

BOROUGH OF EAST BANGOR  
NORTHAMPTON COUNTY, PENNSYLVANIA  
ORDINANCE NO. ~~2010-1~~ / - 2010

AN ORDINANCE REGULATING THE DIGGING OF HOLES, TRENCHES, AND EXCAVATIONS IN THE STREETS OF THE BOROUGH OF EAST BANGOR, NORTHAMPTON COUNTY, PENNSYLVANIA, REFILLING THE SAME AND RESURFACING THE PARTS EXCAVATED, ESTABLISHING PERMIT AND FEE PROCEDURES.

BE IT ENACTED AND ORDAINED by the Borough of East Bangor as follows:

**Section 1:**    Permit Required to Excavate In Street.

Whenever there is necessity for digging or opening holes, trenches, or excavations in the Streets of the Borough of East Bangor, a permit shall first be procured from the Street Supervisor or such other proper officer of the Borough as shall from time to time be designated by Borough Council to issue such permit, and before issuance of same there shall first be paid to the Borough Secretary or other such officer or employee of the Borough as shall be designated by Borough Council by the person, firm or corporation applying for such permit a fee as determined by Section 2 of this Ordinance, to defray the administrative costs of issuing such permit, the costs of maintenance and repair of the excavated area, and the cost of inspection of such excavation site.

**Section 2:**    Determination of Permit Fee.

The fee or fees referred to in Section 1 hereof shall be calculated according to the following table, and shall be based upon the number of square feet required to be resurfaced as a result of excavation, and whenever the street to be excavated shall be built of concrete, either as a base or otherwise, the number of square feet to be used in calculating the fee shall include the entire surface to be broken up in order to conform to general regulations for repairs to such streets. Except where impractical due to emergency circumstances, permits shall be obtained and the general permit issuance fee shall be paid before any work is performed. Where the size of the necessary excavation is known before work is

commenced, the excavation fee shall also be paid in advance. Where the size of the necessary excavation and; or the number of test holes cannot be determined in advance, or where the excavation size or number of test holes is increased while work is in progress, such changes shall be reported to the Borough Secretary, and any additional fees required by virtue of Section 2, shall be paid by the permittee within five (5) business days after the street is opened, temporarily repaired, or repaved, as the case may be.

#### Fee Schedule

General Fee for issuance of each permit		\$5.00
Fee for excavation in improved street, up to 200 sq. ft.	or,	\$2.00 per sq. ft. \$1.00 per test hole
Fee for excavations in improved streets, exceeding 200 sq. ft.	or	\$2.50 per sq. ft. \$1.00 per test hole
Fee for supervision, engineering services, and inspection by Borough Engineer or Street Supervisor		An hourly rate of \$10.00 per hour shall be charged for supervision, engineering services, and inspection by Street Supervisor.  An hourly rate of \$50.00 per hour shall be charged for inspection services furnished by Borough Engineer.

#### Section 3. Period For Permit Issuance.

No permit for digging or opening holes, trenches or excavations in the streets of the Borough shall be issued during the period from November 1 to April 1 of any year, except in case of new installations, and except in case of

emergency of which the Borough Engineer or Street Supervisor or Street committee shall be sole judge.

**Section 4. Manner Of Digging Or Opening Holes.**

All persons, firms and corporations digging or opening holes, trenches or excavations in any of the streets of the Borough for any purpose whatsoever shall create openings in the surface of said streets in the following manner: If the street be blacktopped, macadamized or stone-surfaced, a cuter shall be used and only square or rectangular openings shall be made; if the street be paved with amiesite, concrete or similar material, a saw shall be used and only square or rectangular openings shall be made; test holes in any paved street shall be opened only by use of a drill.

**Section 5. Refilling and Repaving of Openings.**

Before commencing and refilling or repaving operations, permittee shall notify the Borough Street Supervisor or, in his absence, the Chairman of the Street Committee or Council President so that the Borough can arrange to inspect the work as it progresses.

All persons, firms, and corporations digging or opening holes, trenches or excavations in any of the streets of the Borough for any purpose whatever shall refill the same in the manner following: If the street be unimproved or consist of natural ground or other ordinary material, the hole, trench or excavation shall be filled with the material excavated. If the street is macadamized, stone-surfaced or paved with amiesite, concrete, or similar material, the excavation shall be refilled only with select materials conforming to specifications 2-RC and all excavated material shall be removed as specified in Section 11 of this Ordinance.

