

Marion Heights Borough
P.O. Box 218
224 North Street
Marion Heights, PA 17832

Ordinance 89-2

ARTICLE I Excavations

' 130-1. Authority to grant permits given to state.

The Department of Highways of the Commonwealth of Pennsylvania shall be and the said Department hereby is given exclusive authority to grant all permits for the opening or tearing up of any part of the improved surface of those certain Borough streets, or parts thereof, which are continuations of state highways routes in the Borough and for the maintenance of which the Department of Highways is by law responsible.

' 130-2. Fees for permits.

Fees for the granting of such permits may be charged by the Department of Highways of the Commonwealth of Pennsylvania according to the standard schedule of fees which may from time to time be adopted.

' 130-3. Violations and penalties.

Any person, firm or corporation as above outlined who shall violate or fail to comply with any of the provisions of this Article shall, upon conviction thereof before any District Justice, be sentenced to pay a fine of not less than \$100 nor more than one \$1,000 and costs of prosecution or suffer imprisonment for up to 90 days, or both. The continuation of such violation for each successive day shall constitute a new and separate offense, and the person or persons allowing the continuation of the violation may be punished as provided above for each separate offense.

' 130-04. Disposition of fines and restoration charges.

All fines and restoration charges collected for the violation of this article shall be paid into the State Treasury as provided by law.

ARTICLE II Street Excavations

' 130-5 Definitions.

For the purpose of this article, the following words shall have the meanings ascribed to them in this section, except where the context in which the word or phrase is used clearly indicates otherwise:

APPLICANT-Any person applying for or to whom a permit may be issued.

' 130-15. Procedure.

- F. Excavations shall be open cut from the surface, and no tunneling or drifting shall be permitted except by permission as required by ' 130-11 so noted on the permit. The amount of trench opened shall at all times be subject to the decision of the Code Enforcement Officer or his duly authorized representative. No trench or excavation shall be undercut or have a greater width at the bottom than at the top. In case of slips or slides of the sides of the excavation, the same shall be trimmed to solid earth and the top surface cut back to the limit of the same before any backfilling is commenced. When necessary or required, the sides of the trench shall be sheathed and braced and rendered secure until the construction has been laid therein and the trench refilled.
- G. Care shall be taken not to move or disturb other subsurface structures, and in crossing these or running parallel with and near them, they shall be securely hung, braced and supported in place until the work is completed.
- C. The applicant shall maintain his respective services and repair all damages done to any of such structures.
- D. In rock excavation, all drilling and blasting shall be conducted with the greatest possible care and all possible precautions taken to guard against accidents, and if the applicant is required to use certain blasting operations in the excavation, the applicant shall agree to make, execute and deliver to the Borough a bond in the sum stipulated by the township, a bond in the sum stipulated by the Code Enforcement Officer, with surety in the form approved by the Code Enforcement Officer, conditioned that the applicant will save harmless the Borough from any damage whatsoever to its sub-grade, sub-base, drainage facilities, road materials and any other installations or matters in, under or upon the street right-of-way for a period from the date of the completion of the last work covered by the permit.
- E. No ditch or excavation can be smaller than 24 inches in width on a thoroughfare in the township. A ditch smaller than 24 inches must have prior approval of the Code Enforcement Officer. A ditch smaller than 24 inches will be allowed in the non-thoroughfare area of a street. All tamping and backfill must be pre-approved by the Code Enforcement Officer on ditches smaller than 24 inches.

' 130-16. Restoration materials and methods.

The person or contractor making or causing to be made the excavation must remove all material and replace the with 2-RC aggregate. If pipes are encountered they must be covered with this material and compacted at 6 inch depths. At no time is excavated material allowed to be stored on the street. Care should be taken that the 2-RC is not placed in any manner as to

CONTRACTOR- Anyone hired to do excavations for applicants
EXCAVATION(s)- The digging of or cutting into or removal of any of the pavement surfaces of any street, alley or thoroughfare within the limits of the township.

PERSON- A natural person as well as a firm, partnership, association or corporation.

THOROUGHFARE-The area of the street for vehicle travel. It does not include the parking area.

BOROUGH- Marion Heights Borough

UNIT LENGTH- The Length of 1 Square yard.

' 130-6. Permit required.

No person shall make or cause to be made any excavation of any nature whatsoever in any street, alley or thoroughfare within the limits of the Borough without first securing a permit granting authority therefor as hereinafter provided.

' 130-7. Permit application.

Any application for the issuance of an excavation permit shall be filed in the office of the Code Enforcement Officer, upon forms furnished by the Borough for that purpose, and shall be signed by the applicant. Such application shall set forth the location and purpose of the proposed excavation; the dates between which such excavation is to be opened; the length, width and depth of the trench; the area of the roadway surfaces to be removed; and the names of all persons interested in or to be benefited by the work to be done; and the name, address, phone number, and the contractor employed to do the work.

' 130-8. Permit fees.

