

CHAPTER 9

GRADING AND EXCAVATION

**PART I
GENERAL PROVISIONS**

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PART I**GENERAL PROVISIONS****SECTION 9-101. General.**

It shall be unlawful for any person, firm or corporation to make any opening or excavation in or under any street, alley or thoroughfare within the limits of the Borough of Harmony, including those streets which are maintained by the Commonwealth of Pennsylvania Department of Transportation (“PennDOT”), unless and until a permit be secured from the Borough Secretary for each such separate undertaking. Such permit and the application therefor shall be in the form supplied by the Borough Secretary and shall contain a statement that the applicant agrees to the terms of this Ordinance. The Harmony Borough Council shall have the authority to prohibit any work being done without a proper permit or any work being done contrary to the terms of this Ordinance.

(Ord. 372, 6/6/2006)

SECTION 9-102. Permit Required.

No opening shall be made in the surface any improved highway or street which is maintained by PennDOT or any other street, alley, thoroughfare or sidewalk within the Harmony Borough until and unless a permit has been obtained under this Ordinance and until a cash deposit or bond conditioned upon the proper restoration of the surface in accordance with the adopted standards of this Ordinance for the particular type of construction has first been supplied and filed with the Borough Secretary of Harmony Borough. This requirement shall be at the discretion of the Borough of Harmony and may be waived in any proper case. The Borough may provide by regulation for the amount and form of said bond.

(Ord. 372, 6/6/2006)

SECTION 9-103. Permit fees and charges.

The fees and charges set forth below are hereby imposed, and the amount of the same may be modified by Resolution of the Borough Council.

A. A Permit Fee is hereby imposed in the amount of Twenty-Five (\$25.00) Dollars per permit with each cut requiring a separate permit. The permit shall allow the Permittee to close portions of the Borough street for a period not to exceed three days per opening, or as required, upon written request received by the Borough Secretary.

B. An Inspection Fee is hereby imposed for work completed, the amount of which shall be based on the then current rates charged by the Borough Engineer. These fees will be reasonable and customary. The Permittee shall notify the Borough Secretary a minimum of 72 hours in advance of final restoration to schedule an appointment to have a representative of the Borough inspect the excavation prior to final restoration and covering.

C. A Degradation Fee is hereby imposed at the rate of no less than ten dollars (\$10.00) per square yard calculated by actual measurement of the area involved in the completed work.

D. The amount of the required restoration bond or other security shall be established at the rate of no less than thirty dollars (\$30.00) per square yard for the area to be restored in projects costing more than Five Thousand Dollars (\$5,000.)

E. Liability insurance is required and shall be maintained in the minimum coverage of Five Hundred Thousand Dollars (\$500,000.00) A certificate of insurance must be filed with the Borough Secretary before work may begin.

F. An additional charge of Two Hundred Fifty (\$250.00) Dollars shall be paid by the Permittee for each day that the street is closed for traffic by reason of said excavation or work on the street under the permit.

(Ord. 372, 6/6/2006)

SECTION 9-104. Borough Restoration.

Where the work must be completed by the Borough after the roadway, street, thoroughfare, alley or sidewalk is restored, the Permittee shall be billed for the total cost including, but not limited to, repairs, labor, materials, equipment rental and all other proper

charges for the resurfacing plus an additional cost of 10% of the total cost, plus an additional twenty (20%) thereof to cover future repairs caused by the excavation, which bill must be paid by the Permittee within fifteen (15) days of the mailing thereof by the Borough.

(Ord. 372, 6/6/2006)

SECTION 9-105. Protection.

It shall be the duty of any person or persons, firm or corporation to whom a permit is issued or by whom any opening or excavation is made as aforesaid to provide and maintain proper and adequate guard, barriers and lights to prevent accidents, and they shall assume all risks and be liable for all damages by reason of the openings and the excavations and by reason of any failure to properly fill the hole or trench or of any failure to maintain the disturbed surface in a safe condition. Maintenance and protection of traffic during any work under the permit shall be in accordance with the Commonwealth of Pennsylvania, Department of Transportation, Publication 203, "Work Zone Traffic Control" (67 PA Code, Chapter 203), dated April 1, 1994, or most current.

(Ord. 372, 6/6/2006)

SECTION 9-106. Restoration Requirements.

