

ORDINANCE NO. 1589

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RIALTO, CALIFORNIA, ADDING SECTION 11.04.145 TO THE
RIALTO MUNICIPAL CODE, TO PROVIDE FOR A PAVEMENT
CUT MORATORIUM TO PRESERVE NEWLY PAVED STREETS.**

WHEREAS, pursuant to the California Constitution, Article XI, section 7, the City of Rialto may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general law; and

WHEREAS, Article XI, section 9 of the California Constitution proscribes that corporations which establish and operate works for supplying light, water, power, heat, transportation or means of communication, to residents of a municipal corporation shall establish and operate such services upon conditions and under regulations that municipal corporation may prescribe under its law; and

WHEREAS, the California Constitution grants the City the right to adopt reasonable regulations regarding its right-of-ways, which reasonable regulations would include the establishment of a street cut moratorium; and

WHEREAS, the public right-of-way is a unique public resource held in trust for the benefit of the public; this physically limited resource requires proper management to maximize its efficiency and minimize the costs to taxpayers, to protect against foreclosure of future economic expansion because of premature exhaustion of the public right-of-way, and to minimize the inconvenience to and negative effects on the public from use of the public right-of-way by contractors and utility companies; and

WHEREAS, to protect the integrity and quality of streets and public rights-of-way, the Rialto Municipal Code sets forth, in Chapter 11.04 ("Improvements"), a permitting and fee system for encroachments and trench cuts to City streets; and

WHEREAS, the City desires to establish a street cut moratorium through the adoption of this Ordinance to further the purposes stated herein.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO FINDS AND ORDAINS AS FOLLOWS:

Section 1. The above recitals are all true and correct and are hereby adopted as findings.

Section 2. A new Section 11.04.145 entitled "Moratorium on Trench Cuts in Newly Paved

Streets,” is hereby added to Chapter 11.04 (“Improvements”) of the Rialto Municipal Code to adopt a street cut moratorium on newly improved streets, to read as follows:

“11.04.145 Moratorium on Trench Cuts in Newly Paved Streets.

For streets, alleys, and public places that were constructed, reconstructed, overlaid, or sealed, the following shall apply:

A. Non-emergency street cuts will not be permitted for a period of five (5) years from the date of notice of completion of construction, reconstruction, or overlay. Non-emergency street cuts will not be permitted for a period of three (3) years from the date of notice of completion of slurry seal.

B. Emergencies (exceptions) are defined as follows, as determined by the Director of Public Works/City Engineer:

1. Imminent endangerment life or property.
2. Interruption of essential utility service.
3. Work that is mandated by the city, state, or federal law.
4. Service for new development or new customers where no other reasonable means of providing service exists.

C. In the case of an emergency or where street cuts have been authorized by the Director of Public Works/City Engineer, within five (5) years following the notice of completion of construction, reconstruction, or overlay; and three (3) years following the notice of completion for a slurry seal the following shall apply:

Construction, Reconstruction, Overlay:

1. For street cuts/trenches, on a moratorium street, perpendicular to traffic lanes (a transverse street cut): The permittee will be required to grind and overlay, two (2) inches of Asphalt Concrete (AC), twenty (20) feet on both sides of the trench line and for the full width

1 of all impacted traffic lane(s) cut; but not less than five (5) feet from
2 the end(s) of the trench. If the trench end(s) is less than or equal to
3 five (5) feet from a lane line the adjacent lane shall be included, or as
4 directed by the City Engineer. The full width of street shall be slurry
5 sealed within the limits of the grind and overlay, or as directed by the
6 City Engineer. All work requires a properly licensed contractor. All
7 other criteria from City of Rialto Standard Drawing No. SC-231 is
8 applicable.

- 9 2. For street cuts/trenches, on a moratorium street, parallel to traffic
10 lanes (a longitudinal street cut): The permittee will be required to
11 grind and overlay two (2) inches of AC, one-half (1/2) street width
12 minimum, for the full length of the cut/trench plus ten (10) feet on
13 both ends, but not less than or equal to five (5) feet from trench edge
14 both sides of trench, if this limit encroaches into adjacent lane, the
15 other half of the street, then the full lane width shall be included, or
16 as directed by the City Engineer. The full width of the street shall be
17 slurry sealed, within the limits of the grind and overlay, or as directed
18 by the City Engineer. All work requires a properly licensed
19 contractor. All other criteria from City of Rialto Standard Drawing
20 No. SC-231 is applicable.

21 Slurry Seal:

- 22 3. For street cuts/trenches, on a moratorium street, perpendicular to
23 traffic lanes (a transverse street cut): The permittee will be required
24 to slurry seal, match existing slurry seal, twenty (20) feet on both
25 sides of the trench line and for the full width of all impacted traffic
26 lane(s) cut; but not less than five (5) feet from the end(s) of the trench.
27 If the trench end(s) is less than or equal to five (5) feet from a lane
28 line the adjacent lane shall be included. All work requires a properly

1 licensed contractor. All other criteria from City of Rialto Standard
2 Drawing No. SC-231 is applicable.

- 3 4. For street cuts/trenches, on a moratorium street, parallel to traffic
4 lanes (a longitudinal street cut): The permittee will be required to
5 slurry seal, match existing slurry seal, one-half (1/2) street width
6 minimum, for the full length of the cut/trench plus ten (10) feet on
7 both ends, but not less than or equal to five (5) feet from trench edge
8 both sides of trench, if this limit encroaches into adjacent lane, the
9 other half of the street, then the full lane width shall be included. All
10 work requires a properly licensed contractor. All other criteria from
11 City of Rialto Standard Drawing No. SC-231 is applicable.”

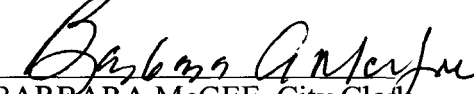
12 **Section 3.** If any provision of this Ordinance is held invalid, such invalidity shall not affect the
13 remaining provisions of this Ordinance, which shall remain in effect absent the provision held to be
14 invalid, and to this end, the provisions of this Ordinance are declared to be severable.

15 **Section 4.** The City Clerk shall certify to the adoption of this Ordinance, and cause the same
16 to be published in the local newspaper, and the same shall take effect thirty (30) days after its date of
17 adoption:

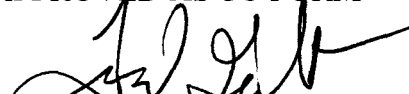
18
19 **PASSED, APPROVED AND ADOPTED** this 9th day of May, 2017.

20 
21 DEBORAH ROBERTSON, Mayor

22 ATTEST:

23 
24 BARBARA MCGEE, City Clerk

25
26 APPROVED AS TO FORM

27 
28 FRED GALANTE, City Attorney

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5 Ordinance No. 1589 was duly passed and adopted at a regular meeting of the City Council of the City
6 of Rialto held on the 9th day of May, 2017.

7 Upon motion of Councilmember Scott, seconded by Councilmember Baca Jr., the foregoing
8 Ordinance No. 1589 was duly passed and adopted.

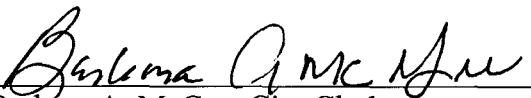
9 Vote on the Motion:

10 AYES: Mayor Robertson, Councilmembers: Scott, Baca Jr., Trujillo, Carrizales

11 NOES: None

12 ABSENT: None

13 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
14 Rialto, this 11th day of May, 2017.

15 
16 Barbara A. McGee, City Clerk