

**Town of Harpswell**

**Blasting Ordinance**

**As Adopted March 20, 2010**

**Amended March 12, 2011**

**Amended March 9, 2019**

# Blasting Ordinance

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## **Section 1. Purpose**

1.1 The purpose of this ordinance is to minimize the effects of airblast overpressure, ground vibration, dust and noise associated with blasting which may be detrimental to individuals and the community in the enjoyment of life, property and the conduct of business through the establishment of standards and notice requirements of blasting operations.

1.2 It is also the intent of this ordinance to prevent permanent damage to the geologic, hydrogeologic and wildlife resources and ecological balance in the region and to have a process which can be effectively and efficiently administered without causing undue financial and administrative hardship to blasting operators.

## **Section 2. Definitions**

**Airblast** - An airborne shock wave resulting from detonation of explosives. "Airblast" may be caused by burden movement or the release of expanding gas into the air. "Airblast" may or may not be audible.

**Applicant** - The person, company or corporation responsible for managing and conducting blasting operations.

**Blast/Blasting** - Any activity entailing the use of explosives for the purpose of producing an explosion to demolish structures or to fragment rock for mining, quarrying, excavation and construction.

**Blasting Operations** - Drilling and site preparation solely for blasting and detonation.

**Explosives** - Any substance, chemical compound or mechanical mixture that is commonly used for the purpose of producing an explosion to fragment rock for mining, quarrying, excavation and construction. Initiating devices (detonators, detonating cords, etc.) are also included under this definition.

**Ground Vibrations** - A shaking of the ground caused by the blast wave emanating from a blast.

**Seismograph** - An instrument that measures and may supply a permanent record of earthborn vibration induced by blasting.

**Turbidity** – The cloudiness or haziness of a fluid caused by large numbers of individual particles that are generally invisible to the naked eye.

## **Section 3. Permit Required**

A permit shall be obtained from the Code Enforcement Officer prior to any blasting with explosive devices or materials for development purposes within the boundaries of the Town of Harpswell.

3.1 Application forms for a permit may be obtained in the Code Enforcement Office. Permits for blasting will be reviewed as follows:

(a) Any removal of a total of 300 cubic yards or less of material per project will be reviewed and approved by the Code Enforcement Officer following consultation with the Town Planner; or

(b) Permits for blasting and removal of more than 300 cubic yards of material total per project must be reviewed and approved by the Planning Board. For the purposes of this section, the "project" shall include all blasting anticipated to be undertaken during the completion of a contract or series of contracts, for demolition, excavation or construction, or during the anticipated life of a quarry operation. Applications for the Planning Board shall be transmitted to the Planning Board for review at its next available meeting.

3.2 All applications shall contain the following information:

(a) The name of the applicant

(b) The name of the property owner

(c) The general contractor

(d) The location(s) of the proposed blasting activity

(e) The total number of cubic yards of material estimated to be removed by blasting

(f) An estimate of the number of blasts required to remove the specified amount of material

(g) Hours and dates of proposed blasting activity

(h) A pre-blast assessment that includes:

a. interior and exterior inspections of structures located within a two hundred fifty (250) ft. radius of the blasting location (contingent upon owner agreement) and;

b. water samples from wells located within a two hundred fifty (250) ft. radius of the blasting location (contingent upon owner agreement) demonstrating the pre-blast water quality including the turbidity of the water.

(i) Proof that the entity applying for the Town's blasting permit has a permit to use explosives as issued by the State of Maine Fire Marshall's Office.

3.3 Upon receipt of a completed application, the Code Enforcement Officer shall review and act upon the application or refer it to the Planning Board if required within ten (10) days. Failure to do so shall not be deemed an approval of the permit application.

3.4 **Fees.** All applications for blasting permits shall be accompanied by a fee as set from time to time by Board of Selectmen order.

3.5 **Proof of Insurance.** The applicant and/or the blasting contractor shall present proof of liability insurance in a minimum amount of \$1,000,000 combined single limit per occurrence.

**3.6 Effective Period.** Permits shall be effective for no more than 365 days from the date of approval. For blasting operations the scope of which exceeds one year, renewal of the permit shall be accomplished by reapplying in accordance with the procedure for a new permit, except that a public hearing may be held to review past compliance with the standards contained herein and any effects on existing uses and property owners in the vicinity of such blasting operations.