Before an issuance of an excavation permit, the Code Enforcement Officer shall collect from the applicant and the applicant shall pay to the code Enforcement Office the amount of money from the following schedules of charges:

- A. \$100.00 initial application fee for the opening. If there is more than one opening in the block there will be an additional charge of \$25.00 per opening.
- B. A \$20.. Fee per square yard, per opening will be charged.
- C. A charge of \$10.00 per day for closing or barricading a street closed to traffic.
- D. If the Borough has to Amesite the permitted area there will be a charge of \$100.00 per square yard, plus the cost of the amesite.

E. A charge of \$40.00 per square yard will be charged by the Borough to cut a street.

' 130-9 Issuance of permit; display.

Upon an application for the issuance of an excavation permit being approved by the Code Enforcement Officer and the payment by the applicant to the Borough determined in accordance with the provisions set forth in 130-8, there shall be issued to the applicant a permit granting authority to make the excavations specified in the application. This permit shall at all times be in the possession of a competent person actually on the work site and shall be shown at all times to any police officer, code officer or employee of the Borough on demand. The Code Enforcement Officer shall have the right to refuse to permit an excavation during the period from November 15 to March 15, unless directed by the Council to grant such permit. The permittee must spray paint the permit number next to the area to be excavated in a size large enough to be viewed from a distance of ten feet. All permits are subject revocation at any time by the Code Enforcement Officer or the Borough Council in the event of failure of the holder of such permit to comply with any of the conditions upon which the permit has been granted. Such conditions, however, shall be in accordance with the provisions of this Article. No permit shall be issued for any street resurfaced within two years of resurfacing except for emergency excavations as described in 130-17.2.

' 130-10 Liability; terms and conditions.

By acceptance of the excavation permit, the applicant agrees to pay the entire cost and expenses incurred in the replacement of the excavation and street resurfacing, and agrees to protect, defend, indemnify and save harmless the township, its officers, agents, servants or employees thereof from all claims, suits, actions, proceedings of every nature and description which may be brought against the township, the officers, agents, servants or employees thereof or for any injuries or damage to persons or public or private property due to any materials or appliances used in the work or by or on account of improper materials or workmanship or for or by or on account of any accident or any other act, negligence or omission of such applicant or his agents, servants or employees, and the township, its officers, agents servants or employees thereof shall not in any way be liable therefor. The applicant agrees to safeguard and maintain in good order the excavation and to abide by all the terms and conditions of this Article, whether specifically mentioned in the application or not. The grant of a permit by the Borough does not relieve the applicant from obtaining any consent otherwise required from the owner or owners of the abutting property and does not confer upon the applicant the right to cut, remove or destroy trees or shrubbery within the legal limits of the street, alley or thoroughfare except under the conditions, restrictions and regulations as the permit may specifically prescribe.

' 130-11. Tunneling prohibited.

No tunneling shall be allowed without the express approval of the code Enforcement Officer or his designee and permission therefore endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Code Enforcement Officer or an inspector designated by him and shall be done only in a method approved by his or her designee. The charges for the permit, however, shall be the same as if the surface of the street had been removed. Boring will be allowed with prior approval of the Code Enforcement Officer.

' 130-12. Safety precautions.

The applicant, during the progress of the excavation work, shall provide and maintain such fences, barriers, A street closed & or A danger signs, flashing lights and watchmen as may be necessary to prevent avoidable accidents to the public and adjoining property owners. The convenience of the public and temporary approaches to crossings and intersection streets shall be provided for and kept in good condition when practicable. The sidewalks or portions of the street adjoining the work or its vicinity shall not be littered or obstructed more than necessary, and the drainage gutters and inlets to stormwater sewers shall at all times be kept clean and unobstructed. Plates or bridging may be required on all openings within the improved surface which have a shortest dimension in length or width of six feet or less whenever work cannot be completed within the same day, during peak traffic hours. The plate or bridging is to be extended a minimum of 18 inches on either side of the opening and tied into the existing cartway. All signs used by the applicant must be the type, condition and size which are under current approval by PennDOT.

' 130-13. Notification of officials.

Upon issuance of each excavation permit, the Code Enforcement Officer shall notify the Street Department Supervisor and the Police Department of the issuance of the permit, stating the dimensions of the excavation, the purpose for which it is made, the location of the excavation and the names of all persons interested in or to be benefitted by the work to be done.

' 130-14. Supervision.

- A. A. The Code Enforcement Officer or his duly authorized representative shall have the authority to regulate the excavation and shall have the authority to regulate the excavation and shall have the authority to see that the excavation is filled and closed as required by this article.
- B. In the event that it is necessary to have the code Enforcement Officer, Street Department Foreman or their duly authorized representative present to oversee the backfilling, then said applicant must pay for and reimburse the Marion Heights Borough for such time expended.

block the flow of storm water.

