



## ORDINANCE 2011-008

### **AN ORDINANCE AMENDING TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) OF THE SHERWOOD MUNICIPAL CODE BY ADDING A NEW CHAPTER (12.17) ESTABLISHING LIMITATIONS ON EXCAVATIONS AND CUTS IN NEWLY IMPROVED PUBLIC STREET PAVEMENT SURFACES**

**WHEREAS**, the City of Sherwood wishes to maintain the quality, integrity and service life of existing and newly constructed roads within the City; and

**WHEREAS**, The City has adopted an Engineering Design and Standard Details Manual that delineates the design and construction standards for all construction activity within City rights-of-way; and

**WHEREAS**, The City recognizes that trench cuts and trench patches significantly alter and degrade the pavement surfaces under and adjacent to the actual trench line, thereby reducing the quality integrity, and service life of the pavement surface; and

**WHEREAS**, the City has developed and established construction standards to insure the quality, integrity and service life of repaired and newly constructed, newly paved, overlaid or treated City streets; and

**WHEREAS**, to minimize the adverse effects of trench cuts and trench patches on existing, and newly constructed, newly paved, overlaid or treated street surfaces for the longest practicable time period possible, additional requirements may be required by the City; and

**WHEREAS**, the City recognizes that limiting construction activity within newly constructed, newly paved, overlaid or treated surfaces for specified time periods may adversely affect public and/or private development.

**NOW, THEREFORE, BASED ON THE FOREGOING, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1:** That Title 12 and Article II of the Municipal Code is hereby amended to include as a new Chapter 12.17 –Construction-Limited Streets, to read as follows:

<b>12.17 - Construction-Limited Streets</b>	
<b>12.17.005</b>	<b>Purpose</b>
<b>12.17.010</b>	<b>Definition</b>
<b>12.17.015</b>	<b>Duration of Limitation</b>
<b>12.17.020</b>	<b>Applicability</b>
<b>12.17.025</b>	<b>Exceptions</b>
<b>12.17.027</b>	<b>Maintenance and Emergency Repairs</b>
<b>12.17.030</b>	<b>Unauthorized Work and Repairs</b>
<b>12.17.035</b>	<b>Technical Guidelines</b>

**12.17.005 Purpose**

The provisions of this Chapter are intended to protect the public investment, health and safety, and are intended to maintain the quality, integrity, and service life of recently constructed or reconstructed, paved or repaved, overlaid or surface treated streets within the City, for the longest practicable time period.

**12.17.010 Definition**

A. A "construction-limited street" means any of the following City streets, as identified in the City Transportation System Plan, that has been constructed, reconstructed, paved, repaved, overlaid or surface treated, within the following time periods by the City, a City contractor, or a private party pursuant to a right-of-way or development permit.

<u>TSP Street Classification</u>	<u>Length of Time</u>
Arterial Streets	5 years
Collector Streets	3 years
Local and Neighborhood Streets	2 years
Downtown Streets (Asphalt)	2 years
Downtown Streets (Concrete)	Indefinite (Construction not allowed)

B. The "Engineering Design Manual" means the most recent City of Sherwood *Engineering Design and Standard Details Manual* as amended.

**12.17.015 Duration of Limitation**

Except as provided in Section 12.17.025 and Section 12.17.027 below, the pavement of a construction-limited street may not be ground, drilled through, saw cut, or excavated through within the time period described in Section 12.17.010 above. The restrictions of this section shall commence on the day the street has been accepted by the City, as defined by the commencement of the maintenance period, and shall continue throughout the period described in Section 12.17.010 above.

**12.17.020 Applicability**

Chapter 12.17 applies to all construction activity within the public right-of-way of a construction-limited street whether performed by public or private parties, including private utilities.

**12.17.025 Exceptions**

A. The City Manager or the City Manager's designee may approve an exception to the limitations in Section 12.17.015 in order to facilitate development on adjacent properties, provide for emergency repairs to subsurface facilities, provide for underground connections to adjacent properties, or to allow the upgrading of underground utilities.

An approved exception may include conditions determined necessary by the City Manager or designee to ensure the rapid and complete restoration of the street and surface paving, consistent with the purpose of this Chapter 12.17 to the greatest extent practicable. Pavement restoration requirements may include but are not limited to surface grinding, base and sub-base repairs, trench compaction, or other related work as needed, including up to full-width street pavement removal and replacement.

B. A person seeking an exception under this section shall submit an application to the City Manager or designee in a form acceptable to the city. The application must include sufficient information to demonstrate reasonable compliance with Section 210.20 (*Construction Limited Streets*) of the Engineering Design Manual.

The City Manager or designee will review the application and information and provide a written decision either approving or denying the application. The City Manager's or designee's decision may be appealed in the manner provided for a writ of review under ORS chapter 34.

#### **12.17.027 Maintenance and Emergency Repairs**

Following notice to the Public Works Director and a demonstration of compliance with Section 210.18 (*Utilities and Other Work in the Public Right of Way*) and Section 210.19 (*Trenching and Street Cuts*) of the Engineering Design Manual, the City may authorize maintenance or emergency repairs to an underground utility service within the right-of-way of a construction-limited street provided the underground utility service is in existence on the effective date of this Ordinance.

#### **12.17.030 Unauthorized Work and Repairs**

A. Violations of this Chapter 12.17 may be enforced by the City in the manner of a violation subject to the jurisdiction of the Sherwood Municipal Court. If the pavement of a construction-limited street is ground, drilled through, saw cut, or excavated through for any reason without authorization, the extent of the damages caused by such actions shall be determined by the City in its sole and exclusive discretion.

B. The Municipal Court may order a person responsible for a violation to restore the street surface to the standards described in Section 210.18 (*Utilities and Other Work in the Public Right of Way*) and Section 201.19 (*Trenching and Street Cuts*) of the Engineering Design Manual. The Court may include in the order such other conditions the Court deems necessary to ensure adequate and appropriate restoration of the street pavement section.

C. Alternatively, the Municipal Court may direct the City to perform, either directly or indirectly, the street restoration with the costs of such restoration assessed against the person responsible for the violation.

#### **12.17.035 Technical Requirements**

Any restoration of a construction-limited street shall conform, at a minimum, to the requirements set forth in the most current edition of the City's Engineering Design Manual. The City Manager or designee may impose additional requirements as determined necessary by the City Manager or designee in the person's sole discretion in order to meet the intent of maintaining the quality, integrity, and service life of the affected construction limited street to the greatest extent practicable.

**Section 2:** The City Manager is hereby directed to take such action as may be necessary to document this amendment in accordance with City ordinances and regulations.

**Section 3:** This Ordinance shall be effective the 30<sup>th</sup> day after its enactment by the City Council and approval by the Mayor.

**Duly passed by the City Council this 19<sup>th</sup> day of July, 2011.**

  
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Keith S. Mays, Mayor

Attest:

  
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Sylvia Murphy, CMC, City Recorder

	<b>AYE</b>	<b>NAY</b>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Langer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Butterfield	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Folsom	<input type="checkbox"/> Absent	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>