

CHAPTER 12A - REGULATION OF BLASTING AND DETONATION OF EXPLOSIVES

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Chapter 12A – Regulating Blasting and the Detonation of Explosives

Section 12A-1 Purpose.

This ordinance establishes regulations that are applicable to *blasting* and the detonation of *explosives* within the Town of Blowing Rock; including, but not limited to, explosives used for the purpose of demolishing a structure or fragmenting rock, gravel, earth, or trees for excavation or construction.

[Enacted August 8, 2000]

Section 12A-2 Scope of Ordinance.

This ordinance does not replace or negate the requirements pertaining to explosive materials that are contained in Chapter 19 (Explosive Materials) in Volume V (Fire Prevention) of the North Carolina State Building Code. Where an inconsistency exists between the requirements of this ordinance and Chapter 19 of Volume V of the State Building Code, the more stringent of the requirements shall prevail.

[Enacted August 8, 2000]

Section 12A-3 Definitions.

(A) Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this ordinance.

(1) **Administrator.** *The Town Manager or his designee.*

(2) **Blasting.** *Any activity that uses explosives for the purpose of producing an explosion to demolish a structure or to fragment rock, gravel, earth, or trees for excavation or construction.*

(3) **Explosives.** *Any substance, chemical compound, mixture, or device that is primarily or commonly used for the purpose of producing an explosion to demolish a structure or to fragment rock, gravel, earth, or trees for excavation or construction. Initiating devices (blasting agents, detonators, detonating cords, etc.) are also included under this definition.*

[Enacted August 8, 2000]

Section 12A-4 Permit Required for Use of Certain Explosives.

It is unlawful for any person, firm, or corporation, without obtaining a permit from the Administrator, to do any blasting within the corporate limits of the Town or to use any explosive for the purpose of demolishing a structure or blasting out rock, gravel, earth, trees, or any other substance or material.

[Enacted August 8, 2000]

Section 12A-5 Permit Required for Each Separate Occasion; Continuous Permit; Effective Period.

(A) Upon each separate occasion that a person desires to do blasting, he or she shall make written application to the Administrator for a permit, stating the time and place of such proposed blasting operations, as well as the necessity and purpose thereof. If the Administrator is satisfied as to the propriety and necessity of such blasting, he or she shall issue a permit in accordance with the applicable provisions of this ordinance. The Administrator may attach such conditions to the issuance of the permit as he or she may deem necessary for the protection of persons and property in the vicinity. Any such conditions shall be specified in writing. The fee for the permit shall be established by the Town Council.

(B) If said applicant desires to continuously conduct blasting operations as one continuous project and in one specified location, the Administrator may grant a continuous permit.

(C) No permit shall be effective for more than 90 calendar days from the date of approval.

(D) On projects that are covered by an applicable Conditional Use Permit, no blasting permit shall be issued without the expressed authorization of the Town Council.

[Enacted August 8, 2000]

Section 12A-6 Information Contained in Application.

(A) The application for a blasting permit shall contain the following information, as well as any additional information that the Administrator may require:

(1) Name of the applicant, which shall be the person or firm responsible for conducting the blasting operations. Information shall include the company name, address, daytime phone number, and emergency after-hours phone number.

(2) Name of the property owner

(3) Name of the general contractor

(4) Location of the proposed blasting activity

(5) A description of the project for which the blasting is being undertaken

(6) Sketch of site showing measured distances to adjacent buildings, streets, utilities, wells, and other facilities

(7) A blasting plan to include a description of the proposed blasting procedures, an estimate of the total number of cubic yards of material to be removed by blasting, an estimate of the number of blasts to be detonated, the quantity and type of explosives to be used, the maximum amount of explosives per delay, the maximum number of holes per delay, and the proposed placement of seismographs

(8) An estimated starting date and completion date for the blasting operations

(9) Hours of blasting operations

(10) Traffic control, barricading, and signage plan

(11) Any other studies or information deemed necessary by the Administrator, which may include, but is not limited to:

(a) Pre-blasting assessment, which would assess the potential for damage to adjacent structures and facilities. As part of the assessment, the Administrator may require the videotaping of all structures and facilities located within 500 feet of the proposed blast location

(b) Hydrological study

(c) Geological study

(d) Test wells

[Enacted August 8, 2000]

Section 12A-7 Bond or Liability Insurance Required; Indemnity.

(A) Before a permit is issued, the Applicant shall file with the Administrator a corporate surety bond in the principal sum of \$5,000,000; or a public liability insurance policy, including explosion, collapse, and underground (xcu) coverage, with identical limits.

(B) Any such bond shall run in favor of the Town and shall inure to the benefit of the Town. Any such insurance policy shall name the Town as an additional insured.

(C) The purpose of the bond or insurance policy shall be for the payment of all damages to persons or property that may arise from or be caused by the blasting operations and related activities. The Administrator may specify a greater or lesser amount when, in his or her opinion, conditions at the location of the proposed blasting operation indicate that a greater or lesser amount of bond or insurance coverage would be sufficient for the payment of any such damages.

(D) The Applicant shall agree to indemnify, save harmless, and defend the Town, its agents and employees, from all claims, damages, costs, expenses, and charges, including attorney's fees, that arise out of or by reason of the Applicant's blasting operations.

