

AN ORDINANCE BY CITY UTILITIES COMMITTEE AMENDING CHAPTER 138, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES", ARTICLE III, "CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY", AT SECTION 138-69 OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO ESTABLISH A PAVEMENT DEGRADATION RECOVERY FEE TO BE CHARGED TO THE APPLICANT FOR CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY PERMITS; AND FOR OTHER PURPOSES.

(PUBLIC HEARING HELD 5/27/14) (HELD 5/27/14 TO BE REVIEWED BY THE NPUs)

Workflow List:

Santana Kempson Wright	Completed	04/30/2014 4:39 PM
Rita Braswell	Completed	04/30/2014 5:10 PM
Richard Mendoza	Completed	05/01/2014 2:47 PM
Stefanie Grant	Completed	05/01/2014 3:33 PM
Mayor's Office	Completed	05/01/2014 4:13 PM
Office of Research and Policy Analysis	Completed	05/01/2014 4:42 PM
City Utilities Committee	Completed	05/29/2014 1:28 PM
Atlanta City Council	Completed	05/30/2014 3:59 PM
City Utilities Committee	Completed	06/17/2014 1:56 PM
Atlanta City Council	Completed	07/01/2014 3:23 PM
City Utilities Committee	Completed	06/25/2014 4:52 PM
Atlanta City Council	Completed	06/19/2014 3:09 PM
City Utilities Committee	Completed	07/17/2014 10:40 AM
Atlanta City Council	Completed	07/16/2014 1:27 PM
City Utilities Committee	Completed	07/17/2014 11:36 AM
Atlanta City Council	Completed	07/24/2014 12:27 PM
City Utilities Committee	Pending	
Mayor's Office	Pending	

HISTORY:

05/13/14	City Utilities Committee	
05/19/14	Atlanta City Council	REFERRED TO COMMITTEE

RESULT:	REFERRED TO COMMITTEE [UNANIMOUS]	Next: 5/27/2014 9:30 AM
AYES:	Norwood, Dickens, Smith, Hall, Archibong, Shook, Adrean, Moore, Martin, Bottoms, Sheperd	
ABSENT:	Michael Julian Bond, Ivory Lee Young Jr., Cleta Winslow, Alex Wan	

05/27/14	City Utilities Committee	HELD IN COMMITTEE
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RESULT:	HELD IN COMMITTEE	Next: 6/2/2014 1:00 PM
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06/02/14	Atlanta City Council	REFERRED AS HELD
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LEGISLATION HISTORY - BLUE BACK

RESULT:	REFERRED AS HELD	Next: 6/10/2014 9:30 AM
06/10/14	City Utilities Committee	HELD IN COMMITTEE
RESULT:	HELD IN COMMITTEE	Next: 6/16/2014 1:00 PM
06/16/14	Atlanta City Council	REFERRED AS HELD
RESULT:	REFERRED AS HELD	Next: 6/24/2014 9:30 AM
06/24/14	City Utilities Committee	HELD IN COMMITTEE
RESULT:	HELD IN COMMITTEE	Next: 7/7/2014 1:00 PM
07/07/14	Atlanta City Council	REFERRED AS HELD
RESULT:	REFERRED AS HELD	Next: 7/15/2014 9:30 AM
07/15/14	City Utilities Committee	HELD IN COMMITTEE
RESULT:	HELD IN COMMITTEE	Next: 7/21/2014 1:00 PM
07/21/14	Atlanta City Council	REFERRED AS HELD
RESULT:	REFERRED AS HELD	Next: 7/29/2014 9:30 AM
RESULT:	REFERRED AS HELD	Next: 7/29/2014 9:30 AM

Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

**AN ORDINANCE BY CITY UTILITIES COMMITTEE AMENDING CHAPTER 138, “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, ARTICLE III, “CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY”, AT SECTION 138-69 OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO ESTABLISH A PAVEMENT DEGRADATION RECOVERY FEE TO BE CHARGED TO THE APPLICANT FOR CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY PERMITS; AND FOR OTHER PURPOSES.
(PUBLIC HEARING HELD 5/27/14) (HELD 5/27/14 TO BE REVIEWED BY THE NPUS)**

WHEREAS, the City of Atlanta (“City”) is charged with maintaining control of and access to the Right of Way in order to protect the health, safety, and welfare of the City’s residents and visitors; and

WHEREAS, construction and excavation in the City streets significantly interferes with public use and results in a negative impact on air quality, a loss of parking, and in a loss of business to merchants; and

WHEREAS, construction in and the excavation of paved streets significantly degrades and shortens the service life of such streets; and

