

## **CHAPTER 9**

### **GRADING AND EXCAVATING**

(See Chapter 22, Subdivision and Land Development ,  
§§22-503(6)(A), 22-512 and 22-605(2)(W))



*[Faint, illegible handwritten text]*



*[Faint, illegible handwritten text]*



MD 21- 2007

FILED JUNIATA COUNTY

2007 MAR 29 PM 2: 36

Ordinance No.   1   of 2007

PROTHONOTARY  
CLERK OF COURTS

AN ORDINANCE TO BECOME A PART OF CHAPTER 9 OF THE CODE OF ORDINANCES OF THE BOROUGH OF PORT ROYAL, JUNIATA COUNTY, PENNSYLVANIA, DEFINING AND REGULATING STREET EXCAVATIONS AND OPENINGS; SETTING FORTH REQUIREMENTS FOR PERMIT APPLICATIONS, FORMS AND FEES AND THE APPROVAL AND ISSUANCE OR DISAPPROVAL THEREOF; REQUIRING NOTIFICATION OF UTILITIES; FIXING RESPONSIBILITY FOR RESTORATION OF OPENINGS AND SURFACES AND DEFECTS THEREFROM; ESTABLISHING REQUIREMENTS AND SPECIFICATIONS FOR WORK UNDER PERMIT; AUTHORIZING EMERGENCY WORK; PROHIBITING REMOVAL OR DESTRUCTION OF TREES AND SHRUBBERY; ESTABLISHING LIMITATIONS UPON EXCAVATIONS AFTER STREET IMPROVEMENTS AND CONDITIONS FOR LAYING AND EXTENDING UTILITY LINES; AUTHORIZING THE BOROUGH OF PORT ROYAL, JUNIATA COUNTY, PENNSYLVANIA, TO DO WORK AND COLLECT COSTS; REQUIRING POSTING OF BONDS; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Borough Council of Port Royal Borough hereby enacts and ordains as follows:

**Section 9-101. Legislative Authority.**

The Ordinance is adopted pursuant to Section 1006 (53 P.S. Section 46006) and Section 1202(17) (53 P.S. 46202) (17) of the Borough Code of Pennsylvania as amended.

**Section 9-102. Definitions and Interpretation.**

The following words, when used in this ordinance, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise:

**EXCAVATION** – any activity within the right-of-way of any street, alley or cartway which involves cutting, breaking or disturbing the surface thereof. In this ordinance, the term “opening” shall have essentially the same

meaning as "excavation."

**PERSON** – any natural person, partnership, firm, association, corporation or municipal authority.

**STREET** – any public street, avenue, road, square, alley, highway or other public place located in Port Royal Borough, Juniata County, Pennsylvania, and established for the use of vehicles, but shall not include State highways.

In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

### **Section 9-103. Permit Required to Make Opening or Excavation.**

It shall be unlawful for any person to open or to make any excavation of any kind in any street in Port Royal Borough, Juniata County, Pennsylvania, without first securing a permit therefore, as hereinafter provided.

### **Section 9-104. Application for Permit.**

Any person who shall desire to make any opening or excavation in any street in the Port Royal Borough, Juniata County, Pennsylvania, shall make application to the Borough Permit Officer in writing for that purpose. Such application shall be made upon blanks to be furnished by Port Royal Borough, Juniata County, Pennsylvania, and shall set forth the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size or depth thereof, and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Port Royal Borough, Juniata County, Pennsylvania, and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend and keep harmless Port Royal Borough, Juniata County, Pennsylvania from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Port Royal Borough, Juniata County, Pennsylvania, from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit or any other matter placed in the said excavation.

9. The applicant shall notify the Borough Permit Officer when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street has been permanently restored so that inspections may be made.
10. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Permit Officer, be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed by the Borough Permit Officer, the Port Royal Borough, Juniata County, Pennsylvania, may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20% to the applicant.

### **Section 9-112. Emergency Openings.**

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus to commence an excavation to remedy such condition before securing a permit; provided, that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of this ordinance are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the Borough Permit Officer, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and

required by such emergency and charge the same on the basis of cost plus 20% to such owner or person.

**Section 9-113. Restrictions Regarding Trees and Shrubbery.**

The permission herein granted does not confer upon the permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way except under specifications, regulations and conditions as the Port Royal Borough, Juniata County, Pennsylvania, may prescribe.

**Section 9-114. Permittee Responsible for Future Relocation of Work.**

If at any time in the future the roadway is widened, reconstructed or the alignment or grades are changed, the permittee further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway at its own cost and expense.

**Section 9-115. Conditions for Laying and Extending Utility Lines.**

No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Port Royal Borough, Juniata County, Pennsylvania, until the plan therefore shall have been first filed with the Borough Permit Officer and such plan, and the exact location of such main or line, approved by him. The Borough Permit Officer shall not approve the locating of any such main or line at a depth of less than 30 inches from the surface of the street unless he shall be convinced that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

**Section 9-116. Bond Required.**

No company, corporation or association shall dig up any street or alley without

cost of the work performed by Port Royal Borough.

