

Order 74-10/11
Given first reading on 11/1/10
Public Hearing and Passage as amended: 11/15/10
5-0 (Duson, Anton, Coyne and Skolnik absent)

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CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE VIII. REGULATION OF EXPLOSIVES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

That sections 14-584 to 14-595 of the Portland City Code are hereby amended to read as follows:

Sec. 14-584. Applicability.

This ordinance shall apply to all blasting operations related to construction and development of real estate within the City. The City of Portland Technical Manual is incorporated into this section by reference. Standards listed in the Technical Manual shall be additional to the provisions of this article.

Sec. 14-585. Definitions.

For the purposes of this Article, the following words and phrases shall have the respective meanings ascribed to them:

Blasting plan means the detailed plan for conduct of any blasting operations, and any amendments thereto where over three hundred (300) cubic yards of material shall be removed, which plan has been reviewed by the Planning and Urban Development Department in accordance with the provisions of this ordinance.

. . .

Blasting submittal means the plan for conduct of any blasting operation where between fifty (50) and three hundred (300) cubic yards of material shall be removed, which plan has been submitted to the Planning and Urban Development Department in accordance with the provisions of this ordinance.

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Sec. 14-586. Administration.

(a) This ordinance shall be administered by the Planning and Urban Development Department and the Fire Department, which departments shall have the ability to promulgate amendments to the standards listed in the City of Portland Technical Manual that implement this ordinance.

(b) City Council shall enact the initial Rules required for implementing this Article.

(c) The procedure for amendment of rules shall be as follows:

(1) Department staff shall draft proposed rule amendments to the technical standards for presentation to the Planning Board.

(2) The Planning Board shall hold a public hearing on the proposed rule amendments and provide interested parties an opportunity for comment, both written and oral, on the proposed rule amendments.

(3) The departments shall review comments made by the Planning Board and interested parties and make changes to the proposed rule amendments at its discretion. The amendments to the rules shall go into effect within thirty (30) days of the public hearing held by the Planning Board.

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Sec. 14-588. Application requirements.

Prior to the issuance of a permit pursuant to section 14-587 the following information shall be submitted to the City:

(a) A blasting plan shall be submitted by the applicant to the Planning and Urban Development Department for all projects where more than three hundred (300) cubic yards of material shall be removed. The blasting plan shall conform to the provisions of this section and of Section 3 of the City of Portland Technical Manual.

(b) A blasting submittal shall be submitted to the Planning and Urban Development Department where

between fifty (50) and three hundred (300) cubic yards of material shall be removed. The blasting submittal shall conform to the provisions of this section and of Section 3 of the City of Portland Technical Manual.

(c) A blasting application shall be submitted to the Planning and Urban Development Department where less than fifty (50) cubic yards of material shall be removed, or where utility trench work in the accepted public right of way, including City or Portland Water District infrastructure is proposed. Small blasts where less than fifty (50) cubic yards of material shall be removed are not required to submit either a blasting plan or blasting submittal. Such projects must conform to the National Fire Protection Association Fire Prevention Code and applicants shall submit a monitoring report upon request. Information provided in the blasting application shall confirm that the proposed small blast conforms to all applicable provisions of this ordinance and of Section 3 of the City of Portland Technical Manual.

(d) A blasting plan or blasting submittal may be required for any blasting operation at the discretion of the Planning and Urban Development Department when it determines that conditions at or near the site of the blasting operations warrant the provision of a plan.

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Sec. 14-590. Enforcement.

(a) This ordinance shall be enforced by the Planning and Urban Development Department and the Fire Department. Either department shall have the authority to issue a written stop work order in the event of a violation of this ordinance or a failure to follow the approved blasting plan.

(b) The issuance of a stop work order may be appealed to the Director of Planning and Urban Development within two (2) business days of its issuance. The decision of the Director of Planning and Urban Development on the appeal shall be final.

Sec. 14-591. Penalties.

(a) In addition to the stop work order which may be issued pursuant to section 14-590, the Permittee shall be subject to the following penalties:

1 st offence	\$500.00
2 nd offence	\$1,000.00
Subsequent offences	\$1,000.00.

(b) In the event that there are more than three documented violations of the blasting plan, blasting submittal, or blasting permit, the Planning and Urban Development Department and/or Fire Department shall have the right to issue a stop work order on all construction or development related to the permitted operation. The Permittee shall then be required to submit a revised blasting plan to the Planning and Urban Development Department for review and approval. Work shall not be allowed to continue until the revised blasting plan is approved.

Sec. 14-592. Noticing requirements.

(a) At least ten (10) days prior to the start of any blasting operation, notice shall be published in a newspaper of local publication and shall be mailed by first class mail to all property owners within the distance specified below of the perimeter of the blasting site:

Small Blast (trench blast or under fifty (50) cubic yards of rock removed): All property owners within two hundred and fifty (250) feet of the perimeter of the blasting site.

Medium Blast (removal of 50-300 cubic yards of rock material): All property owners within five hundred (500) feet of the perimeter of the blasting site.

Large Blast (removal of over 300 cubic yards of rock material): All property owners within six hundred(600) feet of the perimeter of the blasting site.

(b) Notice shall conform to the model notice contained in Section 3 of the City of Portland Technical Manual and shall include a description of the proposed blasting operations, estimated schedule and duration of blasting operations, description of the blasting signals to be used during operations, the complaint protocol and the complete address, telephone numbers and email contact for the blasting contractor, Planning and Urban Development Department and Fire Department where neighbors and property owners may request further information and notification.

(c) For medium blasts where 50-300 cubic yards of rock material is to be removed, and large blasts where over 300 cubic yards of rock material is to be removed, additional notification requirements shall apply during construction, as detailed in Section 3 of the City of Portland Technical Manual.

(d) If blasting operations are to occur within two hundred and fifty (250) feet of any structure, additional notification requirements shall apply, as detailed in Section 3 of the City of Portland Technical Manual, in order to prevent adverse public health and safety impacts due to blasting-related carbon monoxide migration.

Sec. 14-593. Hours of blasting.

Blasting shall occur Monday through Friday, between the hours of 9am and 4pm, unless otherwise approved by the Planning and Urban Development Department. Requests for extension of hours of blasting must be submitted by the applicant in writing.

Sec. 14-594. Waiver provision.

Upon written request by the applicant, the Planning and Urban Development Department, based on a positive recommendation by the Fire Department, may waive all or a portion of the blasting provisions of Section 3 of the City of Portland Technical Manual, provided that all waivers are consistent with the purposes set forth in Section 14-583.

Sec. 14-595. Suspension of blasting operations.

If it is determined that blasting operations pose any risk to public health, safety or general welfare, the Director of Planning and Urban Development or the Fire Chief or their designee shall have the authority to suspend the blasting permit at any time until they deem it safe for blasting operations to continue.