WHEREAS, substantial public funds have been invested to build, maintain and repair city streets;

WHEREAS, pavement cuts lead to the reduced structural life of paved streets due to intrusion into the road base, and also increases the frequency and cost to the public of necessary resurfacing, maintenance and repair, regardless of the quality of restoration; and

WHEREAS, the American Public Works Association (“APWA”) has concluded, through *APWA’s Mid-Atlantic Regional Council’s “Public Right-of-Way” Cost Recovery Plan* (May 1998), that cutting a street decreases the lifecycle of the street;

WHEREAS, the Office of Transportation is responsible for permitting and inspecting all work in the right-of-way, and ensuring that all repairs are constructed according to specific standards; and

WHEREAS, each year, the Department of Public Works permits over 1,500 street cuts with the typical size being approximately three (3) square yards; and

WHEREAS, mitigation of the long-term damage associated with pavement cuts has frequently resulted in a significant budgetary impact to the Department of Public Works for which the City has not established a cost recovery mechanism; and

WHEREAS, the cost incurred due to degradation should be recaptured through a recommended cost recovery method that includes various street construction costs, type of material used to repair, and age components; and

WHEREAS, APWA’s Mid-Atlantic Regional Council’s “Public Right-of-Way Cost Recovery Plan (May 1998) recommends that repair costs due to intrusions into the public right-of-way should be the responsibility of the intruding party; and

WHEREAS, the Department of Public Works wishes to institute and impose a cost recovery mechanism on applicants requesting to perform street cuts, based on the age of the street; and

WHEREAS, The Department of Public Works proposes to charge all applicants for permits which involve pavement cutting a degradation fee based upon type and size of the cut, current milling and resurfacing costs; and

WHEREAS, the Commissioner of the Department of Public Works recommends the creation of a Pavement Degradation Recovery Fee (“PDR Fee”) as an appropriate cost recovery mechanism to reimburse the city for the damage associated with pavement cuts to be used for City Street Maintenance and Resurfacing Programs.

NOW THEREFORE BE AND IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That Section 138-69 of the Atlanta City Code is hereby amended by deleting Section 138-69 in its entirety and replacing said section so that it reads as follows:

Sec. 138-69. Rehabilitation and restoration of the pavement

- (a) Whenever any person or contractor desires to cut or make an opening in any street, such person shall repair and restore the street, including milling and resurfacing, to the specifications of the Department of Public Works.
- (b) Fees for rehabilitation and restoration of pavement
 - 1. Any person or contractor making a cut on any street shall be responsible for a Pavement Degradation Recovery Fee based on the below formula:

PDR Fee = Cost of resurfacing/Repair * Area of Influence * Depreciation Rate

Average cost of contractor resurfacing asphalt	\$44.22/sq yd
Average cost of contractor street repair concrete	\$675.00/sq yd
Average street cut size	\$2.78/sq yd
Area of influence equals street cut size plus 3 feet on each side of cut	\$6.11/sq yd
Life Cycle of Asphalt Street - 20 years	Life Cycle of Concrete Street - 40 years

2. The Pavement Degradation Recovery Fees for both Asphalt Surfaced Streets and Concrete Surfaced Streets shall be established pursuant to the schedules below:

Degradation Fees Schedule for Asphalt Surfaced Streets (Per Square Yard)

Age of Street (Years)	Depreciation Rate (%)	Fee (per SY)
0	100	270.18
1	99	267.48
2	98	264.80
3	97	262.09
4	96	259.39
5	95	256.69
6	90	243.18
7	84	226.97
8	79	213.46
9	74	199.95
10	68	183.74
11	63	170.23
12	58	156.72
13	52	140.50
14	47	126.99
15	42	113.48
16	36	97.27
17	31	83.76
18	26	70.25
19	20	54.04
20	15	40.53

Degradation Fees Schedule for Concrete Surfaced Streets (Per Square Yard)

Age of Street (Years)	Depreciation Rate (%)	Fee (per SY)
0	100	675.00
1	99	668.25
2	98	661.50
3	97	654.75
4	96	648.00
5	95	641.25
6	93	627.75
7	90	607.50
8	88	594.00

9	86	580.50
10	84	567.00
11	81	546.75
12	79	533.25
13	77	519.75
14	74	499.50
15	72	486.00
16	70	472.50
17	68	459.00
18	65	438.75
19	63	425.25
20	61	411.75
21	58	391.50
22	56	378.00
23	54	364.50
24	52	351.00
25	49	330.75
26	47	317.25
27	45	303.75
28	42	283.50
29	40	270.00
30	38	256.50
31	36	243.00
32	33	222.75
33	31	209.25
34	29	195.75
35	26	175.50
36	24	162.00
37	22	148.50
38	20	135.00
39	17	114.75
40	15	101.25

Section 2: That this Ordinance will become effective July 1, 2014.