[Enacted August 8, 2000]

Section 12A-8 Action on Application.

The Administrator shall act, within a reasonable time, on an application for a blasting permit and shall notify the applicant in writing of its approval, conditional approval, or denial.

[Enacted August 8, 2000]

Section 12A-9 Denial of Application.

The Administrator may deny the permit if he or she concludes that the proposed blasting operations are inherently unsafe or pose an unreasonable risk of damage to adjacent properties or facilities. In the event of the denial of a blasting permit, the Administrator shall notify the Applicant in writing of the reasons for the denial. Service of this notification may be made in person or by mail, and such service may be proved by the written acknowledgement of the persons served or by affidavit of the person making the service.

[Enacted August 8, 2000]

Section 12A-10 Revocation of Blasting Permit.

(A) Any blasting permit granted by the Administrator may be revoked, after notice and hearing, for any of the following causes:

- (1) Failure to comply with the provisions of this ordinance.
- (2) Failure to comply with any conditions of the blasting permit.
- (3) For any other cause if, in the judgment of the Administrator, continuance of the permit is not consistent with the purposes of this ordinance.

[Enacted August 8, 2000]

Section 12A-11 Transfer.

A blasting permit shall not be transferable whether by operation of law or otherwise, either from one location to another or from one person to another.

[Enacted August 8, 2000]

Section 12A-12 General Provisions.

(A) Covering. All blasting operations shall be covered in such a manner as to prevent fragments of rock, gravel, earth, trees, or other substances or materials from being thrown against or upon lots, buildings, utility lines, or any street or highway.

(B) Hours of Detonation. Hours of detonation shall be limited to daylight hours, no earlier than 8:00 a.m. or later than 5:00 p.m., Monday through Friday, except by special exception specifically authorized by the Administrator. Blasting shall also be prohibited on the following legal holidays: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

(C) Water Quality Protection. Water is a precious resource and measures shall be taken to protect ground water quality as found in the nearest well within 500 feet of the blasting location. Post blast testing shall be done no sooner than 24 hours or no later than 48 hours following a blast. Turbidity in wells tested shall be no greater than that which existed prior to the blasting as established in the pre-blast survey.

(D) Notification. Any person detonating explosives shall first notify the Administrator 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 plus or minus one hour) of the planned detonation and the location where the blasting is to be done. The person detonating the explosives shall give an equivalent notice to each property owner that is located within 500 feet of the proposed blasting location.

[Enacted August 8, 2000]

Section 12A-13 Record Keeping.

(A) Persons responsible for blasting operations shall maintain a record of each blast. A copy of that record shall be filed with the Administrator within twenty-four hours of each blast. All original blasting records shall be retained by the persons responsible for the blasting operations for at least three years following the cessation of the blasting operations and shall be available for inspection by the Administrator. The blasting records shall contain the following minimum data:

- (1) Name of the person responsible for the blasting operation
- (2) Location, date, and time of blast
- (3) Name of the blaster in charge
- (4) Type of material blasted
- (5) Number of holes, burden, spacing
- (6) Diameter and depth of holes
- (7) Types of explosives used
- (8) Amount of explosives used
- (9) Maximum amount of explosives per delay period of eight milliseconds or greater
- (10) Maximum number of holes per delay period of eight milliseconds or greater
- (11) Method of firing and type of circuit
- (12) Weather conditions (including factors such as wind direction, cloud cover, etc.)
- (13) Height or length of stemming
- (14) Were mats or other types of protection used
- (15) Type of detonators used and delay periods used
- (16) Seismograph and airblast readings when measured, and from where measured

[Enacted August 8, 2000]

Section 12A-14 Penalties.

(A) Any person who violates or fails or refuses to obey or comply with any provision of this ordinance or submits any false information required by this ordinance shall be guilty of a Class 3 misdemeanor, punishable as provided in G.S. 14-4.

(B) Any violation of any of the provisions specified in this ordinance shall also subject the offender to a civil penalty of five hundred dollars (\$500.00). If the offender fails to pay this penalty within fifteen calendar days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt.

(C) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections A and B shall constitute a separate offense.

(D) This ordinance may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(E) A violation of any of the provisions of this ordinance shall also result in the forfeiture of any and all permits issued by the Town of Blowing Rock for the related project. (For example, if a blast is detonated for the preparation of a building site without a valid blasting permit, the Town may revoke the grading permit, the building permit, and any other permits that have been issued for that building project.) A permit that is revoked may only be restored after any such violation has been remedied or corrected to the satisfaction of the Administrator.

If a blasting operation is conducted without a valid and current blasting permit issued by the Town, and as a result of that violation other permits issued by the Town are revoked for the related project, those permits may not be restored until a complete application for a blasting permit has been received and approved by the Administrator. To assess and document any damage to neighboring structures and facilities, the application for the blasting permit shall include a geotechnical assessment of the actual or potential damage to adjacent structures and facilities as well as a videotaped record of all structures and facilities located within 500 feet of the blast location.

(F) The Town may enforce this ordinance by any one or any combination of the foregoing remedies.

[Enacted August 8, 2000]