

ORDINANCE NO. 1139

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES AND CORPORATIONS TO OBTAIN A PERMIT FOR THE EXCAVATION, FILLING, AND/OR GRADING OF LAND WITHIN THE MUNICIPALITY: PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; AND PROVIDING FOR PENALTIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Donora in regular meeting assembled and it is hereby ordained and enacted by virtue of the authority in them vested as follows, to-wit:

Section 1. Statement of Intent

It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken, the excavation, filling and/or grading of any land within the Borough of Donora unless an approved permit has been obtained from the Borough Code Enforcement Officer.

Section 2. Definitions

For the purposes of this ordinance, the following definitions shall apply:

- A. Earth Material - Any rock, natural soil or fill and/or any combination thereof.
- B. Excavation - The mechanical removal of earth material.
- C. Filling - The deposition of earth material.
- D. Grading - Any excavating or filling or combination thereof.
- E. Person - Any person, persons, partnership, business or corporation.

Section 3. Application Procedures

Application for such a permit shall be made in writing to the Borough Code Enforcement Officer on forms supplied by the Borough of Donora. Such application shall contain at least the following:

- A. The name and address of:
 - 1. the applicant;

2. The owner of the land on which the work will be performed; and,
 3. The contractor performing the work.
- B. An identification and description of the work to be covered by the permit for which application is made.
 - C. A description of the land on which the proposed work is to be done, by lot, block, tract, and house and street address, or similar description which will readily identify and definitely locate the proposed work.
 - D. An estimate of the value of the proposed work.
 - E. Such other information as reasonably may be required by the Borough Code Enforcement Officer.

Section 4. Issuance of Permit

The Borough Code Enforcement Officer shall issue a permit only after it has been determined that the proposed work will be in conformance with all applicable requirements and regulations.

Section 5. Permit Changes

After the issuance of a permit by the Borough Code Enforcement Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Borough Code Enforcement Officer.

Section 6. Placards

In addition to the permit, the Borough Code Enforcement Officer shall issue a placard which shall be displayed on the premises during the time the work is in progress. This placard shall show the number of the permit, the date of its issuance and be signed by the Code Enforcement Officer.

Section 7. Start of Work and Expiration of Permit

- A. The proposed work shall begin within six (6) months after the date of issuance of the permit or the permit shall expire

unless a time extension is granted, in writing, by the Borough Code Enforcement Officer.

B. All work shall be completed within one (1) year of the date of issuance of the permit. If any work is to be performed beyond this period a new permit must be obtained under the conditions and requirements cited in Sections 3 and 4 of this Ordinance.

Section 8. Inspection and Revocation

During the permitted work period, the Borough Code Enforcement Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. In the event the Borough Code Enforcement Officer discovers that the work does not comply with the permit application of any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Borough Code Enforcement Officer shall revoke the permit and report such fact to the members of Borough Council for whatever action it considers necessary.

Section 9. Fees

Applications for a permit shall be accompanied by a fee, payable to the Borough of Donora, based upon the estimated cost of the proposed work as determined by the Borough Code Enforcement Officer at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$ 0.00 to \$200.00	\$0.00
\$201.00 to \$1,000.00	\$5.00
Each additional \$1,000.00, or part thereof beyond the first \$1,000.00	\$1.00

Section 10. Appeals

Any person aggrieved by the Borough Code Enforcement Officer's estimate of the cost of the proposed work may appeal to the members of Borough Council. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Borough Code Enforcement Officer.

Upon receipt of such appeal, the Council of the Borough of Donora shall set a time and place not less than ten (10) nor more than thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear and be heard. The determination of the estimated cost by the Borough Council shall be final in all cases.

Section 11. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order or direction of the Borough Code Enforcement Officer or any other authorized employee of the Borough of Donora shall be guilty of an offense and, upon conviction, shall pay a fine to the Borough of Donora of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this ordinance. The imposition of a fine or penalty for any violation of, or non-compliance with, this ordinance shall not excuse the violation or non-compliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and non-compliances within a reasonable time. Any excavation, filling, and/or grading in non-compliance with this ordinance may be declared by the Borough Council to be a public nuisance and abatable as such.

Section 12. Severability Clause.

If any section, paragraph, sentence or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall

not affect the remaining portions of this Ordinance which shall remain in full force and effect. For this purpose the provisions of this Ordinance are hereby declared to be severable.

ORDAINED AND ENACTED into an Ordinance this 6th day of June, 1974.

ATTEST:

President of Council

Borough Secretary

EXAMINED AND APPROVED by me this 6 day of June, 1974.

ATTEST:

Thomas E. Petrus
Borough Secretary

Albert P. Nilsen
Mayor