

ORDINANCE NO. 2024-1624

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AMENDING SECTION 4.1.7(A)(7) OF CHAPTER 4 OF THE ENGINEERING DESIGN STANDARDS AND POLICIES MANUAL; AMENDING THE MUNICIPAL FEE SCHEDULE TO DELETE CERTAIN FEES; AMENDING CHAPTER 13 TRAFFIC OF THE GOODYEAR CODE OF ORDINANCES TO ADD A NEW ARTICLE § 13-4 ADDRESSING STREET REPAIRS AND PAVEMENT CUTS; PROVIDING FOR PENALTIES, CORRECTIONS, SEVERABILITY, REPEAL OF CONFLICTING LAWS, AND AN EFFECTIVE DATE.

WHEREAS, various development and utilities' activities within the city adversely impact the integrity of city streets by causing damages from activities adjacent to the streets and from cuts to pavement; and

WHEREAS, pavement cuts to public streets degrade the integrity of the public streets by weakening the streets resulting in the surface of the streets sinking or deforming over time and by creating uneven surfaces; and

WHEREAS, pavement cuts to city streets increase risks to drivers, cyclists, and pedestrians using city right-of-way and result in additional costs to the city because streets that have been subject to pavement cuts require additional repairs and higher levels of maintenance; and

WHEREAS, the city's current approach to pavement cuts do not address the adverse impacts to the city and the public using city right of way resulting from pavement cuts; and

WHEREAS, the Mayor and Council of the City of Goodyear find it is in the best interests for the health, safety and welfare of the citizens of the City of Goodyear and to the traveling public to preserve the integrity of city streets by requiring that streets damaged by development and utilities' activities, including pavement cuts, be repaired as close as possible, to at least as good a condition that existed prior to the damage.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1 AMENDING SECTION 4.1.7(A)(7) OF CHAPTER 4 (TRANSPORTATION) OF THE ENGINEERING DESIGN STANDARDS AND POLICIES MANUAL

Section 4.1.7(A)(7) of Chapter 4 (Transportation) of the Engineering Design Standards and Policies Manual is hereby amended as follows with deletions shown by double strike outs through deleted texts and additions shown by double underlined text:

~~7. All new pavements shall remain in a new uncut condition for a period of 5 years from the date of acceptance by the City. New pavement is defined as follows: addition of new layer of asphalt, cape seals, hot in place recycling, microsurfacing/ thin lift overlay, mill and fill, mill and overlay, new construction, open graded surface course, and rehabilitation and reconstruction. Proposed projects should avoid all pavement cuts within that 5 year period. If a pavement cut is unavoidable a fine per the "Pavement Cut Fines Schedule", as established~~

~~by City Code, will be assessed. The following pavement treatment types are considered maintenance and not new pavement: chip seals, crack filling and sealing, fog seals, joint crack seals, joint repairs, pavement patching, scrub sealing, slurry seals, spot high friction treatments, and surface sealing. Pavement cuts within a pavement maintenance area will not be assessed for the "Pavement Cut Fines Schedule". Cuts to the pavement of any City street shall comply with the requirements set forth in Article 13-4 of the Goodyear City Code and all other requirements set forth in section 4.1.7 (Street Construction Requirements).~~

SECTION 2 AMENDING THE MUNICIPAL USER FEE SCHEDULE

The Municipal User Fee Schedule adopted on May 22, 2023 by Resolution 2023-2307 is hereby amended to delete the following Engineering Fees:

E94 Pavement Cut 12-24 months (Openings less than 9 sq ft or 9 LF of trench)

E95 Pavement Cut 24-36 months (Openings less than 9 sq ft or 9 LF of trench)

E96 Pavement Cut 0-12 months (Openings less than 9 sq ft or 9 LF of trench)

E97 Pavement Cut 0-12 months (Trenches over 9 ft long for every 50 LF or fraction thereof)

E98 Pavement Cut 12-24 months (Trenches over 9 ft long for every 50 LF or fraction thereof)

E90 Pavement Cut 24-36 months (Trenches over 9 ft long for every 50 LF or fraction thereof)

SECTION 3. AMENDING CHAPTER 13 TRAFFIC OF GOODYEAR CITY CODE

Goodyear City Code Chapter 13, Traffic is hereby amended to add a new Article 13-4 titled, "STREET REPAIRS," to read as follows:

Article 13-4 STREET REPAIRS

Sections:

- 13-4-1 Authority
- 13-4-2 Definitions
- 13-4-3 General Requirements
- 13-4-4 Duty to Repair Damaged Street
- 13-4-5 Pavement Cuts

§ 13-4-1 AUTHORITY

The City Engineer or his/her designee shall have the authority to establish regulations for the repair requirements for street pavement cuts.