A. Temporary Restoration. It shall be the duty of any person, firm or corporation causing an opening or excavation to be made to thoroughly and completely backfill the same in accordance with Borough engineer specifications. The Permittee will temporarily pave the opening immediately after backfill is complete, and shall maintain said filled opening for a period not to exceed six (6) months, by which time the opening shall be permanently restored. The Permittee is responsible for providing a smooth riding surface at all times over the trench or opening, and shall make required repairs as directed by the Borough Engineer or his representative. The maximum length of unsurfaced trench shall not exceed one hundred (100) feet at any time.

B. Permanent Restoration. All streets or public ways to be restored permanent with a minimum of:

(1) Six (6) inches of bituminous concrete base course and 1½ inches of ID-2 bituminous wearing course.

(2) If on a state route, restoration shall be as directed by PennDOT.

All edges must be sawed in a suitable manner and are to be coated with hot AC-20 asphalt cement or an approved emulsion prior to placing the ID-2. After the wearing surface has been placed and thoroughly compacted, the cut or surface where old and new meet will again be sealed with AC-20 asphalt cement or an approved emulsion.

C. Additional Restoration Requirements. If the Permittee opens any roadway pavement having a bituminous concrete surface, whether to install a new facility or to modify an existing facility, the Permittee shall comply with the following requirements:

(1) When a longitudinal opening longer than ten (10) feet and wider than three (3) feet is made in the roadway pavement, the Permittee shall overlay the entire traffic lane in which the opening was made, for the entire length of the roadway that was opened, as directed by the Borough Engineer.

(2) When two or more transverse trench openings are made in the roadway pavement less than thirty (30) feet apart, the Permittee may be required to overlay all traffic lanes in which the openings were made, for the entire length of roadway between such opening, as directed by the Borough Engineer.

(3) When five (5) or more square type openings have been made by the same Permittee in the roadway pavement less than fifty (50) feet apart, the Permittee may be required to overlay all traffic lanes in which the openings were made, for the entire length of roadway covering such openings.

(4) When two (2) or more square type openings are made within ten (10) feet of each other, the Borough Engineer may require the Permittee to connect all holes and treat such as one opening.

(5) Where disturbed lanes adjacent to undisturbed lanes are overlaid, the edge of the disturbed lane shall be saw cut to a depth of 1½ inches for the length of the opening and the detached material removed, in order to insure a smooth joint. A full width overlay may be performed instead of saw cutting and stripping the disturbed lane or lanes.

D. Clean up. Streets and alleys shall be kept free of mud, dust and aggregate material at all times. Sweeping shall occur when required.

(Ord. 372, 6/6/2006)

SECTION 9-107. Non-Conforming Restoration.

If the work in opening or in filling does not conform to the requirements of this Ordinance, the Borough Engineer, or any other person designated by Borough Council may cause the same to be done in the manner the Engineer deems to be Proper. The expense thereof, including any overhead expense, shall be charged to and promptly paid by the person, firm or corporation by whom the opening or excavation was made, together with twenty per cent (20%) additional. This charge shall also be a claim under the bond as specified above. No permit shall be issued to any person, firm or corporation in default under this Section until the cost and penalty herein provided are paid, and no further permit shall be granted to any person, firm or corporation unless and until the openings or excavations already caused by them have been properly filled as aforesaid, in a safe condition and at the proper grade, of which the said Engineer, or other person designated by Harmony Borough Council, shall be the judge.

(Ord. 372, 6/6/2006)

SECTION 9-108. No Borough Responsibility.

In no case shall any opening or excavation made by any person, firm or corporation be considered in the charge or the care of the Borough, or any officer or person employed by the Borough, and no officer or employee is authorized to, in any way, take or assume any jurisdiction over any such opening or excavation.

(Ord. 372, 6/6/2006)

SECTION 9-109. Severability /Repealer.

It is the intention of the Harmony Borough Council that each Section or portion of any Section of this Ordinance shall be a separate provision and all shall be independent of all other provisions herein, and it is further the intention of the Harmony Borough Council that if any Section or portion of any Section shall be declared to be unconstitutional, invalid, illegal, or unenforceable by any Court of competent jurisdiction, such decision shall not affect the validity of any of the remaining Sections or parts thereof of this

Ordinance. It is hereby declared as a legislative thereof of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been enacted had such unconstitutional, invalid, illegal or unenforceable provision not have been included herein. Any Ordinances or parts of Ordinances which are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

(Ord. 372, 6/6/2006)