

TOWN OF COTTAGE GROVE - CODE OF ORDINANCES

CHAPTER 18 - EXPLOSIVES AND OTHER DANGEROUS MATERIALS

18.01 REGULATION OF BLASTING

(1) INCORPORATION BY REFERENCE

(a) Except as otherwise specified herein, the provisions of Wis. Admin. Code Ch. COMM 7 - Explosive Materials, are hereby adopted and made a part of this ordinance with the full force and effect as if they were fully reprinted herein; with the exception of any penalty provisions. Municipal penalties are limited to those specified in (10).

(b) All applicable regulations of the Wisconsin Department of Commerce (DCOMM); Wisconsin department of natural resources (DNR); and the US department of labor's, mine safety and health administration (MSHA) and occupational safety and health administration (OSHA) are hereby adopted and made a part of this ordinance with the same force and effect as if they were fully reprinted herein; with the exception of any penalty provision. Municipal penalties are limited to those specified in (10).

(2) APPLICABILITY OF ORDINANCE AND STANDARDS

(a) The provisions of this ordinance shall apply to all blasting operations, and any other use of explosives within the town limits; other than the display of fireworks, which is regulated under s. TCG 18.02.

(b) No person may use any amount of explosives regulated under ch. COMM 7, within the town limits without first obtaining a blasting permit from the town clerk. The clerk shall only issue a permit in accordance with the provisions of (8).

(c) The financial assurance requirements specified in (3) do not apply to blasting operations conducted by the state or a municipality.

(3) FINANCIAL ASSURANCE

A blasting permit shall not be issued until the permittee provides the town with a bond or certificate of insurance in the amount of \$5,000,000; naming the Town of Cottage Grove as an additional insured.

(4) FEES

A fee, set by resolution of the Town Board, shall accompany each application for a blasting permit. The fee shall be paid to the Town treasurer in US currency, money order or check payable to: the Town of Cottage Grove. An itemized receipt shall be provided for all currency received.

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(5) PUBLIC HEARING

A public hearing on the application for a blasting permit shall be scheduled within 30 days following the receipt of the documents specified in (8)(b).

(6) REVOCATION, SUSPENSION, REFUSAL TO ISSUE

(a) No permit shall be granted to any individual by the clerk; until an application has been submitted to, and approved by, the town board.

(b) No permit shall be granted for blasting on any site for which taxes, assessments, or other claims of the town are delinquent and unpaid; or to any individual delinquent in payment of such claims to the town.

(c) Whenever the holder of any blasting permit violates any provision of this ordinance, proceedings for the revocation of such permit shall be instituted.

(d) Any blasting permit issued under the provisions of this ordinance shall be revoked without further proceedings, upon the conviction of the permittee for a second or subsequent offense of any provision of any town ordinance within a 12 month period; or for a violation of ch. COMM 7; or of any other applicable county, state, or federal regulation; or of a felony.

(e) Whenever a permit is revoked for cause, there shall be at least a 6 month waiting period before another permit may be granted for the same site; and a 12 month period shall elapse before another permit may be granted to the individual whose permit was revoked.

(7) PERMIT PERIOD

(a) Long term permits shall be valid for a maximum of 180 days from the date of issuance.

(b) Short term permits shall be valid for a maximum of 7 days from the date and time of issuance; and shall be conditional upon the following:

1. Only one short term permit may be issued within a 6 month period; unless the permittee was unable to blast during the initial 7 day period because of weather conditions or other uncontrollable factors.
2. Short term permits may not be issued to a nonmetallic mining operation.

(8) BLASTING PERMIT REQUIREMENTS

(a) Application shall be made to the town clerk a minimum of 30 working days prior to the proposed effective date of the permit; using the town of Cottage Grove blasting permit application form. A current copy of this form is attached as Appendix 18-A; with the same force and effect as if it were fully reprinted herein.

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(b) An application for a blasting permit will not be processed until the appropriate fee, set by resolution of the Town Board, has been paid to the treasurer and the properly completed permit application has been received by the clerk.

(c) Blasting permits are not transferable; and shall be issued only to individuals, not corporations, partnerships, or other entities. The permittee shall be the "responsible party" who shall ensure compliance with, and be held liable for violations of, the provisions of this ordinance.

(9) USE AND HANDLING OF EXPLOSIVES

(a) Except for fireworks displays regulated under s. TCG 18.02, no person may use any amount of explosives regulated under COMM 7, other than between the hours of 8:00 AM and 4:00 PM, Monday through Friday. No blasting shall take place on any designated state holiday.

(b) At least 24, but no more than 72, hours prior to any blast; the blaster shall notify all residents, and owners of any dwelling or other structure, within a $\frac{1}{4}$ mile radius of the blast site, or a distance as specified in ch. COMM 7.61, which ever is greater; of the date and time of the blast. This notification shall be in addition to the notification required under ch. COMM 7.35(3) and 7.61.

(c) No blasting shall be conducted within the town limits, without first obtaining specific written approval from the town board; within 200 feet of any of the following:

1. The property line of the parcel on which the blasting will occur.
2. Any highway right-of-way.
3. Any underground utility.
4. Any structure.
5. Any well.
6. Any septic system.

The terms of any specific approval granted, shall be documented on an attachment to the blasting permit.

(10) CONTROL OF ADVERSE EFFECTS

(a) Blasting shall be conducted so as to prevent injury and unreasonable annoyance to persons, and damage to property outside the controlled blast site area. Airblasts, flyrock, and ground vibrations resulting from any blasting within the town limits; shall not exceed the standards specified in ch. COMM 7.64.