§ 13-4-2 DEFINITIONS

The following definitions apply to this Article 13-4. The plural of the word or phrase includes the singular, and the singular includes the plural.

Arterial Street means all major streets and arterial streets as designated on the existing street classification map.

Asphalt Mill and Overlay/Inlay Pavement Treatment means the removal of the top two inches of street pavement with a milling machine and replacing the removed street pavement with a new layer of street pavement.

City means the City of Goodyear

Collector Street means all streets designated as collector streets and minor collector streets on the existing street classification map.

Crack Fill and Seal means the application of fill and seal to cracks in the pavement surface.

Local Street means all streets that provide direct access to residential, commercial, industrial, or other abutting land and for local traffic movements, and that connect to collector or arterial streets.

Micro Seal Pavement Treatment means a design mixture of polymer-modified emulsified asphalt, mineral aggregate, mineral filler, water, and other additives proportioned, mixed, and uniformly spread over a properly prepared surface.

New Street means a street that was constructed, reconstructed or resurfaced and accepted by the City Engineer or his/her designee within two years of the date of the proposed cut in street pavement.

Permittee means a person who possesses a permit issued by the City of Goodyear to cut street pavement.

Potholing means more than one cut in street pavement per permit with a diameter of two-feet or less.

Public Street means any street or portion thereof owned and maintained by the City that is open to the general public.

Reconstructed Street means the removal of existing pavement to its sub-base and the installation of new pavement.

Resurfaced Street means any surface treatment applied to the roadway including asphalt mill and overlay/inlay pavement treatment.

Slurry Seal Pavement Treatment means a design mixture of water, asphalt emulsion, aggregate, and additives proportioned, mixed, and uniformly spread over a properly prepared surface.

§ 13-4-3 GENERAL REQUIREMENTS

The following requirements apply to any person or entity seeking to make a cut to pavement of any Public Street:

- (A) Any person or entity seeking to make a cut to pavement of any Public Street shall obtain all permits required by the City, including by way of example, but not limitation permits allowing pavement cut(s) and permits required for the blockage or closure of public right-of-way; and
- (B) Unless otherwise extended by the City Engineer or his/her designed in a writing, all of the work required in Section 13-4-5 below shall be completed within 120 calendar days of the date a permit allowing the pavement cut is approved and issued by the City. The City Engineer or his/her designee may, at his or her discretion, extend the deadline for completion of the work required in Section 13-4-5 upon a showing that the Permittee has been diligently pursuing the completion of such work; and
- (C) In addition to complying with all applicable ordinances, regulations, standards and policies for work in City right-of-way, Permittee shall provide financial assurances in a form acceptable to the City Engineer or his/her designee to ensure the completion of the work set forth in Sections 13-4-4 and 13-4-5 below.
- (D) All of the work to be performed pursuant to the requirements in Sections 13-4-4 and 13-4-5 are subject to a two-year warranty period and upon completion of such work and acceptance of such work by the City Engineer or his/her designee subject to completion of the two-year warranty period, Permittee shall provide the City a warranty bond, in a form acceptable to the City Engineer or his/her designee, that ensures Permittee will fix any faulty work within the two-year warranty period.

§ 13-4-4 DUTY TO REPAIR DAMAGED STREET

A person that causes damage to a Public Street while working in the public right-of-way, must repair the street at the person's sole cost and expense. The damaged street must be returned as close as practicable to the condition that existed prior to the damage. The specific repairs required for damages to streets from pavement cuts are set forth in Section 13-4-5.

§ 13-4-5 PAVEMENT CUTS

- (A) The following requirements apply to all cuts to pavement on a New Street except for a single pavement cut to a New Street that is two square feet or less and is the only pavement cut allowed by the permit:
 - (1) Permittee shall apply Crack Fill and Seal between old pavement areas and new pavement areas prior to applying the Asphalt Mill and Overlay/Inlay Pavement Treatment required above; and