Section 3: That all ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Santana Kempson Wright

Contact Number: (404) 330-6579

Originating Department: Department of Public Works

Committee(s) of Purview: City Utilities Committee

Chief of Staff Deadline: April 25, 2014

Anticipated Committee Meeting Date(s): TBD - FY 2015 Budget

Anticipated Full Council Date: TBD - FY 2015 Budget

Legislative Counsel's Signature: Stefanie Grant *Stefanie Grant*

Commissioner's Signature: *[Signature]*

Chief Financial Officer: N/A

Chief Information Officer Signature (for IT Procurements) N/A

Chief Procurement Officer Signature: N/A

CAPTION

AN ORDINANCE TO AMEND CHAPTER 138, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES", ARTICLE III, "CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY", AT SECTION 138-69 OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO ESTABLISH A PAVEMENT DEGRADATION RECOVERY FEE TO BE CHARGED TO THE APPLICANT FOR CONSTRUCTION OR EXCAVATION IN THE RIGHT OF WAY PERMITS; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT:

Mayor's Staff Only

Received by CPO: _____
(date)

Received by LC from CPO: _____
(date)

Received by Mayor's Office: Jamice Osei 4/25/14
(date)

Reviewed by: *[Signature]*
(date)

Submitted to Council: _____ (date)

Attachment: Pavement Degradation Recovery Fee (14-O-1242 : Pavement Degradation Recovery Fee)

**AN ORDINANCE
BY CITY UTILITIES COMMITTEE**

AN ORDINANCE TO AMEND CHAPTER 138, “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, ARTICLE III, “CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY”, AT SECTION 138-69 OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO ESTABLISH A PAVEMENT DEGRADATION RECOVERY FEE TO BE CHARGED TO THE APPLICANT FOR CONSTRUCTION OR EXCAVATION IN THE RIGHT OF WAY PERMITS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) is charged with maintaining control of and access to the Right of Way in order to protect the health, safety, and welfare of the City’s residents and visitors; and

WHEREAS, construction and excavation in the City streets significantly interferes with public use and results in a negative impact on air quality, a loss of parking, and in a loss of business to merchants; and

WHEREAS, construction in and the excavation of paved streets significantly degrades and shortens the service life of such streets; and

WHEREAS, substantial public funds have been invested to build, maintain and repair city streets;

WHEREAS, pavement cuts lead to the reduced structural life of paved streets due to intrusion into the road base, and also increases the frequency and cost to the public of necessary resurfacing, maintenance and repair, regardless of the quality of restoration; and

WHEREAS, the American Public Works Association (“APWA”) has concluded, through *APWA’s Mid-Atlantic Regional Council’s “Public Right-of-Way” Cost Recovery Plan* (May 1998), that cutting a street decreases the lifecycle of the street;

WHEREAS, the Office of Transportation is responsible for permitting and inspecting all work in the right-of-way, and ensuring that all repairs are constructed according to specific standards; and

WHEREAS, each year, the Department of Public Works permits over 1,500 street cuts with the typical size being approximately three (3) square yards; and

WHEREAS, mitigation of the long-term damage associated with pavement cuts has frequently resulted in a significant budgetary impact to the Department of Public Works for which the City has not established a cost recovery mechanism; and

WHEREAS, the cost incurred due to degradation should be recaptured through a recommended cost recovery method that includes various street construction costs, type of material used to repair, and age components; and

WHEREAS, APWA's Mid-Atlantic Regional Council's "Public Right-of-Way Cost Recovery Plan (May 1998) recommends that repair costs due to intrusions into the public right-of-way should be the responsibility of the intruding party; and

WHEREAS, the Department of Public Works wishes to institute and impose a cost recovery mechanism on applicants requesting to perform street cuts, based on the age of the street; and

WHEREAS, The Department of Public Works proposes to charge all applicants for permits which involve pavement cutting a degradation fee based upon type and size of the cut, current milling and resurfacing costs; and

WHEREAS, the Commissioner of the Department of Public Works recommends the creation of a Pavement Degradation Recovery Fee ("PDR Fee") as an appropriate cost recovery mechanism to reimburse the city for the damage associated with pavement cuts to be used for City Street Maintenance and Resurfacing Programs.