**Section 9-111. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work.**

1. No opening or excavation in any street shall extend from the curb line into the highway a distance greater than 1 foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.
2. No more than 500 feet longitudinally shall be opened in any street at any one time.
3. The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other subsurface lines or constructions, until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.
4. No tunneling shall be allowed without the express approval of the Borough Permit Officer and permission therefore endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough Permit Officer or an inspector designated by him, and shall be done only in a method approved by him.
5. All openings or excavation shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed 8 inches in depth. Backfilling shall be placed to within 10 inches of the surface.
6. A temporary paving of coldpatch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period of 90 days.
7. On concrete base streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be 16 square feet.
8. During the making of any excavation in the street, every necessary and

**Section 9-105. Permit Fee.**

Before any permit shall be issued to open or excavate any street in Port Royal Borough, Juniata County, Pennsylvania, the applicant shall pay a permit fee of fifty (\$50.00) dollars to the Borough. After adoption of this Ordinance the permit fee to be charged hereunder may be changed from time to time by resolution of the Port Royal Borough Council duly adopted at a public meeting.

**Section 9-106. Issuance of Permits Restricted.**

Permits shall be issued only to persons furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

**Section 9-107. Permit Approval/Disapproval.**

A permit may be issued to the applicant after all the requirements therefore have been filed. If the application is disapproved, written notice of disapproval together with reasons therefore shall be given to the applicant.

**Section 9-108. Responsibility to Contact Utilities.**

The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, §177 et seq. It shall be the permittee's responsibility to contact the utilities that have recorded their facilities in compliance with said Act. A partial list of utilities providing services in Port Royal Borough, Juniata County, Pennsylvania, and their office address may be obtained from the County Recorder of Deeds.

**Section 9-109. Refilling of Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years.**

Any person who shall open or excavate any street in Port Royal Borough, Juniata County, Pennsylvania, shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Transportation of the Commonwealth of Pennsylvania, which are hereby adopted as specifications of Port Royal Borough for restoration of surfaces of streets in Port Royal Borough. As restored, the surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. If within 2 years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse Port Royal Borough for the cost of all necessary repairs to the permanent paving.

At a minimum all restoration shall comply with the following specifications. All patches and trenches shall have a one foot cutback; the cuts shall be neat, straight and vertical with no less than five inches of BCBC and one and one-half inches of ID2 wearing; all cuts shall be sealed with AC-20; there shall be painted on the patch six inch numbers listing the month and year of the final restoration; the paint shall be blue for work done by the water authority and green for work done by the sewer authority; when three or more patches all fall within one hundred feet of each other or a trench falls within one hundred feet of a patch or other trench then traffic lanes affected shall be milled and overlaid with one and one-half inches of ID2 wearing for the entire length and width of the affected area with paving notches at each end of the pavement.

**Section 9-110. Responsibility of Permit Holder for Certain Work; Right of Port Royal Borough to Do Certain Work; Charges Therefore.**

All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this ordinance and to the supervision and approval of the Borough Permit Officer, provided that the Borough Permit Officer may, if he deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavations therein shall be done by Port Royal Borough, in which event the applicant shall pay the actual

first giving to the Port Royal Borough, Juniata County, Pennsylvania, a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys.

**Section 9-117. Payment for Work Done by Port Royal Borough, Juniata County, Pennsylvania.**

Payment for all work done by Port Royal Borough, Juniata County, Pennsylvania, under the provisions hereof shall be made by the person made liable therefore under the provisions hereof within 30 days after a bill therefore is sent to such person by the Port Royal Borough, Juniata County, Pennsylvania. Upon failure to pay such charges within such time, the same shall be collectible by the Port Royal Borough, Juniata County, Pennsylvania, by an action in assumpsit or in the manner provided by law for the collection of municipal claims.

**Section 9-118. Penalties.**

Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days. Each day that a violation of this ordinance continues shall constitute a separate offense.

**Section 9-119. Applicability.**

The provisions of this ordinance shall not apply to laying sidewalks or curbs.

**Section 9-120. Repealer.**

ENACTED AND ORDAINED this 8<sup>th</sup> day of January 2007.

Attest:

Jean Arnold  
Secretary, Jean Arnold

I hereby certify that the foregoing is a true and correct copy of the Ordinance No. 2007-01 enacted and approved by the Council of the Borough of Port Royal, Juniata County, Pennsylvania on January 8, 2007.

Port Royal Borough Council

by John E. McNeal  
John E. McNeal, President

John R. Towsey  
John R. Towsey, Vice President

Ronald A. Watkins  
Ronald A. Watkins, Councilman

Gerald L. Bryner  
Gerald L. Bryner, Councilman

Richard J. Pray  
Richard J. Pray, Councilman

Bernard E. Peck  
Bernard E. Peck, Councilman

Kenneth R. Kitzmiller  
Kenneth R. Kitzmiller, Councilman

The within ordinance has been reviewed and approved by the Mayor of Port Royal Borough this 8th day of January, 2007.

Barbara M. Bergstresser  
Barbara M. Bergstresser - Mayor

