

ARTICLE 90.1000 EXCAVATIONS AND ALTERATIONS

§ 90.1000.1 EXCAVATIONS.

(A) *Permit.* It shall be unlawful for any person to excavate, bore under or cut any street, alley, sidewalk, road, highway or other public way, or curb and gutter in the city, without first obtaining a permit from the City. Such permit shall be granted only after a written application has been filed, all fees have been paid, and surety bonds are in place as set forth herein. Information to be indicated in such application shall include:

(1) Name and address of the owner or agent in charge of the property abutting the proposed work area.

(2) The name and address of the party doing the work.

(3) A map that indicates the location of the work area and the dimensions of the excavation area.

(4) A plan or a clear description of the work to be done.

(5) A traffic control plan that meets the "Manual on Uniform Traffic Control Devices" latest edition.

(B) *Permit fee; surety bond.* At the time of making application for a boring, jacking or open cut permit, a permit fee as outlined under City Code § [155.01](#) shall be paid. An applicant for such permit shall deposit a cashier's check or a sufficient surety bond with the city, before a permit for boring, jacking or open cut shall be issued. The cashier's check and/or bond shall be forfeited for failure to comply with rules of public safety, as provided for by Article 90.1000.3 chapter.

(C) Upon satisfactory completion and approval of the bore, jack, or open cut, the city shall authorize the return of any bond fee sum deposited as provided above. In the event that the permit holder shall fail, refuse or neglect to make such repair or shall fail, refuse or neglect to remove and replace any rejected work as provided in this chapter, the city may make such repair or cause such repair to be made and deduct the cost thereof from the amount on deposit with the city, and the balance of the deposit, if any, shall be paid to the permit holder.

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2018-11-816, passed 11-6-18)

§ 90.1000.2 APPLICATION FOR PERMIT: BOND AMOUNTS.

(A) Unless the contractor has a Standing Bond, no person shall make any bore, jack, or open cut for which a permit is required by § [90.1000.1](#) above, until he or she has deposited a cashier's check or a surety bond required herein at the time of obtaining the permit as set forth in § [90.1000.1](#).

(B) The amount of such cashier's check or surety bond shall be determined by the criteria as follows:



(1) The amount of the required bond for a boring or jacking permit shall be as follows:

- a. 2-inch or less bore: \$750.00
- b. More than 2-inch up to 4-inch: \$1,000.00
- c. Larger than 4-inch: \$1,500.00

(2) The amount for an open cut shall be determined by the total square surface yards of the open cut, then multiplied by the current fees for open cuts as set forth in the Municipal Code, and then multiplied by 300%

(3) In the case of sidewalks and curb and gutter, or other public way, the amount for an open cut shall be determined by the total square surface yards of the open cut then multiplied by the current fees for open cuts as set forth in the Municipal Code.

(4) No fees or bonds shall be required for those projects which are borne by the city.

(5) Standing Bond

- a. For a Jacking or Boring Standing Bond the amount of the bond shall be a minimum of \$3,000.00.
- b. For a combined (jacking or boring, open cut) Standing Bond, the amount of the bond shall be a minimum of \$10,000.
- c. In the event that the permit holder shall fail, refuse or neglect to make such repair or shall fail, refuse or neglect to remove and replace any rejected work as provided in this chapter, the city may make such repair or cause such repair to be made and deduct the cost thereof from the amount on the deposit with the city, and the balance of the deposit, if any, shall be paid to the permit holder, and such Standing Bond shall be revoked. The permit holder shall not be allowed to submit for a Standing Bond with the City of Tontitown for a period of at least three (3) years.

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2018-11-816, passed 11-6-18)

§ 90.1000.3 PUBLIC/TRAFFIC SAFETY.

Every person making an excavation or cut as provided for in this article shall submit a traffic control plan for vehicular or pedestrian traffic flow at the time of obtaining a permit. The plan shall comply with the Manual on Uniform Traffic Control Devices, and be stamped for approval by the City.

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2018-11-816, passed 11-6-18)

§ 90.1000.4 BORED CROSSINGS: REQUIREMENTS.

The intent of this section is that all street, alley, sidewalk, road, highway or other public way, or curb and gutter crossings by utilities and other parties shall be required to

be bored unless an open cut is approved by the city. Open cut approvals shall not be withheld unreasonably and if required, shall meet the following requirements:

- (A) *Handling of excavated material.* In making excavations or making improvements in or to any street, alley, sidewalk, road, highway or other public way or curb and gutter in the city, all material or earth removed and new material necessary for repairs or for new work shall be handled in a safe manner and placed where it will cause the least possible inconvenience to the public. In no case shall such material or earth be stock piled or scattered over the surface of the pavement or impede vehicular or pedestrian traffic flow.
- (B) *Making open trench repairs promptly.* No trench or opening made on any street, alley, sidewalk, road, highway, or other public way, or curb and gutter in this city shall remain open longer than is absolutely necessary, and in no event more than 24 hours, except by special written permission of the city. If a cut is required to be open for longer than 24 hours and the party making it failed to secure the necessary extension of time, and having been notified to refill the same, failed to do so, then the such refilling shall be made under the direction of the city at the expense of the party that has secured the permit. Temporary bridging of the open cut such as "plating" shall be required if a cut is required to stay open more than 12 hours. For public safety a minimum "plate" thickness of one inch shall be required.
- (C) *Backfilling generally.* Immediately upon the completion of any job, the backfilling of cuts into any street, alley, sidewalk, road, highway or other public way, or curb and gutter shall be done as per the city's current standard details for such a repair. If no standard detail is available for such a repair, it shall be repaired in a manner approved by the City.
- (D) *Settling.* If the backfilling of any trench or opening settles prior to the making of permanent repairs, such trench or opening shall immediately be brought to proper grade by the party that secured the permit as directed by the City. If such repair has not been made within 24 hours of notification to permit holder, repairs will be made by the city at the permit holder's cost.
- (E) *Length of excavation.* No excavation shall be made in any street, alley, sidewalk, road, highway, or other public way or curb and gutter in the city that exceeds 400 feet in length at any one time, except by special written permission of the City.
- (F) *Emergency cuts and excavations.* Nothing in this article shall prevent any person from opening any street, alley, sidewalk, roadway or other public way or curb and gutter as may be necessary for the preservation of life or property when necessity may arise during the times when city offices are closed. The person making such excavation shall make application for a permit within 24 hours after city offices are first opened subsequent to the making of such excavation.

- (G) Application for all street cuts or bores shall be made with the City Planning and Permits Department, and fees will be charged as outlined in § [155.01](#).

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2011-08-379, passed 8-2-11; Am. Ord. 2018-11-816, passed 11-6-18)

§ 90.1000.5 BORING AND JACKING PROCEDURES AND REQUIREMENTS.

At the time of application for a permit for boring or jacking the following procedures and requirements shall apply as follows:

- (A) The permittee shall provide a map that clearly depicts the location of each individual bored or jacked crossing.
- (B) The permittee shall mark each individual bored or jacked crossing with “white” chalk paint, as to provide the City Inspector a reference line as to where the boring or jacking will take place.
- (C) When jacking or boring, the depth of bury on installations which are jacked or bored under any street shall have a minimum depth of bury of two and one-half feet below the low points of the street cross section to the top of the pipe or casing, or three and one-half feet below the bottom of the pavement structure (top of subgrade) to the top of the pipe or casing, whichever gives the greatest depth. In the case of a street section with a ditch section, the bury shall be a minimum of one foot below flow line, but still a minimum of the above referenced depth below street section, whichever is greater. If the pavement or curb and gutter structure is damaged by the jacking or boring installation, it shall be repaired in a manner approved by the City.
- (D) After the completion of the jacking or boring, the permittee shall contact the City within 48 hours of such completed work for an inspection.

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2011-08-379, passed 8-2-11; Am. Ord. 2018-11-816, passed 11-6-18)

§ 90.1000.6 PENALTY.

Should any excavation, cut, jacking or boring in project be willfully started by a person, firm, organization, contractor or engineer before receiving from the city, the permit required by this chapter, said person, firm, organization, contractor or engineer shall for each violation be punished by a fine not to exceed \$1,000 and such excavation, cut, jacking or boring shall be stopped and temporarily repaired until a proper permit has been issued.

In the event that the permit holder shall fail, refuse or neglect to make such repair or shall fail, refuse or neglect to remove and replace any rejected work as provided in this chapter, the city may make such repair or cause such repair to be made and deduct the cost thereof from the amount on deposit with the city, and the balance of the deposit, if

any, shall be paid to the permit holder. Additional permits issued to such permit holder shall require increased permit fees, and increased bond amounts required, as follows:

- a. First offense = No increase.
- b. Second offense = Permit fee and bond amount shall be doubled.
- c. Third offence = Permit fee and bond amount shall be tripled.
- d. Forth + offense = Permit fee and bond amount shall be quadrupled.

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2011-08-379, passed 8-2-11; Am. Ord. 2018-11-816, passed 11-6-18)

§ 90.1000.7 STREET CUTS AND REPAIRS BY THE CITY.

The intent of this section is to indicate that the city may choose to cut and repair any street, alley, sidewalk, road, highway or other public way or curb and gutter for individuals, if the city determines, in its sole judgement, that such a cut or repair is necessary.

(Ord. 2009-11-347, passed 11-3-09; Am. Ord. 2010-06-356, passed 6-1-10; Am. Ord. 2011-08-379, passed 8-2-11; Am. Ord. 2018-11-816, passed 11-6-18)