- A. The trench must be backfilled with 2RC aggregate compacted in layers not to exceed 6 inches using a mechanical tamper and in layers of 18" using a backhoe tamper pad up to the bottom elevation of the pavement structure. The 2RC aggregate must meet the requirements of Section 703.3 (D), Form 40B, as provided by the Pennsylvania Department of Transportation using the latest revisions of the specifications.
- B. The basic course replacement shall consist of crushed aggregate base type : a minimum of 6 inches of 2-RC aggregate tied in with screenings or cracker dust. A minimum of eight inches is required in industrial and commercial areas. The binder and surface course shall be replaced with a minimum of 4 inches of B C B and with a minimum of 1 1/2 inches of top material, I D 2 wearing surface. All excavations must be cut back on all sides a distance of 1 foot. This cut may be sawed or milled in a straight line prior to resurfacing the area.
- C. The applicant shall be responsible for any failure of the street surface during a period of 5 years following completion of the permanent restoration work of the trench. The Borough may require, in its discretion, that the applicant furnish a bond conditioned that the applicant shall complete and maintain the work in accordance with the terms of this Article sufficient in amount to cover the cost of the required improvements, as estimated by the Code Enforcement Officer or his representative.
- D. When more than 1/3 of a thoroughfare is affected by the ditch or trench (including one-foot cutback on each side) the applicant must resurface the width of a thoroughfare as established by the Code Enforcement Officer or his representative. Both sides and ends of the thoroughfare must be milled to a tapered depth of two inches to accept paving.
- E. All cracks and seams must be sealed with the rubber base compound approved by the Borough Street Department.
- F. Prior to the beginning of the final asphalte work, every major street excavation project must wait a period of six months during which time the permittee shall be responsible for all maintenance on the area excavated and or effected.

130-17. Additional work; supplementary applications.

In no case shall an applicant open or remove a greater area of surface and in another location than specifically specified in the original application, however, if, at the time actually doing the work, it is necessary to open or remove a greater area of surface than originally applied for, the applicant shall first notify and secure, by telephone or otherwise, the consent of the Code Enforcement Officer to do so, upon the express condition that the applicant, before 12:00 noon of the following business day, files a

supplemental application for the making of an additional excavation.

' 130-17.1. Area of excavation; additional cost.

Before the backfilling of any excavation, the Code Enforcement Office or his authorized representative shall verify the actual area of the excavation. In an actual area of the excavation exceeds the area of the excavation set forth in the application for a permit in accordance with the schedule of charges per unit length set forth in ' 130-8 or exceeds the amount paid by the applicant, then the excess shall be charged to the applicant. The sum due the Borough shall be paid within 30 days from the date of rendering a statement to the applicant until all accounts due the Borough previous permits granted to the applicant and owing by the applicant shall have been paid.

' 130-17.2. Emergencies.

IN case of any emergency arising at night or on Saturdays, Sundays, legal holidays or at such times as the office of the Code Enforcement Officer is closed and an immediate excavation is necessary for the protection of public or private property, the same shall be reported to the Police Department, which shall grant permission to make the necessary excavation upon the express condition that an application be made to the Code Enforcement Officer on or before 12:00 noon of the following next business day.

' 130-17.3. Inspections.

The Borough reserves the right to place an inspector on any and all excavations it deems necessary in order to ensure good workmanship. All cost involved with placing the inspector on the job will be the responsibility of the permittee

' 130-17.4 Work extending into streets; length.

No excavation in any street, alley or thoroughfare shall extend from the curblin into the street a distance greater than one foot beyond the center line of the street, alley or thoroughfare before being backfilled and the surface of the street restored to a condition safe and convenient for travel, longer or full street cuts must have prior approval of the code enforcement officer. No more than 350 feet longitudinally shall be opened in any street at any one time unless written permission has been granted by the Borough Council

' 130-17.5 Improper or incomplete work; expenses.

If the excavation is not performed promptly or shall be unskillfully or improperly or incompletely done, the Borough Council on a recommendation of the code enforcement officer may cause the same to be done in a manner it deems proper, and the expense thereof, including any overheard expense, shall be charged to the applicant, together with 20% additional as a penalty.

130-17.6. Violations and penalties.

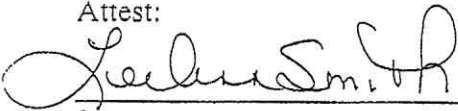
Any person, whether as principal, agent or employee, violating or assisting in the violation of the provisions of this Article, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 and the cost of prosecution and in default of payment thereof to imprisonment in Northumberland County Jail for not less than 10 days nor more than 30 days, provided that each day's violation of any of the provisions of this article shall constitute a separate offense.

All Ordinances or parts thereof inconsistent with this ordinance are hereby repealed to the extent of the inconsistency. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the other Plan Ordinances of Coal Township. The provisions of this ordinance are declared to be severable.

ORDAINED and ENACTED into an Ordinance on this 13 day of September, 2002.

MARION HEIGHTS
BOROUGH COUNCIL
NORTHUMBERLAND COUNTY,
PENNSYLVANIA

Attest:


Secretary


President