In no case shall the broken stone, macadam, amiesite, concrete or similar material be used to refill any excavation. All material replaced in a hole, trench, or excavation shall be compacted in layers not to exceed eight (8) inches in depth by adequate machine tamping. It shall be unlawful to puddle or water fill in lieu of such tamping. Where temporary patching is necessary, the permittee shall be required to remove said patching materials and replace them with a permanent surface source within one hundred and twenty (120) days.



If the street so excavated be macadamized, stone-surfaced, or paved with amiesite, concrete, or similar material, the permittee shall, under the direction of the Borough Engineer and/or the Street Supervisor, and at the cost and expense of the permittee, restore the portion of the highway so dug up or disturbed by repaving it with approved materials of the same type and at least the same thickness of which the remainder of the street is composed.

In order to eliminate cracks or open joints in the surface, the wearing course shall overlap the existing pavement and shall be tapered and rolled in order to form a smooth even riding surface.

The permittee shall ensure that the street shall be restored to as good condition as it was prior to such disturbance. The permittee shall be responsible for the adequacy of all work for one hundred and twenty (120) days after final construction or replacement.

#### Section 6. Manner of Excavation.

Except for boring operations, no part of a hole, trench or excavation shall be tunneled or undermined so as to leave the surface undisturbed, but all material shall be removed to the full length, width and depth of the excavation, except in such cases as may be approved by the Street Committee, the basis of the fee in such cases, however, to be the same as if the surface had been removed.

#### Section 7. Times And Days When Digging Is Restricted.

There shall be no digging or replacement on Sunday or after 8 o'clock in the evening on any day except in an emergency of which the Borough Engineer, or Street Supervisor, or Street Committee, shall be the sole judge. No steel ball nor hydro-hammer shall be used for breaking pavement in the Borough.

#### Section 8. Special Permits For Extensive Street Excavation.

Whenever the proposed excavation is of such great proportions that the street involved will be substantially disturbed over a significant distance, the person, firm or corporation applying for a permit to dig or open holes, trenches, or excavations in the streets of the Borough of East Bangor, if such person, firm or corporation shall desire to do so, may apply for a special permit, to be issued

for a fee of \$5.00 per permit, providing that the permittee shall reconstruct or repave the entire width of the street so disturbed according to the specifications of the Borough Council, at the cost and expense of the permittee, in lieu of payment of the area charges set forth in Section 2 hereof.

It shall be permissible for several persons, firms or corporations to apply for said special permit as a group whenever said persons, firms or corporations desire to make several excavations in a street of the Borough simultaneously, provided that each of the persons, firms or corporation applying for said permit agree to be responsible for the repaving of reconstruction of the entire width of the street, provided further that an agreement acceptable to the Borough Council has been reached among the persons, firms or corporations applying for said permit specifying the proportionate share which each has agreed to contribute toward the cost of repairs to the street, and provided further that a sufficient amount of money has been placed in escrow, according to the terms of Borough Council, to assure the proper repair of the street.

In any case, when the special permit authorized by this Section is obtained, all work done by the permittee shall be done under the supervision of and in accordance with the instructions of the Borough Engineer and/or Street Supervisor and the permittee shall pay to the Borough a fee for each hour the Engineer or Supervisor is engaged in supervising or inspecting the work, based upon an hourly rate to be determined by Borough Council from time to time.

#### Section 9. Information Contained On Permit.

When a permit is issued, it shall include the following information: Name and address of each permittee (person, firm or corporation); date permit is issued, dates on which excavation work is expected to be done; locality of excavation; type of street surface; type of permit (regular, as in Section 1, or special, as in Section 8); computation of permit fee (\$15.00 per permit, plus approximate number of hours of supervision and inspection expected to be needed and the appropriate fee); a statement that the permittee understands and agrees to be bound by the provisions of this Ordinance; and the signature of each permittee, or persons receiving the permit in the case of firms or corporations.

