

## **ORDINANCE NO. 1998**

**AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, ADDING SECTION 12.25.230 ("PAVEMENT PRESERVATION") TO CHAPTER 12.25 ("EXCAVATION AND USE OF CITY RIGHTS-OF-WAY") OF TITLE 12 ("STREETS, SIDEWALKS, AND PUBLIC PLACES") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA" TO PRESERVE STREET PAVEMENTS**

**BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:**

**WHEREAS**, the City Council adopted Ordinance No. 1842 on April 21, 2009 to adopt Rules and Regulations to govern openings in and use of streets and public rights-of-way;

**WHEREAS**, the City Council by adopting Ordinance No. 1842 adopted Chapter 12.25 ("Excavation and Use of City Rights-Of-Way") of Title 12 ("Streets, Sidewalks, and Public Places") of "The Code Of The City Of Santa Clara, California"; and,

**WHEREAS**, the City Council desires to adopt further Rules and Regulations governing openings in and use of streets and public rights-of-way to preserve street pavements.

**NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA, AS FOLLOWS:**

**SECTION 1:** That a new Section 12.25.230 (entitled "Pavement Preservation") is hereby added to Chapter 12.25 (entitled "Excavation and Use of City Rights-Of-Way") of Title 12 (entitled "Streets, Sidewalks, and Public Places") of "The Code of the City of Santa Clara, California," ("SCCC") to read as follows:

**"12.25.230 Pavement Preservation**

(a) Any street that has been resealed shall not thereafter be cut or opened for a period of three (3) years. This timeframe shall begin immediately following the resealing work and end on December 31 of the year which is at least three (3) years following the

year of completion of the work.

(b) Any street that has been constructed, reconstructed, or resurfaced shall not thereafter be cut or opened for a period of five (5) years. This timeframe shall begin immediately following the construction, reconstruction, or resurfacing work and end on December 31 of the year which is at least five (5) years following the year of completion of the work.

(c) The Director of Public Works or City Engineer is granted the discretionary authority to authorize exemptions under the following circumstances:

(1) Emergency encroachments that are immediately necessary to preserve life or property;

(2) Work that is mandated by a county, State or federal agency;

(3) Work necessary to provide utility service for buildings or parcels where no other reasonable means of providing service exists;

(4) Repairs or modifications that are necessary to prevent the interruption of essential utility service;

(5) Other situations deemed by the Director of Public Works or City Engineer to be in the best interest of the general public.

(d) To request an exemption, the permittee shall submit a written request to the Director of Public Works. The request shall include:

(1) The location of the excavation;

(2) Description of the work to be performed;

(3) The reason(s) the work cannot be deferred;

(4) The reason(s) the work cannot be performed at another location;

(5) The reason(s) it is in the best interest of the general public to excavate the street.

(e) When authorizing an exemption, and for emergency encroachments, the Director of Public Works or City Engineer is granted the discretionary authority to impose conditions determined appropriate by the Director of Public Works or City Engineer to ensure the rapid and complete restoration of the street and the pavement. The Director of Public Works or City Engineer's determination shall be final.

(f) The Director of Public Works or City Engineer is granted the discretionary authority to implement additional policies, practices, procedures, rules, regulations, and standards for excavation and use of right-of-way, as necessary, to ensure street pavements are preserved."

**SECTION 2: Savings clause.** The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

**SECTION 3: Effective date.** This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 5<sup>TH</sup> day of FEBRUARY, 2019, by the following vote:


AYES: COUNCILORS: Chahal, Davis, Hardy, O'Neill, and Watanabe  
and Mayor Gillmor

NOES: COUNCILORS: None

ABSENT: COUNCILORS: Mahan

ABSTAINED: COUNCILORS: None

ATTEST:

*for*   
NORA PIMENTEL, MMC  
ASSISTANT CITY CLERK  
CITY OF SANTA CLARA

Attachments incorporated by reference: None