

CITY OF WINLOCK, WASHINGTON
ORDINANCE NO. 1175

AN ORDINANCE OF THE CITY OF WINLOCK, WASHINGTON, ADDING AND AMENDING SECTIONS OF CHAPTER 12.05 OF THE WINLOCK MUNICIPAL CODE; ENACTING RULES AND REGULATIONS RELATING TO STREET CUTTING; AMENDING ORDINANCE 809 AS NECESSARY; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City of Winlock, Washington (the “City”) is a Code City under the laws of the State of Washington; and

WHEREAS, pursuant to RCW 35A.11.020, the City may adopt and enforce ordinances of all kinds relating to and regulating the City’s local or municipal affairs and appropriate to the good government of the City; and

WHEREAS, all references herein to “WMC” shall mean the “Winlock Municipal Code,” and

WHEREAS, the City desires to restrict developers from cutting city streets, sidewalks, and curbs; and

WHEREAS, the Council desires to amend and create new sections of Chapter 12.05 WMC as set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINLOCK, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 12.05.020 of the Winlock Municipal Code, as last amended by ordinance No. 809, is hereby amended to state:

12.05.020. Definitions.

The following terms when used in this chapter shall be construed to mean as follows:

“Alley” means a duly dedicated public alley;

“Applicant” means a person who has applied to the City for a permit.

“City” means the City of Winlock.

“Degradation” means a decrease in the useful life of the right-of-way or damage to any landscaping within the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct the surface and/or subsurface structure of such right-of-way earlier than would be required if the excavation or disturbance did not occur.

“Person” means the plural as well as the singular, and shall include any partnership, association, group, or corporation;

“Public works standards” means the current edition of the City’s adopted Public Works Standards in Chapter 15.15 WMC.

“Right-of-way” means all real property owned or held by the city in fee, or by way of easement, or dedicated to the public and located within the city, and used or intended for use as a street, alley, sidewalk, public way, or easement or public or private utilities, whether developed or undeveloped;

“Sidewalk” means a concrete walk for pedestrian use outside the building lot line of any property owner and constructed for use by the general public;

“Specifications” means engineering regulations, construction specifications, and design standards adopted by the City.

“Street” means a duly dedicated or deeded public street.

“Superintendent” means the City of Winlock Public Works Superintendent.

Section 2. There is hereby created a new section 12.05.045 to the Winlock Municipal Code, to read as follows:

12.05.045. Work by licensed contractor.

When the Superintendent of Public Works determines that the work or activity proposed involves an unreasonable risk to the public, the Superintendent of Public Works may require that the proposed work be performed by a licensed contractor.

Section 3. There is hereby created a new section 12.05.065 to the Winlock Municipal Code, to read as follows:

12.05.065. Bonding and insurance.

- A. A street restoration bond is required for the protection of the City. The bond shall be for a minimum of \$5,000. If multiple projects are under construction at the same time, or a review of the project indicates a greater bond amount is appropriate, the Superintendent or City Engineer may require higher bond amounts.
- B. Contractors or utility owners working within the public right-of-way will carry comprehensive liability insurance in an amount of at least \$1,000,000, and may require a greater amount at the discretion of the Superintendent or City Engineer, and will provide the City with a certificate of insurance which names the City as an also-insured or additionally insured party for all work they perform within the right-of-way. Evidence of

a credible self-insurance program may be substituted for this insurance requirement; provided that prior approval is given by the Superintendent and City Engineer.

Section 4. There is hereby created a new section 12.05.075 to the Winlock Municipal Code, to read as follows:

12.05.075. Pavement cut requirements.

To protect the city's investment in its infrastructure, to preserve the life of its streets, and to provide an improved driving surface, all construction work on paved streets resulting in cutting or excavation within the street shall be restored per public works standards, Chapter 15.15 WMC, and as required in this chapter.

