



**TOWN OF FREEPORT, MAINE**

Planning Department

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**TO: CAROLINE PELLETIER, TOWN PLANNER, AND PETER JOSEPH, TOWN MANAGER**

**FROM: CECILIA SMITH, ASSISTANT TOWN PLANNER**

**RE: DRAFT BLASTING ORDINANCE**

**DATE: MONDAY, JANUARY 27, 2022, 2021**

The Ordinance Committee asked that we get feedback from blasting companies on our ordinance language. I sent out an email with the revised Draft Freeport Blasting Ordinance to three major companies engaged in blasting activities in the State of Maine (Maine Drilling and Blasting, Drilling and Blasting Rock Specialists and to Coastal Drilling & Blasting, Inc.). Two responded.

James Thomas, from Maine Drilling and Blasting, pointed out that they typically do pre-blast surveys out to 250 feet of the abutters and can notify abutters within 500 feet. Mr. Thomas recommended the following: On Section 5. *Notices Required Following Issuance of a Permit*. § 5.3

**Suggestion:** leave out the 4-day certified mail and regular mail notice out 500 ft.

**Explanation:** There is redundancy as the abutters already have been informed from the previous letter offering the pre-blast survey via certified and regular mail. All the pertinent information will be on that letter.

Robert Minott, from Coastal Drilling & Blasting, Inc, had several comments. He noted that blasting activities can impact well water quality. This is especially important in areas with private drilled wells. Mr. Minott's company always does water quality testing, and he feels this is important.

Other suggestions:

On **Section 3.1** *All applications governed by this ordinance shall contain the following:*

(f). *"The total number of cubic yards of material estimated to be removed by blasting"*

**Suggestion:** remove this requirement.

**Explanation:** this is difficult to estimate because a lot of times the area is not cleared out. They may need to remove trees. It is hard to quantify.

On **Section 3.2** *Effective Period*

**Suggestion:** change from ninety (90) days to one-hundred and eighty (180) days.

**Explanation:** 180 days would be more realistic. Trees may need to be removed, they may need to get other permits, such as from the DEP before starting.

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

**Suggestion:** § 5.1 delete *"the amount of explosives to be used"*

**Explanation:** you don't know the amount of explosives you will need because it will depend on the results from the first blast. They may be able to 'backbreak'— removing the remaining materials with an excavator if the first blast made the material soft enough—eliminating the need for additional blasts.

Mr. Minott also noted that the 24-hour notice would be subject to the weather, as blasting depends on weather conditions.

**Suggestion:** § 5.3 delete *"and estimated number of blasts that will occur"*

**Explanation:** you don't know how many blasts you will need to make because it will depend on the results of the first blast.

Congruent with James Thomas' comment, Mr. Minott also noted that there seems to be a redundancy in the number of letters you need to send by the mail in this section.

**Suggestion:** § 5.4 delete this section *"The person responsible for the blast shall place warning signs along property lines of the blasting site at least seven (7) days in advance"*

**Explanation:** These signs are expensive, and they had experience with kids stealing them.

In addition, I reached out to staff in the Town of Harpswell since our draft Blasting Ordinance was modeled after the Town of Harpswell Blasting Ordinance. William Wells, Code Enforcement Officer, responded that he would highly recommend their Blasting Ordinance and that problems have been very few.

**DRAFT Freeport Blasting Ordinance**

**Section 1. Purpose.** The purpose of this ordinance is to minimize the effects of 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.

**Section 2. Definitions.**

**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 or 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.

**Section 3. Permit Required.**

Except for blasting activities regulated by Section 509 of the Town of Freeport Zoning Ordinance, a permit shall be obtained from the Fire Chief or the Fire Chief's duly authorized representative prior to any blasting with explosive devices or materials ~~for development purposes~~ within the boundaries of the Town of Freeport.

**3.1** All applications governed by this ordinance shall contain the following:

- (a) The name of the applicant
- (b) The name of the property owner
- (c) The general contractor
- (d) A scaled map denoting the general blasting location(s) and identifying all structures located within five hundred (500) feet of the property line of the property containing the blast area
- (e) A list of all properties within five hundred (500) feet of the property line of the property containing the blast area, including the current assessed property owner and their mailing address
- (f) The total number of cubic yards of material estimated to be removed by blasting

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(incorporating comments from the 12/20/21 Ordinance Committee meeting)

- (g) An estimate of the number of blasts required to remove the specified amount of material
- (h) Hours and dates of proposed blasting activity
- (i) A letter certifying that pre-blast surveys were offered to be conducted at each structure on a property located within five hundred (500) feet of the property line of the property containing the blast area, and that ~~oral~~ written notification via regular and certified mail has been made to all abutters within that five hundred (500) foot range
- (j) 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.
- (k) A permit fee in accordance with the fee schedule established by the Town Council, as may be amended from time to time
- (l) A valid certificate of liability insurance with a policy limit of not less than \$2,000,000 which includes a statement clearly indicating that blasting and use of explosives is covered under the policy

**3.2 Effective Period.** Permits shall be effective for no more than ~~one year~~ninety (90) days from the date of approval. For blasting operations, the scope of which exceeds ~~one year~~ninety (90) days, 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.

Commented [GRB1]: This time frame here can be reduced or increased.

**Section 4. Performance Standards**

- 4.1 **Hours of Blasting.** Hours of blasting shall be limited to daytime hours as defined in the Town of Freeport Chapter 39 Loitering, Curfew and Noise Ordinance.
- 4.2 Ground vibrations shall comply with Section 519 of the Town of Freeport Zoning Ordinance.
- 4.3 A calibrated seismograph must be on-site and operating during all blasts. All data obtained from those measurements must be made available to the Town of Freeport upon request. Seismograph data must be maintained for no less than six (6) years.

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

5.1 Any person intending to detonate explosives shall first notify the Fire Chief or the Fire Chief’s 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.

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5.2 The person responsible for a blast shall notify the Fire Chief or the Fire Chief's duly authorized representative in the event of any misfires and the proposed corrective action within five (5) business days of the misfire.

5.3 Following the issuance of a permit and at least four (4) days prior to an intended date of the commencement of blasting, the person responsible for the blast shall notify all property owners within five hundred (500) feet of the property line of the property containing the blast area, in writing, of the dates, approximate times, and estimated number of blasts that will occur. Such notice must be given by first class mail and certified mail, and evidence that such notification was sent must be provided to the Fire Chief or the Fire Chief's duly authorized representative prior to the intended date of the commencement of blasting. Failure of a property owner to receive the required notice does not invalidate the blasting permit.

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

5.5 The person responsible for the blast shall also sound the required warning horn prior to each blast as outlined in NFPA 495 Explosive Materials Code.

5.6 The applicant shall notify the Freeport Public Safety Dispatch via phone before the first blast and after the last blast each day.

**Section 6. 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 7. Appeals.**

A party aggrieved by any final decision made by the Code Enforcement Officer, Fire Chief, or any other municipal official pursuant to this Ordinance may appeal to the Board of Appeals in the manner described by Section 601(G) of the Town of Freeport Zoning Ordinance.

**Section 6. 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 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**

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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 Council and shall take effect upon enactment unless otherwise specified.

**Section 12. Effective Date**

This ordinance shall become effective upon its adoption.

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