ORDINANCE NO. O-2019-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLACENTIA, CALIFORNIA AMENDING TITLE 14 OF THE PLACENTIA MUNICIPAL CODE BY ADDING ARTICLE VI TO CHAPTER 14.04 ESTABLISHING A PAVEMENT CUT MORATORIUM ON NEWLY PAVED AND SEALED STREETS

A. Recitals

(i). The City of Placentia owns and maintains a roadway network of approximately 131 miles of paved streets including 85 miles of residential streets and 46 miles of arterial and collector streets; and

(ii). This network consists of approximately 24.5 million square feet of paved surface area; and

(iii). The City of Placentia desires to prolong pavement integrity and minimize pavement degradation to maintain a safe and well-maintained street network; and

(iv). The City will undertake an extensive pavement rehabilitation program over the next few years with Measure U, Measure M and SB 1 Gas Funds and it is necessary to protect these investments and minimize the damage from premature pavement cuts; and

(v). Establishing a pavement cut moratorium on newly paved and sealed streets will minimized roadway excavations and encourage contractors and utilities companies to effectively plan and coordinate their work with the City to eliminate potential conflicts in advance.

B. Ordinance

NOW, THEREFORE, the City Council of the City of Placentia does hereby find, determine and ordain as follows:

SECTION 1. The City Council finds that the facts set forth above are true and correct.

SECTION 2. Title 14 of the Placentia Municipal Code is hereby amended by adding Article VI to Chapter 14.04 (Streets and Sidewalks), to read as follows.
Article VI. Pavement Cut Moratorium

14.04.320 Purpose.

The purpose of the pavement cut moratorium in this chapter is to protect the City’s investment in its infrastructure and to preserve the useful service life of its roadway network, while providing an improved and safe driving surface and ensuring the long-term structural stability of City streets. The pavement cut moratorium encourages utility companies and developers to coordinate their planned improvements to subsurface infrastructure with the City’s ongoing pavement rehabilitation program to avoid potential conflicts and cutting into newly paved or sealed streets.

No entity or organization shall be exempt from the requirements of this chapter including but not limited to, utility companies, State agencies, Federal agencies, school districts, and private developers.


For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein:

1) “City” means the City of Placentia, California.

2) “Completion Date” means the date the Notice of Completion was adopted by the City Council for the completion of roadway construction, resurfacing operations, or maintenance works. For streets paved as part of a private development project, this shall be the date the improvements were accepted by the City as complete; for public improvements for which a Notice of Completion was not adopted by the City Council, this date shall be the actual date of completion of the work.

3) “Director of Public Works” means the Director of Public Works for the City of Placentia or his/her designee.

4) “Excavate” or “Excavation” means any cutting, digging, potholing or otherwise disturbing the street surface within the right-of-way to access or install a utility line or any related surface or subsurface facility or for other reasons. All such excavations shall require an encroachment permit pursuant to Section 14.04.100 of Chapter 14.04.

5) “Permit” means written authorization from the Director of Public Works to excavate, encroach upon, or obstruct a public right-of-way.

6) “Street” means any public street, including but not limited to any highway street, lane, court, alley, boulevard, median, parkway, parking lot, or easement reserved by or dedicated to the City for vehicular, pedestrian, or equestrian travel.
7) "Utility" means any person or entity providing electricity, gas, telephone, telecommunications, water, or other services to customers, and which pursuant to State law or local franchise is entitled to install its facilities in the public right-of-way.


A. On a paved, constructed, or reconstructed street, the pavement surface shall not be cut or opened for a period of five (5) years after the completion date. On a sealed street (slurry, fog, chip, etc.), the pavement surface shall not be cut or opened for a period of three (3) years after the completion date.

B. The City shall not issue a permit to cut, trench, or otherwise disturb or open the surface of a street that is subject to a moratorium pursuant to Subsection A, unless the Director of Public Works grants an exception pursuant to Subsection C of this Section.

C. Exceptions to the above moratorium period may be permitted in the following situations at the discretion of the Director of Public Works:
   1. Emergencies which endanger life, property or public health and safety.
   2. Repairs or modifications that are necessary to prevent the interruption of essential utility service.
   4. Work that is mandated by City, State, or Federal legislation.
   5. Unforeseen circumstances where the financial burden outweighs the benefit to the roadway infrastructure.
   6. Other situations deemed by the Director of Public Works to be in the best interest of the general public.

D. Work deemed by the utility provider to be necessary to resolve a situation that endangers life or property may be completed without prior approval or permit from the City. In these instances, a permit application must be submitted to the Director of Public Works by the end of business on the first business day following the work.

14.04.350 Excavation Waiver.

A. To excavate in a street within the moratorium period, a waiver must be obtained. To request a waiver, the applicant must submit a written request to the Director of Public Works. The request must 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 street was resurfaced.
4) A statement from the applicant setting forth good cause for why the work cannot be deferred until after the moratorium period.

5) A statement from the applicant setting forth good cause for why the work cannot be performed at another location.

6) Any additional statement providing justification to excavate the roadway(s) within the moratorium period.

B. Any excavation in streets within the moratorium period will be repaired following these requirements:

1) Overlaid or reconstructed streets: All lanes on arterial or collector streets that are affected by longitudinal cuts shall require the entire width of the travel lane for the entire length of the trench or cut plus an additional 50-feet, ground down two (2) inches and repaved with two (2) inches of similar asphalt concrete material as the previous treatment to the satisfaction of the Director of Public Works. Some streets may require rubberized asphalt or other materials. For residential streets, the limits of the work noted above shall be to the centerline of the street, plus an additional 50-feet on either side.

2) Sealed streets: All lanes on arterial or collector streets that are affected by longitudinal cuts shall require the entire width of the travel lane for the entire length of the trench or cut, plus an additional 50-feet on either side, be re-sealed with a similar sealant material as the previous treatment to the satisfaction of the Director of Public Works. For residential streets, the limits of the work noted above shall be to the centerline of the street.

3) For transverse cuts or patches on arterial or collector streets, sealant restoration limits shall encompass the entire length of the trench or cut and shall extend 100-feet on either side of the cut or trench. Overlaid or reconstructed streets shall follow the restoration requirements noted above for longitudinal cuts.

4) For transverse cuts or patches on residential streets, the sealant restoration limits shall encompass the entire length of the trench or cut and shall extend 100-feet on either side of the trench or cut centerline for the street. Overlaid or reconstructed streets shall follow the restoration requirements noted above for longitudinal cuts.

5) All painted USA markings shall be removed by the permittee after the work has been completed.

6) All damaged pavement markings, legends, striping, and traffic loop detectors shall be replaced and restored by the permittee.
SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The City Council of the City of Placentia hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 4. The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

INTRODUCED at a regular meeting of the City Council of the City of Placentia held on July 23, 2019.

PASSED, APPROVED AND ADOPTED this ___ day of ________, 2019.

Rhonda Shader Mayor

ATTEST:

Robert S. McKinnell, City Clerk

I, Robert S. McKinnell, City Clerk of the City of Placentia, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Placentia, held on the 23rd day of July, 2019 and adopted at a regular meeting of the City Council of the City of Placentia, held on the ___ day of _____. 2019 by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Robert S. McKinnell, City Clerk

APPROVED AS TO FORM:

Christian L. Bettenhausen, City Attorney