- A. For streets with a Pavement Condition Rating (PCR) equal to or greater than 70, or that have been resurfaced with a slurry seal, chip seal, cape seal, or similar treatment less than one (1) inch thick within the calendar year in which the construction or right-of-way permit was issued, no cutting or excavation is permitted, except for the following situations and at the discretion of the City Engineer:
 - 1. Emergencies that endanger life, property, or public health and safety.
 - 2. Interruption of essential utility service.
 - 3. Work mandated by city, state, or federal legislation.
 - 4. New service to a specific location cannot be reasonably provided by another route or using trenchless technology methods.
 - 5. Minor core drilling or potholing (maximum 8-inch bell hole) to locate utilities.
 - 6. Other situations deemed by the Public Works Superintendent or City Engineer to be in the interests of the public.
- B. If construction work is authorized by the city for the reasons identified in subsections (1)-(6) above, pavement patches shall meet the following requirements:
 - 1. Lateral cuts perpendicular to the flow of traffic shall have the pavement removed and replaced a minimum of 25 feet wide, centered on the trench cut, to include the full width of each travel lane or shoulder disturbed by the cut or excavation. Removal shall be by grinding pavement a minimum of 1.75 inches deep, or by saw cutting and excavation. Paving shall be accomplished with a paving machine.
 - 2. Longitudinal cuts parallel with the flow of traffic shall have the pavement removed and replaced to include the full width of each travel lane or shoulder disturbed by the cut or excavation. The minimum longitudinal patch length shall be 25 feet. Removal shall be by grinding pavement a minimum of 1.75 inches deep, or by saw cutting and excavation. Paving shall be accomplished with a paving machine.
 - 3. For lateral patches less than 25 feet apart from edge-of-patch to edge-of-patch, work shall be incorporated into a single patch. For longitudinal patches, if the outside travel lane is patched, the adjacent paved shoulder shall also be replaced if less than four (4) feet of width remains.
 - 4. All patches shall be at least as thick as the adjacent road section or shall meet the public works standards' minimum road section thickness for the classification of the street, whichever is thicker.

5. Minor core-drilled holes and potholes shall be backfilled with control density fill (CDF), or as approved by the City Engineer.
 6. All patches shall have the perimeter joints of the patch crack sealed.
 7. Disturbed traffic markings and striping shall be restored with approved in-kind materials.
- C. Streets with a PCR of less than 70 that have not been resurfaced with any pavement treatment within the calendar year in which the construction permit was issued may be cut or excavated if utility work cannot reasonably utilize another route or trenchless technology. If construction work is authorized by the city under this subsection, pavement patches shall meet the following requirements:
1. Lateral cuts perpendicular to the flow of traffic shall have the pavement removed and replaced a minimum of six (6) feet wide, centered on the trench cut, to include one-half width or all of each travel lane disturbed by the cut (to prevent a joint in the wheel path). There shall be a minimum of one (1) foot of patch width beyond each side of the trench cut.
 2. Longitudinal cuts parallel with the flow of traffic shall have the pavement removed and replaced to include one-half width or all of each travel lane disturbed by the cut or excavation (to prevent a joint in the wheel path). There shall be a minimum of one (1) foot of patch width beyond each side of the trench cut. Minimum length of the patch in a travel lane shall be six (6) feet.
 3. For lateral patches less than 25 feet apart from edge-of-patch to edge-of-patch, work shall be incorporated into a single patch. For longitudinal patches, if the outside travel lane is patched, the adjacent paved shoulder shall also be replaced if less than four (4) feet of width remains.
 4. All patches shall be at least as thick as the adjacent road section or shall meet the public works standards' minimum road section thickness for the classification of the street, whichever is thicker.
 5. Minor core-drilled holes and potholes shall be backfilled with control density fill (CDF), or as approved by the City Engineer.
 6. All patches shall have the perimeter joints of the patch crack sealed.
 7. Disturbed traffic markings and striping shall be restored with approved in-kind materials.
- D. The completed surface of the pavement shall not vary more than one-fourth (1/4) inch from the lower edge of a ten-foot straightedge placed parallel with the flow of traffic.
- E. The contractor shall be responsible for the continued performance of the patched asphalt to conform to this section and the public works standards for two (2) years after the permit is closed by the city's acceptance of the patch.
- F. For purposes of this section, Pavement Condition Rating (PCR) shall be as determined by the City Engineer.

