

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. SPS 307 - Explosives and Fireworks, 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 (11).

(b) All applicable regulations of the Wisconsin Department of Safety and Professional Services (SPS); 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 (11).

(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; other than the display of Fireworks, which is regulated under TCG § 18.02.

(b) No person may use any amount of explosives regulated under Wis. Admin. Code SPS 307, within the Town without first obtaining a blasting permit from the Town Clerk. The Town 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 no less than \$5,000,000 aggregate and \$2,500,000 per occurrence coverage; 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.

(5) PUBLIC HEARING AND TOWN BOARD REVIEW

(a) Upon receipt of a completed application form and permit fee(s), the Town Clerk shall place the application on the agenda for the next regular meeting of the Town Board. If a special meeting is warranted, the applicant shall pay the Town's cost incurred for the special meeting. The Town Board shall set a date for a public hearing and give public notice at least 15 days prior to the date scheduled for the hearing, with the notice mailed to the owners of any property within 1/2 mile of the proposed blasting site regardless of whether there is a residence or structure on the property. At the public hearing, the Town Board shall take public comment on the proposed blasting permit.

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(b) Following the public hearing, the Town Board may take immediate action or set a date for the meeting at which time they shall make a final decision on the blasting permit. If a special meeting is warranted, the applicant shall pay the additional fees incurred for the special meeting. The Town Board shall review the application materials as well as public comments made at the public hearing. The Town Board shall grant the blasting permit if it determines that the proposed blasting activity will comply with all the applicable provisions of this ordinance. If the Town Board determines that the application is incomplete or that the proposed blasting activity will not be conducted in conformity with the provisions of this ordinance or Wis. Admin. Code SPS 307, the Town Board may deny the blasting permit.

(6) REVOCATION, SUSPENSION, REFUSAL TO ISSUE

(a) No permit shall be granted to any individual by the Town 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) The Town Board, on its own motion or following due review an investigation of a written complaint, may suspend or revoke a blasting permit for any violation of provisions or requirements of this ordinance or of other applicable state and federal law.

(d) In general, the Town Clerk shall provide the permittee with no less than 72 hours notice of a meeting where action to suspend or revoke the blasting permit is on the agenda. Written or verbal notice of the suspension and of conditions that must be met to reinstate the permit, shall be promptly given to the permittee at the address contained in the application.

(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.

(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 Town Treasurer and the properly completed

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permit application has been received by the Town 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 TCG § 18.02, no person may use any amount of explosives regulated under Wis. Admin. Code 307, 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 1/2 mile radius of the blast site, or a distance as specified in Wis. Admin. Code SPS 307.41, whichever is greater; of the date and time of the blast. This notification shall be in addition to the notification required under Wis. Admin. Code SPS 307.31(2)(b) and 307.41.

(c) No blasting shall be conducted within the Town, 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 Wis. Admin. Code SPS 307.44.

(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.
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.

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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 Wis. Admin. Code SPS 307.31(4). 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 Wis. Admin. Code SPS 307.31(4)(b).

(11) PENALTY FOR VIOLATION

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

(12) EFFECTIVE DATE

- (a) The original ordinance was adopted on October 20, 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 § 167.10(1), Wis. Stats.

(1) SALE

No person may sell, or possess with intent to sell, Fireworks within the Town; 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 § 167.10(3)(b)2.-6., Wis. Stats.

(2) USE

(a) No person may possess or use Fireworks within the Town without obtaining a Town of Cottage Grove fireworks use permit.

(b) No person may use Fireworks, or a device listed under § 167.10(1)(e)-(g) or (i)-(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.

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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 § 167.10(3)(e), Wis. 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 Town Treasurer; and the properly completed permit application has been received by the Town Clerk.

(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 shall be regulated in accordance with the provisions of § 167.10(6), Wis. 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 Dane County Sheriffs' Department, 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.

(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

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federal regulation; violations of this ordinance shall be punishable as Class C forfeitures, under TCG § 25.04.

(10) EFFECTIVE DATE

- (a) The original ordinance was adopted on June 9, 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 Wis. Admin. Code ATCP 93 – Flammable, Combustible and Hazardous Liquids and Wis. Admin. Code SPS 314- 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).

(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 TCG § 25.04.

(3) EFFECTIVE DATE

This section shall take effect upon passage and publication.

18.04 SEVERABILITY AND INTERPRETATION.

Should any section, clause, provision or portion of this Chapter be adjudged unconstitutional or invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, the remainder of this Chapter shall remain in full force and effect.

18.05 NO LIABILITY FOR DAMAGES.

This ordinance shall not be construed as an assumption of liability by the Town for damages because of injuries sustained or property destroyed by any person's failure to comply with the requirements set forth herein.