#### **Section 4. Performance Standards**

**4.1 Hours of Blasting.** Hours of blasting shall be limited to daylight hours, no earlier than 8:00 a.m. or later than 7:00 p.m., Monday through Friday inclusive. Detonation of misfires may occur outside of these times but must be reported to the Code Enforcement Officer in accordance with Section 5 of this Ordinance. Blasting shall be prohibited on the following legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving and Christmas.

**4.2 Water Quality Protection.** Water is a precious resource and measures shall be taken to protect groundwater quality.

(a) The Code Enforcement Officer may require post-blast monitoring of groundwater quality to assure no adverse impacts to any water supplies or wells within two-hundred fifty (250) feet of the blasting location. If post-blast monitoring is required it shall be done no sooner than twenty-four (24) hours and no later than four (4) business days after the completion of blasting.

(b) The blasting activity shall not increase the turbidity of the water in any monitored well above the level of turbidity documented in the pre-blast assessment or otherwise decrease the pre-blast water quality in the well. If there is an increase in the turbidity of the water in a monitored well or any other decrease in water quality, the applicant shall be responsible for improving or treating the water to meet this requirement.

**4.3** Ground vibrations, air blast overpressure and seismographic records shall comply with 38 M.R.S.A. § 490-Z (14) (B), (C), (I), (J), (K), (L) and (M), as may be amended from time to time.

#### **Section 5. Notices Required Following Issuance of a Permit**

**5.1** Any person intending to detonate explosives shall first notify the Code Enforcement Officer or his duly authorized representative that a blast is planned. Such notification shall be received at least twenty-four (24) hours prior to the planned detonation and shall give the time (within two (2) hours), location where the blasting is to be done, the amount of explosives to be used and the name and business address of the person responsible for the blasting operation. The notification may be given orally over the telephone; however, the burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation.

**5.2** The person responsible for a blast shall notify the Code Enforcement Officer in the event of any misfires and the proposed corrective action within five (5) business days of the misfire.

5.3 Following the submission of the application to the CEO and at least fifteen (15) days prior to the intended date of the commencement of the blasting, the person responsible for the blast shall inform all property owners within five hundred (500) feet of the blasting location. Such notification stating the purpose, warning procedures, date and time of the blast shall be given by first class mail and certified mail. Evidence that such notification was sent shall be provided to the Code Enforcement Officer. Failure of a property owner to receive the required notice does not invalidate the blasting permit.

5.4 If an abutter does not respond to an applicant's notification within eight (8) days of sending notice, then the applicant may proceed with blasting. A receipt of certified mailing shall constitute proof of sending notice.

5.5 Prior to any blast, the person responsible for the blast shall publish notice of the date, time and place of the blast in a local newspaper of general circulation and provide a copy of the notice to the local cable channel.

5.6 The person responsible for the blast shall place warning signs along property lines of the blasting site at least seven (7) days in advance.

## **Section 6. Exceptions**

Applications for a permit for an exception from the performance standards designated in this ordinance may be made to the Code Enforcement Officer, on the basis of hardship or emergency. Any permit granted hereunder shall contain all conditions upon which said permit has been granted and shall specify a reasonable time that the permit shall be effective.

- A. The Code Enforcement Officer may grant the exception as applied for only if:
  - (1) The activity or operation will be of a temporary duration, i.e. a limited number of blasts at a specific site, and only if it cannot be done in a manner that would comply with this ordinance;
  - (2) No other reasonable alternative is available to the applicants; and
  - (3) The applicants represent, and the Code Enforcement Officer finds, that blasting as permitted will not violate recognized safety standards.
  
- B. Upon the issuance of any exception permit, the Code Enforcement Officer may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community.

## **Section 7. Severability**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

## **Section 8. Enforcement and Penalties**

It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Ordinance. Any person, including but not limited to a landowner, a landowner's agent, or

contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. § 4452, as may be amended from time to time. For purposes of this Section, each day that a violation continues shall be considered a separate offense.

**Section 9. Conflicts with Other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

**Section 10. Authority**

This Ordinance is adopted under powers granted to the Town by 30-A M.R.S.A. § 3001, as may be amended from time to time.

**Section 11. Amendments**

Amendments may be made by a majority vote of the Town at any Harpswell Town Meeting and shall take effect upon enactment unless otherwise specified.

**Section 12. Effective Date**

This ordinance shall become effective upon its adoption.