

ORDINANCE NO. 938

**AN ORDINANCE OF THE CITY OF BENTON CITY,
WASHINGTON, CREATING A NEW SECTION 12.04.015
"PROHIBITED EXCAVATION"**

WHEREAS, the City Council has found that there is a need to protect the structural integrity of the roadways that have been recently constructed within the City of Benton City; and

WHEREAS, the City Council has found that limiting street excavations to newly resurfaced or constructed streets will protect these streets from unnecessary damage and extend their lifespan; and

WHEREAS, the City Council has included a procedure for appealing any denial of a permit necessary for street excavation prior to the time limits set forth in this Ordinance. NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. That a new Section 12.04.015 entitled "Prohibited Excavation" of the Benton City Municipal Code shall be and hereby is created and shall read as follows:

12.04.015 Prohibited Excavation.

- A. No excavation permits shall be granted for proposed excavation work that would disturb the surfaces of a public right-of-way that has been installed, improved, rebuilt or resurfaced within the five-year period preceding the date on which the applicant proposes to commence the excavation work, provided that this subsection shall not apply to:
1. Excavation permit applications when the excavation is required to provide new services to building or residences constructed subsequent to the completion, improved, rebuilt, or resurfacing of the public right-of-way that were not reasonably anticipated to be constructed and in need of the services at the time of the completion or resurfacing of the public right of way involved as determined by the Mayor, or his designee.
 2. Emergency situations that require a portion of the street to be excavated in order to protect the public health, safety for property.
- B. In the event that the Mayor, or his designee, denies an application, the applicant's remedy shall be to appeal to the City Council. The applicant shall file a written notice of appeal with the City Clerk within fifteen days from the date of receipt of the denial of the excavation permit application. The appeal notice shall state the specific reasons for objection to the decision of the public works director. At the next regular City Council meeting following receipt by the City Clerk of the applicant's notice of appeal, the City Council shall set a date to hear the applicants' appeal.

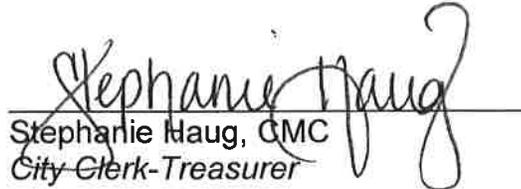
The City Council shall conduct a hearing on the applicant's appeal within forty-five days of the date of the City Clerk received the notice of appeal. A majority vote of the City Council shall be required to reverse the decision of the Mayor, or his designee.

Section 2. This Ordinance shall take full force and effect five (5) days after its approval, passage and publication as required by law.

PASSED by the City Council of the City of Benton City, Washington, and approved as provided by law this 7 day of October, 2014.


Lloyd R. Carhahan
Mayor

Attest:


Stephanie Haug, GMC
City Clerk-Treasurer

Approved as to Form:


Kerr Law Group
City Attorney