Section 5. Section 12.05.130 of the Winlock Municipal Code, as last amended by Ordinance No. 809, is hereby amended to state:

12.05.130. Liability for defective work.

In the event that any work performed pursuant to this chapter should be improperly performed, or should become defective within two (2) years after the termination of the permit or the conclusion of the work, the person to whom the permit was issued shall be responsible for correcting such defective work, or paying the cost of such correction. Defective work shall include, but not be limited to, settlement within the areas of excavation or embankment, or pavement failure. Upon notification of the existence of such defective work, the holder of such a permit shall take immediate steps to remedy such defective work.

Section 6. Section 12.05.120 of the Winlock Municipal Code, as last amended by Ordinance No. 809, is hereby amended to read:

12.05.120. Revocation of permit – Appeal.

Any action of the superintendent of public works or city engineer revoking a permit issued pursuant to this chapter shall be appealable to the Winlock city council within 10 calendar days after the date of the recommendation or decision to revoke a permit. Procedures for appeals shall follow those outlined in the most current version of the Winlock Development Code as existing or as hereafter amended.

Section 7. Section 12.05.150 of the Winlock Municipal Code, as last amended by Ordinance No. 809, is hereby amended to read:

12.05.150. Violations and Penalties.

- A. The violation of or failure to comply with any provision of this chapter is declared to be unlawful. Each separate day or portion thereof during which any violation of any provision of this chapter continues shall constitute a separate violation and upon conviction thereof shall be punished as provided in this section.
- B. Failure to obtain a permit prior to commencing work, is cause for the Superintendent of Public Works or City Engineer to issue a stop work order until a permit has been issued. A 50-percent penalty may be added to the cost of a late permit.
- C. It shall be a crime to undertake construction activity in the public right-of-way without a permit as required in this chapter. It shall also be a crime to fail to post a bond or alternative security as required in 12.05.065 WMC. Violators shall be subject to a maximum fine of one thousand dollars (\$1,000.00) with each day of illegal activity and/or each day the bond or security remains unposted constituting a separate offense.
- D. Civil Infraction. It shall also be a civil infraction to undertake construction activity in the public right-of-way without a permit as required in this chapter. It shall also be a civil infraction to fail to post a bond or alternative security as required in 12.05.065 WMC. Civil infractions under this section shall be processed as set forth in Chapter 1.20 WMC or Chapter 7.80 RCW.
- E. Any person, firm, corporation, or association, or any agent thereof who violates any of the provisions of this chapter, or any of the rules, regulations, policies, or plans adopted pursuant to this chapter, shall be liable for all damages, costs, and expenses resulting from such violation, which costs and expenses shall be taxed as part of the costs of the prosecution against the party, liable to be recovered as other costs are recovered.

F. Penalty and enforcement provisions provided in this chapter are not exclusive, and the city may seek any other legal or equitable relief it deems appropriate.

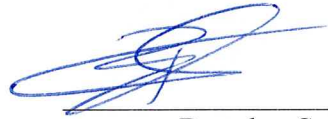
Section 8. Repealer. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 9. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 10. Effective Date. This ordinance shall take effect five (5) days after its publication, or publication of a summary thereof, in the City's official newspaper, or as otherwise provided by law.

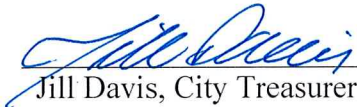
Section 11. Corrections. Upon approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbers, section/subsection numbers, and any references thereto.

PASSED by the Council of the City of Winlock, Washington, and **APPROVED** by the Mayor of the City of Winlock at a regularly scheduled open public meeting thereof, this 23rd day of September, 2024.

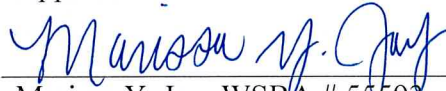


Brandon Svenson, Mayor

Attest:


Jill Davis, City Treasurer

Approved as to form:


Marissa Y. Jay, WSBA # 55593
City Attorney

Approved Reading:	<u>9/23</u> /2024
Publication Date:	<u>9/26</u> /2024
Effective Date:	<u>10/01</u> /2024