalt concrete. Asphalt concrete pavement surface course shall comply with mixing and proportion of materials as designated in the Oregon Standard Specification Section (OSSC) 00745. The grade of paving asphalt shall be ½-inch dense graded

		PG 64-22 Hot Mix Asphaltic Concrete (HMAC) in conformance to the requirements of the OSSC. Final limits of restoration to be determined by the Director.
(b)	Collector Street	Full-depth pavement restoration required. 3-inch grind and overlay. Overlay shall be performed in two 2-inch lifts with approved Level 2 asphalt concrete. Asphalt concrete pavement surface course shall comply with mixing and proportion of materials as designated in the Oregon Standard Specification Section (OSSC) 00745. The grade of paving asphalt shall be ½-inch dense graded PG 64-22 Hot Mix Asphaltic Concrete (HMAC) in conformance to the requirements of the OSSC. Final limits of restoration to be determined by the Director.
(c)	Local Street	3-inch grind and overlay with approved Level 2 asphalt concrete. Asphalt concrete pavement surface course shall comply with mixing and proportion of materials as designated in the Oregon Standard Specification Section (OSSC) 00745. The grade of paving asphalt shall be ½-inch dense graded PG 64-22 Hot Mix Asphaltic Concrete (HMAC) in conformance to the requirements of the OSSC. Final limits of restoration to be determined by the Director.
(d)	Concrete Pavement (may include any of the street classifications above)	Concrete pavement shall be saw cut and removed to nearest joint. Concrete shall be Portland Cement Concrete (PCC) with a minimum compressive strength of 4,000 psi or greater at 28 days. Mix design shall be pre-approved by the Engineer. Thickness of new concrete slab must match or exceed existing pavement. Install dowels or tie bars into adjacent slabs using epoxy-grouted holes to ensure load transfer, to be preapproved by the Engineer prior to placement. Expansion joints shall be installed and sealed with an approved expansion joint filler. Permittee shall maintain protection from traffic for at least 7 days or until concrete has reached 75% of design strength. Final surface shall match adjacent pavement in texture, color, and elevation.
(e)	Sidewalk	Entire panel(s) from joint to joint shall be replaced. Concrete shall be Portland Cement Concrete (PCC) with a minimum compressive strength of 4,000 psi or greater at 28 days. Mix design shall be pre-approved by the Engineer. Sidewalk thickness shall match or exceed

		existing sidewalk. Contraction joints shall match existing panel layout. Expansion joints shall be used at connections to fixed objects (i.e. curbs, buildings, driveways). Sidewalk shall be finished with a broom texture perpendicular to the direction of travel, unless otherwise specified. Edges shall be tooled. All sidewalk restoration must meet current ADA standards. Permittee shall protect sidewalk for at least 7 days or until concrete has reached 75% of design strength. Concrete strength tests shall be required when greater than 500 square feet of sidewalk is impacted.
(f)	Curb and Gutter	Curb and gutter shall be replaced from joint to joint. Concrete shall be Portland Cement Concrete (PCC) with a minimum compressive strength of 4,000 psi or greater at 28 days. Mix design shall be pre-approved by the Engineer. Contraction joints shall match existing pavement layout. Expansion joints shall be used at connections to fixed objects (i.e. curbs, buildings, driveways). Concrete strength tests shall be required when greater than 500 square feet of curb and gutter is impacted.
(g)	Non-linear Excavation (potholing, bore pit, core drilling, etc.)	<p>Asphalt pavement: Match pavement restoration requirements for street's functional classification. Final limits of restoration to be determined by the Director.</p> <p>Concrete pavement: Replace concrete to nearest panel joints. Concrete shall match existing in thickness, finish, joint spacing, and color. Concrete shall be Portland Cement Concrete (PCC) with a minimum compressive strength of 4,000 psi or greater at 28 days. Mix design shall be pre-approved by the Engineer.</p>
(h)	Asphalt paths and cycle tracks	2-inch grind and overlay with approved Level 2 asphalt concrete. Asphalt concrete pavement surface course shall comply with mixing and proportion of materials as designated in the Oregon Standard Specification Section (OSSC) 00745. The grade of paving asphalt shall be ½-inch dense graded PG 64-22 Hot Mix Asphaltic Concrete (HMAC) in conformance to the requirements of the OSSC. Final limits of restoration to be determined by the Director.



(7) All restored asphalt pavements shall receive,

- (a) Base course and leveling course. Aggregate material shall be a clean, well- graded crushed base aggregate conforming to OSSC. Base course shall be 1-1/2 inches minus aggregate and leveling course shall be 3/4-inch minus aggregate. Pavement shall be compacted to a density of not less than 92 percent of the maximum density, as determined by AASHTO T-312.
- (b) Tack coat and sand seal. Tack Coat shall be an approved cationic emulsified asphalt. Sand seal shall be a fine cover conforming to size 1/4-inch - #10 aggregate per the OSSC.
- (c) Geotextile fabric may be required at the discretion of the Director.
- (d) Pavement base shall be compacted with mechanical vibratory or impact tampers to a density of not less than 95 percent of the maximum density, as determined by AASHTO T-99.

(8) All restored pavement shall meet the following requirements,

- (a) All excavation and trenches shall be backfilled with approved aggregate and shall be compacted in lifts to a density of 95%.
- (b) Where pavement is to be removed, permittee shall saw cut pavement to full depth prior to removal. If the pavement is found to have not been saw cut to full depth, permittee shall be required to saw cut to full depth a new joint beyond the limits of the previous saw cut joint and remove and replace the additional pavement at their expense.
- (c) All pavement markings removed or disturbed during construction shall be restored.

#### **12.36.080      Warranty Requirements**

- (1) Permittee shall warrant all restoration work and any associated surface or subgrade restoration by furnishing a warranty bond for a period of two (2) years from the date of final acceptance.
- (2) Warranty period will not begin until final acceptance is granted in writing by the City.
- (3) Restoration areas will be re-inspected by the Engineer prior to warranty expiration and release of warranty bond.

#### **12.36.090      Revocation of Moratorium Excavation Waiver**

- (1) A moratorium excavation waiver may be revoked or suspended by the Director, after notice to the permittee for:
  - (a) Violation of any material condition of the waiver, permit, or of any material provision of this article;
  - (b) Violation of any material provision of any other ordinance of the city or state law relating to the work; or
  - (c) Existence of any condition or performance of any act that the city determines constitutes or causes a condition endangering life or damage to property.
- (2) A suspension or revocation by the Director, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public right-of-way, or to the permittee's last known address.
- (3) A stop work order may be issued by the Director to any person doing or causing any work to be done in a moratorium street without a waiver, without a permit, or in violation of any provision of this chapter, or any other ordinance of the city.
- (4) Any suspension or revocation or stop work order may be appealed by the permittee to the City Administrator by filing a written notice of appeal.

#### **12.36.100 Penalties**

If the permittee shall violate or cause the violation of any of the provisions of this chapter, such person or entity shall be held liable for each and every day or portion thereof during which a violation is committed, continues, or is permitted, and upon determination of any such violation such person, firm, or corporation shall be punishable by a fine of not more than \$2000.00 per occurrence. Each day's violation constitutes a separate offence. Penalties do not include costs of damages to a moratorium street for which the permittee will be held liable.

#### **12.36.110 Appeals**

Any person aggrieved by a decision of the Director may appeal in writing to the City Administrator within 10 business days of the decision. The Administrator's decision shall be final.