

CODIFIED ORDINANCES OF THE CITY OF FRANKLIN

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

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TITLE ONE - Street and Sidewalk Areas

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ARTICLE 901  
Excavations

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CROSS REFERENCES

City Engineer: Art. 131.

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901.01 DEFINITIONS

The following words, when used in this Article, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

- a.) City: The City of Franklin, or the municipal limits of the City of Franklin, as the context shall indicate.
- b.) City Engineer: The City Engineer of the City of Franklin.
- c.) Department: The City Engineer's Department of the City of Franklin.
- d.) Excavate: To dig, or otherwise insert, a hole, ditch, trench, or opening of any character.

- e.) Excavation: A hole, ditch, trench, or opening of any character inserted into the surface or subsurface of public land.
- f.) Permit: A written authorization issued in the name of the City by, and having affixed thereto the signature of, the City Engineer or his Assistant.
- g.) Permittee: The person to whom the permit is issued.
- h.) Person: A natural person, including the masculine and feminine, and a firm, partnership, association and corporation.
- i.) Public Land: A public street, way, alley, road, avenue, sidewalk, park, and similar place.

(Ord. 854, Sect. 1, Passed 7-6-48)

#### 901.02 PERMITS REQUIRED

A person shall not excavate, or otherwise disturb the surface or the subsurface of public land in the City, or cause the surface or subsurface of public land in the City to be excavated or otherwise disturbed, without a permit from the City; provided, however, in the event an excavation is necessary to protect life or property during a period that the office of the Department is not open to permit application, the person making the excavation, or causing it to be made, shall notify the Department of Police of the City and may then commence the excavation and make application to the Department for a permit before twelve o'clock noon in the next day on which the permit can be obtained. Application for a permit shall be in writing and shall be filed with the Department. (Ord. 854, Sects. 2 and 3, Passed 7-6-48)

#### 901.03 PERMITS

- a.) The City Engineer, or his Assistant, if the necessity to excavate exists, shall issue a permit to excavate, or to cause the excavation, upon the receipt of a fee in the sum of One (\$1.00) Dollar, and the delivery of a bond to the City as hereinafter provided.
- b.) The permit shall specify the location or locations of the excavation or excavations, the date the excavation shall begin, and the period, not to exceed five days, during which the excavation may be maintained.
- c.) The City Engineer, or his Assistant, if the necessity exists, may extend a permit.
- d.) The City Engineer, or his Assistant, may revoke a permit, and revocation shall be effective thirty-six hours after notice to the permittee.

(Ord. 854, Sect. 4, Passed 7-6-48)

#### 901.04 DUTIES OF PERMITTEE

The permittee shall:

- a.) Commence the excavation authorized in the permit on the date specified in the permit, and then continue without delay or interruption with the excavation, the refilling of the excavation, and the replacement, restoration and reconstruction of the surface.
- b.) Compactly refill each excavation with suitable material in proper condition and of proper consistency in accordance with such specifications and under such conditions as the Engineer of the City shall, from time to time, direct.
- c.) Restore the surface of an excavation in improved land so that it shall be uniform and that the grade thereof shall correspond with the land abutting such excavation.
- d.) Refill the excavation in paved or improved land with suitable materials as provided in subsection (b) hereof, to the same surface of the improved area, when directed by the Engineer, and then construct and restore the improved or paved surface of the excavated area with material similar to the material constructed in the land abutting the excavation, and so that the said surface shall be uniform and the grade of said surface shall correspond with the grade of said abutting land.

(Ord. 854, Sects. 5 and 6, Passed 7-6-48)

901.05 WARNINGS REQUIRED

The permittee shall, during the period the excavation is being made, and to warn pedestrians and the operators of vehicles of the excavation,

- a.) Erect and maintain a barricade at or near, and along, each side or line of the excavation; and
- b.) Place and maintain, during the period from sunset to sunrise, lighted flares or lighted lanterns or some other signal device on or near said barricade and at points not more than three feet apart along the lines of the excavation where it intersects a public way, street, alley, road, avenue or sidewalk, and not more than fifty (50) feet apart along all other lines of the excavation.