- (2) Permittee shall apply an Asphalt Mill and Overlay/Inlay Pavement Treatment to all lanes within the full half street of an Arterial Street or Collector Street in which a pavement cut is made and to all lanes of a Local Street. The treatment must extend a minimum of 25 feet beyond the pavement cut(s) in both directions; and
 - (3) Within twenty-four (24) hours of completing the Asphalt Mill and Overlay/Inlay Pavement, Permittee shall apply temporary striping for all lanes within the full half street of an Arterial Street or Collector Street in which a pavement cut is made and to all lanes of a Local Street. The temporary striping must extend a minimum of 25 feet beyond the pavement cut in both directions; and
 - (4) Within thirty (30) days of completing the Asphalt Mill and Overlay/Inlay Pavement, Permittee shall apply thermoplastic striping for all lanes within the full half street of an Arterial Street or Collector Street in which a pavement cut is made and to all lanes of a Local Street. The temporary striping must extend a minimum of 25 feet beyond the pavement cut in both directions.
- (B) The following requirements apply to a single pavement cut to a New Street that is two square feet or less that is the only pavement cut allowed by the permit:
- (1) Permittee shall apply Crack Fill and Seal between old pavement areas and new pavement areas.
- (C) The following requirements shall apply to all cuts to pavement on any Public Street other than a New Street except for Potholing when Potholing are the only cuts made to the Public Street:
- (1) Permittee shall apply a Micro Seal Pavement Treatment to all lanes within the full half street of an Arterial Street or Collector Street in which a pavement cut is made and Slurry Seal Pavement Treatment to all lanes of a Local Street. The treatments must extend a minimum of 25 feet beyond the pavement cut(s) in both directions; and
 - (2) Within twenty-four (24) hours of completing the Micro Seal or Slurry Seal Pavement Treatment, Permittee shall apply temporary striping for all lanes within the full half street of an Arterial Street or Collector Street in which a pavement cut is made and to all lanes of a Local Street. The temporary striping must extend a minimum of 25 feet beyond the pavement cut in both directions; and

(3) Within thirty (30) days of completing the Micro Seal or Slurry Seal Pavement, Permittee shall apply thermoplastic striping for all lanes within the full half street of an Arterial Street or Collector Street in which a pavement cut is made and to all lanes of a Local Street. The temporary striping must extend a minimum of 25 feet beyond the pavement cut in both directions.

(4) If required by the City Engineer or his/her designee, Permittee shall apply Crack Fill and Seal between old pavement areas and new pavement areas prior to applying the Micro Seal Pavement Treatment or the Slurry Seal Pavement Treatment required above.

(D) The following requirements shall apply to Potholing in a City Street other than a New Street, when Potholing are the only pavement cuts made to the City Street:

(1) Permittee shall apply Crack Fill and Seal between old pavement areas and new pavement areas.

(E) The requirements set forth in this Section 13-4-5 shall not apply to pavement cuts to a Public Street made in connection with the modification to an existing driveway for a single-family dwelling provided the pavement cuts are not located more than two feet beyond the curb and gutter of the Public Street. Permittee shall apply Crack Fill and Seal between the old pavement area and new pavement areas for any pavement cut subject to this exemption.

SECTION 4. PENALTIES

Any person who violates any provision of Article 13-4 being adopted herein shall be subject to penalties as set forth in Article 1-8 of the City of Goodyear Code of Ordinances as it may be amended from time to time and which currently provides:

§ 1-8-1 Penalty.

(A) Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed \$2,500 for an individual and not more than \$20,000 for an enterprise or by imprisonment for a period of not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described. The term ENTERPRISE as used in this subsection

shall mean any corporation, partnership, association, labor union or other entity or any group of persons associated in part although not a legal entity.

(B) Any violation of or failure or refusal to do or perform any act required by Chapter 13 of this code constitutes a civil traffic violation. Civil traffic violations are subject to the provisions of A.R.S. Title 28, Chapter 6, Arts. 20 and 21 and amendments thereto.

(C) Notwithstanding any provisions to the contrary in this code providing for enforcement of violations of this code as misdemeanors or petty offenses, violations of any provision of this code and violations of any proscription, requirement or duty set forth in any ordinance incorporated into this code or any other ordinance of the City are declared to be civil code violations which may be adjudicated and enforced by the City court pursuant to Chapter 18 of this code, as an additional enforcement alternative to other remedies provided in this section or remedies and procedures provided for specifically in this code or other ordinance. Use of this civil code enforcement alternative is not mandatory and shall be at the discretion of the City official undertaking enforcement action on an alleged violation of this code or other ordinance.

SECTION 5 REPEAL

All ordinances, resolutions, codes, regulations or standards adopted by the Goodyear City Council that are in conflict with the provisions of this ordinance or any part of the code adopted herein are hereby repealed upon the effective date of this ordinance.

SECTION 6 CORRECTIONS

The City Clerk, and the codifiers of this Ordinance are authorized to make necessary clerical corrections to this Ordinance, including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto

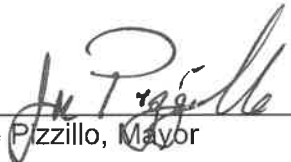
SECTION 7. SEVERABILITY

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions of the ordinance or parts thereof

SECTION 8 EFFECTIVE DATE

This Ordinance shall become effective on or after January 8, 2025. The provisions of ordinance, regulation, or requirement of the City of Goodyear being amended by this Ordinance shall remain in full force and effect until the effective date of this Ordinance

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a 6-1 vote, this 9th day of December, 2024.



Joe Pizzillo, Mayor

Date: 12-9-2024

ATTEST:



Darcie McCracken, City Clerk

APPROVED AS TO FORM:



Roric Massey, City Attorney