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BLASTING PERMIT APPLICATION

1. **PERMIT TYPE APPLIED FOR:** **SHORT TERM** [7 DAYS - \$250 FEE] **LONG TERM** [180 DAYS - \$500 FEE]
[Circle SHORT TERM or LONG TERM Permit - Application For Each Category MUST Be Made Separately]
2. **LOCATION OF PROPOSED BLASTING** _____
[Street Address, or Legal Description; NOT PO Box]
3. **PURPOSE OF PROPOSED BLASTING** _____
4. **TYPE OF EXPLOSIVES TO BE USED** _____
5. **BLASTING METHODS TO BE USED** _____
6. **STORAGE MAGAZINE TYPE AND LOCATION** _____
7. **NUMBER OF BLASTS PROPOSED WITHIN THE NEXT 6 MONTHS** _____
8. **LANDOWNER(S) NAME(S)** [Include Middle Initial] _____
[Name(s) of All Titleholders - Use Additional Sheet if Necessary]

ADDRESS _____

PHONE _____ [Home] _____ [Work]
9. **RESPONSIBLE PARTY NAME** [Include Middle Initial] _____
[Name of Permit Holder]

ADDRESS _____

PHONE _____ [Home] _____ [Work]

NOTE: Section 18.01(3)(c) of the code of ordinances of the town, under which a Blasting Permit is issued, provides that the person who is designated the "responsible party", shall ensure compliance with the provisions of the ordinance, as well as all other laws and regulations that apply; and shall be subject to penalties as specified in Section 25.04 of the code of ordinances of the town, in addition to and separate from any legal action taken as a result of a violation of any other law or regulation.

10. LICENSED BLASTER NAME [Include Middle Initial] _____
[Name of On-Site Representative of Blasting Company]

LICENSE #: _____ EXPIRATION DATE: _____

ADDRESS _____

PHONE _____
[Home] [Work]

REPRESENTING _____
[Name of Blasting Company, NOT Individual Blaster]

ADDRESS _____

PHONE _____
[Days] [Off-Shift]

I hereby agree to comply with ALL of the conditions detailed below. I further understand that any violation of these conditions may result in my being held liable for costs and other forfeitures identified in section 25.04 of the code of ordinances of the town.

RESPONSIBLE PARTY Signature _____ Date: _____

BLASTING PERMIT CONDITIONS

1. The applicable fee of \$250.00 for a Short Term Permit, or \$500.00 for a Long Term Permit, shall accompany the permit application, and shall be paid to the town treasurer in U.S. Currency, money order or check payable to the Town of Cottage Grove.
2. An indemnity bond, or certificate of liability insurance, in an amount specified by the town board, shall accompany the permit application and shall remain in full effect during the entire period the permit is valid
3. The use and storage of explosives shall be in accordance with ch. ILHR 7, and shall be limited to the effective dates of this permit.
4. Prior arrangements for emergency services shall be made with the Police Chief, Fire Chief and EMS Director, as indicated below, in accordance with ch. ILHR 7.

[NOTE: To be initialed and dated by agency representatives, upon review and approval of arrangements. Permit is NOT valid until ALL approvals have been obtained.]

CGPD [_____] CGFD [_____] EMS [_____]

FOR OFFICE USE ONLY

Approved

Denied

Signature of Town Clerk

Legal Review Completed [Required if Denied]

Signature of Town Counsel

TOWN OF COTTAGE GROVE FIREWORKS USE PERMIT

This Fireworks Use Permit is issued as required under s. 167.10(3)(a), Stats. and s. TCG 18.02.

PERMIT VALID FROM _____ TO _____ PERMIT # _____

PERMITTED LOCATION _____
[Street Address, NOT PO Box]

RESPONSIBLE PARTY NAME [Include Middle Initial] _____

ADDRESS _____

PHONE _____ [Home] _____ [Work]

REPRESENTING _____
[Name of Organization or Group; as specified in s. 167.10(3)(c), Stats.]

TYPE AND QUANTITY OF FIREWORKS TO BE PURCHASED _____

FIREWORKS AUTHORIZED TO BE PURCHASED - [ONLY ON OR AFTER]: Date _____

PERMIT ISSUED BY _____ Date _____
[Name and Title]

I hereby agree to comply with ALL the conditions detailed below. I further understand that any violation of these conditions may result in my being held liable for costs and other forfeitures identified in s. TCG 25.04.

RESPONSIBLE PARTY Signature _____ Date _____

FIREWORKS USE PERMIT CONDITIONS

- 1: An indemnity bond, or certificate of liability insurance, as specified in s. TCG 18.02(4) shall accompany the permit application and shall remain in full effect during the entire period the permit is valid.
- 2: Storage shall be in accordance with s. TCG 18.02(6); and shall be limited to the effective dates of this permit.
- 3: Prior arrangements for adequate crowd control and other emergency services, shall be made with the Police Chief, Fire Chief and EMS Director.

[NOTE: To be initialed and dated by agency representatives; upon review and approval of arrangements.]

CGPD [_____] CGFD [_____] EMS [_____]