

**ARTICLE 909**  
**Excavations**

<b>909.01</b>	<b>Permit required</b>	<b>909.05</b>	<b>Bond</b>
<b>909.02</b>	<b>Applications</b>	<b>909.06</b>	<b>Default</b>
<b>909.03</b>	<b>Issuance</b>	<b>909.99</b>	<b>Penalty</b>
<b>909.04</b>	<b>Indemnification</b>		

**CROSS REFERENCES**

Power to regulate street excavations - see W. Va. Code 8-12-5(2)  
Street obstructions - see TRAF. 311.01

**909.01 PERMIT REQUIRED**

No person shall cut into, excavate, or open any street, alley, curb or sidewalk in the Town for any purpose, without having obtained a permit as is herein required, or in violation of or variance from the terms of any such permit. (Ord. 42. Passed 7-12-60.)

**909.02 APPLICATIONS**

Applications for such permits shall be made to the Recorder, and shall describe the location and size of the cut, excavation or opening, the purpose therefore, the estimated time necessary for completion, and the person doing the actual work and the name of the person for whom or which the work is being done.

**909.03 ISSUANCE**

The Recorder may at his discretion, and upon the showing of compliance with this article and all ordinances and laws of the Town, issue a permit upon such terms as he may reasonably determine.

**909.04 INDEMNIFICATION**

No such permit shall be issued unless and until the applicant therefore has indemnified the Town against any loss, liability or damage that may result or accrue from or because of the exercise of the permit. (Ord. 42. Passed 7-12-60.)

**909.05 BOND**

(a) No such permit shall be issued unless and until the applicant therefore has filed with the Town Recorder a bond or cash deposit in a sum fixed by the Town Recorder and based on the actual cost of properly restoring and maintaining the portion of the street cut into, excavated or opened, in its original condition, for a period to be determined by the Town Recorder; provided, however, that in no event shall such period exceed a term of three years from the day the work is accepted by the Town.

(b) In lieu of the above requirement the Town Recorder may, at his discretion, either accept a general bond providing for all cuts, excavations and openings which may be caused by the applicant during the period provided for in such bond; or insert in any permit which shall be issued a provision to the effect that if the person exercising the permit fails to properly restore or maintain the portion of the street, alley, curb, or sidewalk, cut into, excavated or opened, in its original condition for a period determined by the Town Recorder, the Town may after giving the person exercising the permit ten days written notice, cause the portion of the street, alley, curb or sidewalk, cut into, excavated, or opened to be restored or maintained in its original condition and recover the cost or expense thereof from the person exercising the permit. (Ord. 54, Passed 10/11/1960)

**909.06 DEFAULT**

In the event that the person exercising the permit fails to properly restore or maintain the portion of the street, alley, curb, or sidewalk, cut into, excavated or opened, in its original condition for the period determined by the Recorder, the Town may cause the portion of the street, alley, curb or sidewalk, cut into, excavated, or opened to be restored or maintained in its original condition and recover the cost or expense thereof from the person exercising the permit or his surety. (Ord. 42, Passed 7/12/1960)

**909.99 PENALTY**

Whoever violates any provision of this article shall be deemed guilty of a misdemeanor and shall be fined not more than two hundred dollars (\$200.00), or be imprisoned for not more than thirty days, or both. Each day any violation of this article shall continue shall constitute a separate offense. (Ord. 42, Passed 7/12/1960)