

**ORDINANCE NO. 1704 -0607**

**AN ORDINANCE OF THE CITY OF SHELTON, WASHINGTON, RELATING TO TITLE 12 STREETS AND SIDEWALKS, ADDING SECTIONS 12.20.040, 12.20.050, 12.20.060, 12.20.070, 12.20.080 AND 12.20.090 TO SHELTON MUNICIPAL CODE CHAPTER 12.20, EXCAVATION AND ENCROACHMENTS.**

WHEREAS, the City of Shelton is embarking upon an aggressive program of securing funding to reconstruct and repair its aging streets, and

WHEREAS, once City streets are replaced or repaired with new pavement, the City wishes to ensure the longest possible lifespan and use of these recently paved streets by prohibiting any cutting, opening or other degradation to street surfaces such as utility work unless it is an emergency or for the public good, and

WHEREAS, by implementing a reasonable length of time such as a five year prohibition against any cutting or opening pavement, will prolong the good condition of City streets for use by its citizens that is the most wise and cost effective use of taxpayer dollars.

NOW THEREFORE, be it ordained by the City Commission of the City of Shelton, Washington:

**Section 1.**

**Section 12.20.040 is hereby added to the Shelton Municipal Code and shall read as follows:**

**Section 12.20.040 Street Excavations.** Excavation in City streets within five years of street improvements is prohibited. No permit shall be issued for any opening, cuts or excavations in any City street for a period of five years following the date such street was paved or repaved, except as provided for in Section 12.20.070.

**Section 2.**

**Section 12.20.050 is hereby added to the Shelton Municipal Code and shall read as follows:**

**Section 12.20.050 Notification of Intent to Pave.** Whenever paving or repaving of any City street is authorized, the Public Works Director shall promptly mail written notice thereof to the following:

1. Each person owning any sewer, water, storm, electrical, telephone, or fiber-optic lines, mains, conduits or other utility in or under said street or any real property whether improved or unimproved, abutting said street.
2. The owner of record of real property abutting said street.

3. Mason County Public Works.
4. Any applicable State Agencies.
5. Holders of franchise agreements within City allowing utilities in any public right-of-way within the City.
6. City departments that may need to perform work within the affected street.
7. All other persons who register with the City Clerk to receive such notices.

The notice shall state that no excavation permit shall be issued for openings, cuts, or excavations in said street for a period of five years after the date of completion of street paving or repaving. The notice shall also state that application for permits to excavate prior to such street improvements shall be submitted promptly in order that the work covered by the permit may be completed by the deadline established for such work by the Public Works Director.

### Section 3.

**Section 12.20.060 is hereby added to the Shelton Municipal Code and shall read as follows:**

**Section 12.20.060 Deadline for Work.** All utility work must be accomplished prior to the start of a street improvement as set by the date of City authorization of the construction contract for the project, or in the case of non-City projects, upon City issuance of a right-of-way permit for the paving or repaving. The Public Works Director may set a later deadline if the Director determines that allowing more time will not interfere with the planned work.

### Section 4.

**Section 12.20.070 is hereby added to the Shelton Municipal Code and shall read as follows:**

**Section 12.20.070 Exceptions.** No permit for excavation shall be issued within the five-year period after expiration of the deadline, unless the Public Works Director determines that:

1. An emergency exists that requires such an excavation to protect the public health, safety or welfare.
2. The excavation is required to provide new services to buildings or residences constructed subsequent to the completion of the street improvement project 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.
3. The applicant can install the utility under the street in a manner that shall not disturb the integrity or surface of the street.

### Section 5.

**Section 12.20.080 is hereby added to the Shelton Municipal Code and shall read as follows:**

**Section 12.20.080 Appeal.** In the event that the Public Works Director denies an application, the applicant's remedy shall be to appeal to the City Hearings Examiner. The applicant shall file a written notice of appeal with fee payment as described in Chapter 2.36, Land Use Hearings Examiner. The appeal notice shall state the specific reason for objection to the decision of the Director. The Hearings Examiner shall set a date to hear the applicant's appeal according to Chapter 2.36.

### Section 6.

**Section 12.20.090 is hereby added to the Shelton Municipal Code and shall read as follows:**

**Section 12.20.090 Restoration.** In the event permission is granted for a City street to be excavated and pavement is cut within five years of the street improvement, pavement restoration will include but not be limited to:

1. Lateral (cross traffic) Cut: 10 feet of asphalt on either side of the pavement cut.
2. Longitudinal Cut: Entire length of cut plus 10 feet beyond either end of the pavement cut installed per City of Shelton Design & Construction Standards detail T-18. One block minimum.
3. The year following the pavement cut, an application of a single shot of chip seal with fog seal.
4. For Cuts in Chip Seal Roads: Patch per detail City of Shelton Design & Construction Standards T-18 followed by a single shot chip seal with fog seal the following year.
5. Other engineering requirements as necessary to restore the pavement cut in accordance with the current City of Shelton Design & Construction Standards.

### Section 7.

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

### Section 8.

Savings Clause. Chapter 12.20 of the Shelton Municipal Code shall remain in full force and effect until such date as this ordinance becomes effective.

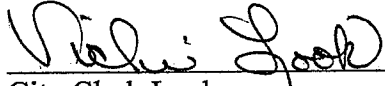
**Section 9.**


Effective Date. This ordinance shall take effect 30 days after passage as provided by law.

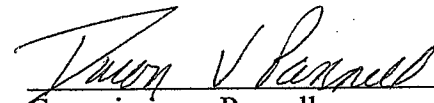
INTRODUCED the 4 day of June, 2007.

ADOPTED by the City Commission of the City of Shelton, Mason County, Washington at a regular open public meeting held the 2 day of July 2007, the following Commissioners being present and voting in favor of this ordinance.

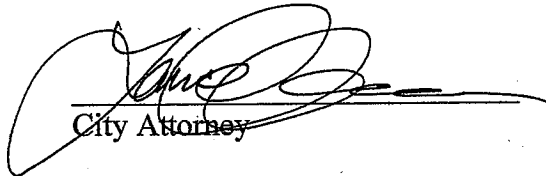
ATTEST:

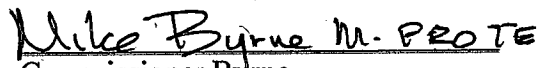
  
\_\_\_\_\_  
City Clerk Look

  
\_\_\_\_\_  
Mayor Tarrant

  
\_\_\_\_\_  
Commissioner Pannell

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

  
\_\_\_\_\_  
Commissioner Byrne