NOW THEREFORE BE AND IT IS HEREBY ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That Section 138-69 of the Atlanta City Code is hereby amended by deleting Section 138-69 in its entirety and replacing said section so that it reads as follows:

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- (b) Fees for rehabilitation and restoration of pavement
 - 1. Any person or contractor making a cut on any street shall be responsible for a Pavement Degradation Recovery Fee based on the below formula:

PDR Fee = Cost of resurfacing/Repair * Area of Influence * Depreciation Rate

Average cost of contractor resurfacing asphalt	\$44.22/sq yd
Average cost of contractor street repair concrete	\$675.00/sq yd
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Life Cycle of Asphalt Street – 20 years	
Life Cycle of Concrete Street – 40 years	

- 2. The Pavement Degradation Recovery Fees for both Asphalt Surfaced Streets and Concrete Surfaced Streets shall be established pursuant to the schedules below:

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12	58	156.72
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19	20	54.04
20	15	40.53

Degradation Fees Schedule for Concrete Surfaced Streets (Per Square Yard)

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4	96	648.00
5	95	641.25
6	93	627.75
7	90	607.50
8	88	594.00
9	86	580.50

10	84	567.00
11	81	546.75
12	79	533.25
13	77	519.75
14	74	499.50
15	72	486.00
16	70	472.50
17	68	459.00
18	65	438.75
19	63	425.25
20	61	411.75
21	58	391.50
22	56	378.00
23	54	364.50
24	52	351.00
25	49	330.75
26	47	317.25
27	45	303.75
28	42	283.50
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33	31	209.25
34	29	195.75
35	26	175.50
36	24	162.00
37	22	148.50
38	20	135.00
39	17	114.75
40	15	101.25

Attachment: Pavement Degradation Recovery Fee (14-O-1242 : Pavement Degradation Recovery Fee)

Section 2: That this Ordinance will become effective July 1, 2014.

Section 3: That all ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.

A. To be completed by Legislative Counsel:

Caption:

AN ORDINANCE TO AMEND CHAPTER 138, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE III, CONSTRUCTION OR EXCAVATION IN THE RIGHT-OF-WAY, AT SECTION 138-69 OF THE CITY OF ATLANTA CODE OF ORDINANCES SO AS TO ESTABLISH A STREET CUT DEGRADATION RECOVERY FEE TO BE CHARGED TO THE APPLICANT FOR CONSTRUCTION OR EXCAVATION IN THE RIGHT OF WAY PERMITS; AND FOR OTHER PURPOSES.

Committee of Purview: City Utilities Committee

Committee Meeting Date: TBD- FY 2015 Budget

Council Meeting Date: TBD – FY 2015 Budget

Requesting Dept.: Department of Public Works

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

To institute a cost recovery mechanism to companies for street cuts based on the age of the street.

2. Please provide background information regarding this legislation.

DPW is responsible for the management of the Right-of-Way. The Office of Transportation is responsible for permitting & inspecting all work in the right-of-way and ensuring all repairs are constructed according to our standards.

Each year, DPW permits over 1500 street cuts. The typical size of each cut is approximately 3 square yards.

The American Public Works Association (APWA) has concluded through various studies that cutting a street decreases the lifecycle of the street. The cost incurred due to degradation (loss of road life due to intrusion into the road surface) should be recaptured through a recommended cost recovery method that includes various street construction cost and age components. *APWA's Mid-Atlantic Regional Council's "Public Right-of-Way" Cost Recovery Plan* (May 1998) recommends that repair costs due to intrusions into the public right-of-way should be the responsibility of the intruding party.

Attachment: Pavement Degradation Recovery Fee (14-O-1242 : Pavement Degradation Recovery Fee)

3. If Applicable/Known:

- (a) **Contract Type:** N/A
- (b) **Source Selection:** N/A
- (c) **Bids/Proposals Due:** N/A
- (d) **Invitations Issued:** N/A
- (e) **Number of Bids:** N/A
- (f) **Proposals Received:** N/A
- (g) **Bidders/Proponents:** N/A
- (h) **Term of Contract:** N/A

4. Fund Department Organization/Account Function/Activity:

1001.130301.3442707.4210000

5. Source of Funds:

Payments received from companies that cut into city streets.

6. Fiscal Impact:

Approximately \$100,000 per year.

7. Method of Cost Recovery:

Fee for payment

This Legislative Request Form Was Prepared By: *Rita Braswell*

Attachment: Pavement Degradation Recovery Fee (14-O-1242 : Pavement Degradation Recovery Fee)

DEPARTMENTAL AUTHORIZATION

A handwritten signature in black ink, appearing to read "Stephanie Hand". The signature is written in a cursive style with a large initial 'S' and 'H'.

Attachment: Pavement Degradation Recovery Fee (14-O-1242 : Pavement Degradation Recovery Fee)