#### Section 10. Responsibility Of Permit Holder.



The person, firm or corporation to whom or for whom a permit is issued shall assume all responsibility for the excavation made, respectively, by said person, firm or corporation; for refilling and repaving the same; for payment of the proper permit fee; and for all damages that may arise by reason of the digging or opening of holes, trenches or excavations.

**Section 11. Removal of Excess Material.**

That all excess excavated material shall be promptly removed from the street by the person, firm or corporation receiving the permit, he or it to deliver same at Borough's option, and at his or its expense at any place within the Borough limits designated by the Street Committee.

**Section 12. Procedure Following Completion Of Work.**

After the excavation has been properly refilled and repaved in accordance with the terms of Section 5 or Section 8 of this Ordinance, the Borough Engineer or Street Supervisor shall report that fact to the Borough Secretary or other such officer or employee of the Borough as has been designated by Borough Council, and the Engineer or Supervisor shall also report the total number of square feet actually excavated and the total number of hours during which the Engineer or Supervisor was engaged in supervising or inspecting the work. The Secretary or other officer shall then compute the proper permit fee as determined by Section 2 hereof. If it is determined that the permittee has paid an amount in excess of that actually required, the Secretary or other officer shall issue a refund for the amount of the overpayment; or, if the permittee so desires, said overpayment may be used a credit for future excavation permit fees. If it is determined that the permittee has paid an amount less than that actually required, the Secretary or other officer shall issue a bill in the amount underpaid to the permittee. Failure of the permittee to pay the additional amount required within forty-five (45) days of the date of the bill shall be a violation of this Ordinance, punishable as provided in Section 13 hereof.

**Section 13. Responsibility Following Completion Of Work.**

After the excavation has been properly refilled and repaved, and after same has been inspected pursuant to Section 12 of this Ordinance, and after any additional fees due and owing have been tendered to the Borough pursuant to

the aforementioned Section 12, the permittee shall remain responsible to the Borough of East Bangor for any settling, cracking, sinking, or failure of paving materials, which may result following completion. This responsibility and liability shall remain upon the permittee for a period of one (1) year from the date that the Borough Engineer or Street Supervisor reports completion of the refilling and repaving of the project to the Borough Secretary pursuant to Section 12. In the event that any defect or settling occurs during this one (1) year time period, the penalties contained in Section 14 hereof shall remain available to the Borough of East Bangor.

**Section 14. Penalty For Violation.**

Any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to a fine or penalty not exceeding Five Hundred and 00/100 (\$500.00) Dollars, recoverable before a District Justice of the Commonwealth of Pennsylvania.

In addition to the above penalties, whenever a permittee shall fail to properly refill or repave an excavation in accordance with the provisions of this Ordinance, the Borough Council may cause the excavation to be properly refilled and repaved and the cost thereof, together with an additional amount of ten percent (10%) may be collected by the Borough from the permittee, in the manner provided by law. Failure of a permittee to pay an additional permit fee as required by Section 12 hereof shall, in addition to the above penalties, subject the permittee to the costs and expenses of collection of such additional permit fee, plus ten percent (10%) of the total amount, which shall be collected for the use of the Borough as such charges are now by law recoverable.

**Section 15. Repealer.**

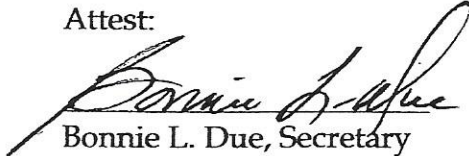
All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**Section 16.**

In the event any part of this Ordinance shall be found to be illegal or unconstitutional, the remaining part or parts of the Ordinance shall survive and remain in full force and effect.

ENACTED INTO AN ORDINANCE AND PASSED at the Borough of  
East Bangor, Pennsylvania, this 1st day of June, 2010.

Attest:

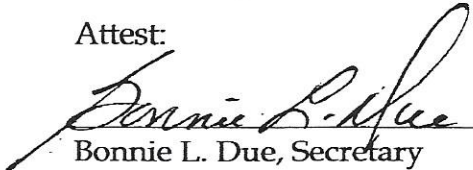
  
Bonnie L. Due, Secretary


BOROUGH OF EAST BANGOR

By   
James Patrick, President

APPROVED this 1st day of June, 2010.

Attest:

  
Bonnie L. Due, Secretary

 (SEAL)  
Gaylord Weidlick, Mayor