(b) Upon notification specified in (9)(b); any affected person may request that a preblasting survey be conducted. The following shall apply to all such requests:

1. Any affected person should immediately contact the blaster AND the town clerk to request the preblasting survey; due to the limited time between the required notification and scheduled blast.

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2. Failure to request a preblasting survey, shall not be considered grounds for dismissal of any damage claim raised following the blast.
3. Failure of a timely request, shall not be considered adequate grounds to delay the scheduled blast.
4. Costs normally associated with a preblasting inspection, shall be the responsibility of the blaster. Extraordinary costs shall be the responsibility of the person requesting the inspection; unless the costs incurred can be negotiated between the parties involved.

(c) All blasts shall be monitored by the blaster, with the results of each blast fired recorded on a blasting log. The blasting log shall include the seismographic and airblast records specified in ch. COMM 7.37(3)(q). A certified copy of the blasting log shall be provided to the town clerk within 24 hours of the blast; and shall be retained as specified in ch. COMM 7.37(2).

(11) PENALTY FOR VIOLATION

In addition to, and separate from, the possible liability from a failure to comply with any DCOMM, DNR, MSHA, or OSHA regulation; violations of this ordinance shall be punishable as class D forfeitures, under s. TCG 25.04.

(12) EFFECTIVE DATE

- (a) The original ordinance was adopted on 20 Oct 1986.
- (b) This section shall take effect upon passage and publication.

18.02 REGULATION OF FIREWORKS

In this section: "Fireworks" has the meaning specified in s. 167.10(1), Stats.

(1) SALE

No person may sell, or possess with intent to sell, fireworks within the town limits; except:

- (a) To a person holding a town of Cottage Grove fireworks use permit.
- (b) To a city, village or town.
- (c) For the purposes specified in s. 167.10(3)(b)2-6, Stats.

(2) USE

- (a) No person may possess or use fireworks within the town limits without obtaining a town of Cottage Grove fireworks use permit.

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(b) No person may use fireworks, or a device listed under s. 167.10(1)(e)to(g) or (i)to(n), while attending a fireworks display for which a permit has been issued to a person listed under (c)1-5; or (c)6 if the display is open to the general public.

(c) A fireworks use permit may be issued only to the following:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. A group of town residents.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(d) A person issued a permit for crop protection shall erect appropriate "warning" signs along the perimeter of the property where the fireworks are to be used; indicating the use of fireworks for crop protection.

(3) FINANCIAL ASSURANCE

A fireworks use permit shall not be issued until the permittee provides the town with a bond or certificate of insurance, as specified in s. 167.10(3)(e), Stats.; naming the Town of Cottage Grove as an additional insured.

(4) FEES

A fee, set by resolution of the Town Board, shall accompany each application for a fireworks use permit. The fee shall be paid to the Town treasurer in US currency, money order or check payable to: the Town of Cottage Grove. An itemized receipt shall be provided for all currency received.

(5) PERMIT REQUIREMENTS

(a) Application shall be made to the town clerk a minimum of 30 working days prior to the proposed effective date of the permit; using the town of Cottage Grove fireworks use permit form. This form shall serve as both the application and permit. A current copy of this form is attached as Appendix 18-B; with the same force and effect as if it were fully reprinted herein.

(b) An application for a fireworks use permit will not be processed until the appropriate fee, set by resolution of the Town Board, has been paid to the treasurer; and the properly completed permit application has been received by the clerk.

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(c) Fireworks use permits are not transferable; and shall be issued only to individuals, not corporations, partnerships, or other entities. The permittee shall be the "responsible party" who shall ensure compliance with, and be held liable for violations of, the provisions of this ordinance.

(6) STORAGE AND HANDLING

The storage and handling of fireworks within the town limits shall be regulated in accordance with the provisions of s. 167.10(6), Stats.; and shall be limited to the effective dates of the permit.

(7) MANUFACTURING

No person may manufacture, or possess with the intent to manufacture, any amount of fireworks within the town limits.

(8) EMERGENCY SERVICES

(a) Arrangements shall be made with the police chief, fire chief, and EMS director to provide crowd control and any other emergency service deemed appropriate by the town board; prior to any fireworks display within the town limits.

(b) Any costs incurred by the town, in providing any service required under (a), shall be the responsibility of the permittee; either directly, or as a reimbursement to the town clerk.

(9) PENALTY FOR VIOLATION

In addition to, and separate from, the possible liability from a failure to comply with any state or federal regulation; violations of this ordinance shall be punishable as class C forfeitures, under s. TCG 25.04.

(10) EFFECTIVE DATE

(a) The original ordinance was adopted on 9 Jun 1993.

(b) This section shall take effect upon passage and publication.

18.03 COMBUSTIBLE AND FLAMMABLE LIQUIDS

(1) INCORPORATION BY REFERENCE

Except as otherwise specified herein, the provisions of ch. COMM 10 - Flammable and Combustible Liquids and ch. COMM 14 - Fire Prevention, are hereby adopted and made a part of this ordinance with the full force and effect as if they were fully reprinted herein; with the exception of any penalty provisions. Municipal penalties are limited to those specified in (2).

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(2) PENALTY FOR VIOLATION

In addition to, and separate from, the possible liability from a failure to comply with any state or federal regulation; violations of this ordinance shall be punishable as class C forfeitures, under s. TCG 25.04.

(3) EFFECTIVE DATE

This section shall take effect upon passage and publication.