(Ord. 854, Sect. 7, Passed 7-6-48)

#### 901.06 ONLY ONE-HALF OF PUBLIC WAY TO BE DISTURBED

No excavation shall be made or maintained so as to obstruct more than one-half of a public street, road, way, alley, avenue or sidewalk unless a permit issued by the City Engineer or his Assistant shall expressly authorize obstruction in excess thereof. (Ord. 854, Sect. 8, Passed 7-6-48)

#### 901.07 PERMITTEE TO REMEDY DEFECTS

The permittee shall, without notice from or cost and expense to the City, remedy each and every defect which shall develop within the area excavated during the period of one year from the date the excavation is refilled and the surface replaced, restored and reconstructed. (Ord. 854, Sect. 9, Passed 7-6-48)

#### 901.08 BONDS

a.) Each person making application for a permit shall deliver to, and file with the City, as obligee, a bond, with or without surety as the City Engineer or his Assistant shall direct and approve, in the sum of not less than \$5000.00.

b.) The condition or conditions of the bond shall be that the person making application shall, as obligor:

- 1.) Fully comply with and perform all and several of the provisions of this Article; and
- 2.) Promptly pay to the City all loss, damage, costs and expenses sustained or incurred by the City as a result of any act done or omitted in making and maintaining the excavation or excavations, including, but not being limited to, loss and damage to sewers, water lines, and other conduits of the City, and costs, charges and expenses incurred by the City as a result of the failure of the obligor to promptly refill the excavation, restore, replace and reconstruct the surface of the area excavated and remedy the defects in and at the area excavated during the period of one year from the date the excavation is refilled and the surface replaced; and
- 3.) Fully indemnify and save harmless the City, its successors and assigns, of and from any and all claims, demands, suits and actions by law and in equity which may be asserted by reason of any act done or omitted in violation of this Article, and by reason of any act done or omitted in making, maintaining, barricading, warning the existence of an excavation, and refilling an excavation, and/or replacing, restoring and reconstructing the surface of the area excavated, and/or remedying defects in the area excavated that occur during a period of one year from the date the excavation is refilled and the surface replaced, together with costs and expenses incident to said claims, suits and actions, including the reasonable and usual charges for legal services and record costs of the proceedings.

c.) The City Engineer, or his Assistant, may at any time require a permittee to file

an additional bond, with or without surety, as the City Engineer, or his Assistant, shall direct and approve.

(Ord. 854, Sect. 10, Passed 7-6-48)

#### 901.09 UNLIMITED EXCAVATIONS

a.) The City Engineer, or his Assistant, shall issue on written application to a corporation subject to the Public Utility Commission of the Commonwealth of Pennsylvania a permit authorizing excavations without restriction as to number, location, time of commencement, and the period during which an excavation may be maintained, provided the applicant shall deliver a bond to the City in the sum of not less than \$50,000.00 without surety, with the condition or conditions as provided in Section 901.08 of this Article.

b.) The permit authorized in subsection (a) of Section 901.09 hereof shall be valid until revoked by the City Engineer or his Assistant. However, the permittee therein shall, before commencing an excavation under the authority of the said permit, notify the Department in writing of the location of the proposed excavation and the date upon which the excavation will be commenced, and shall further promptly notify the Department after the surface of the area excavated has been replaced, restored and reconstructed. (Ord. 854, Sect. 11, Passed 7-6-48)

#### 901.99 PENALTY

A person violating a provision of this Article shall, upon conviction thereof before a Magistrate in the City, in a proceeding in the form directed by law for summary conviction, be punished by a fine of not less than Twenty (\$20.00) Dollars or more than One Hundred (\$100.00) Dollars, and, in default of the payment of the said fine and costs of the proceedings, said person shall be imprisoned in the jail of the County of Venango or the jail of the City of Franklin for a period of not less than ten days, nor more than ninety days. All fees and fines collected under the provisions of this Article shall be paid into the General Fund of the City. (Ord. 854, Section 12, Passed 7-6-48)