

**TOWN OF OGUNQUIT
MUNICIPAL CODE
TITLE II
CHAPTER 10
BLASTING ORDINANCE**

Section 1 - Purpose

Unregulated blasting may cause undue psychological, physical or nuisance damage to the residents and environment of the community.

The establishment of standards, notice requirements and instrument monitoring of blasting operations is intended to minimize the effect of airblast over pressure, 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.

This Ordinance is intended to prevent permanent damage to the geologic, hydro geologic, wildlife resources and ecological balance in the region and to have provisions, which can be effectively and efficiently administered without causing undue influence and administrative hardship to blasting operations.

Section 2 – Authority

This Ordinance is enacted pursuant to Title 30-a, M.R.S.A, Section 3001 and shall be administered by the Code Enforcement Office. The requirements of this Ordinance are in addition to any other Ordinances, regulations and statutes and where different standards are contained elsewhere, the more restrictive standards shall apply.

Section 3 - Definitions

Blast/Blasting

The use of explosives to break up or otherwise aid in the extraction or removal of rock or other consolidated natural formation.

Blasting Operations

Any activity or conduct carried on or conducted within the Town of Ogunquit in which explosives are used.

Section 4 - Blasting

1. Blasting is allowed in all zoning districts of Ogunquit except the Resource Protection District, provided that blasting shall only be permitted on weekdays, (Monday through Friday, excluding holidays), between the hours of 9:00 a.m. and

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5:00 p.m., unless otherwise permitted by the Code Enforcement Officer under extraordinary circumstances as may be determined by the Code Enforcement Officer.

2. No blasting shall be done as part of any excavation or mineral extraction operation, nor as part of any approved construction activity without first obtaining a permit to blast from the Code Enforcement Office pursuant to this section. The applicant shall provide:
 - a) A completed application form for a permit to blast;
 - b) A site plan showing where the blasting will take place;
 - c) A statement of the purposes and extent of the blasting further indicating the approximate dates and times the blasting will occur;
 - d) The name, address and telephone number of the entity that will actually perform the blasting operation.
 - e) Proof that the entity applying for the permit to blast is properly licensed by the State of Maine and that the work will be performed in compliance with the State Fire Marshal Rules and any other applicable State statutes and regulations.
 - f) Evidence that notice of the proposed blasting operation has been sent by United States Certified Mail, Return Receipt Requested to all landowners abutting the subject property of the application within three hundred and fifty (350) feet of the proposed blast site. Said notice shall indicate the location of the proposed blasting, approximate date and times that the blasting will occur and the name, address and telephone number of the entity that will actually perform the blasting operation. A copy of said notification together with a copy of the names and addresses of the landowners and a copy of the Return Receipts shall be filed with the Code Enforcement Office.
 - g) Before blasting operations begin, the contractor shall:
 - i) make a reasonable effort to obtain landowner permission to have a video recorded survey made of all structures within a three hundred and fifty (350) foot radius of the blast site at the contractor's expense and at the convenience of the abutting landowners; and,
 - ii) make a reasonable effort to obtain landowner permission to test all drinking water supply wells within a three hundred and fifty (350) foot radius of the blast site at the contractor's expense and at the

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convenience of the abutting landowners. Such tests shall document the flow rate of the well prior to blasting as well as the values of the Coliform bacteria, E-coli, Nitrite-N, Nitrate-N, Ph; Copper, Iron, Chloride, Manganese, Arsenic, Calcium and Sodium. A copy of the results of the pre-blast well testing shall be furnished to the landowner prior to the commencement of the blasting operations.

- iii) where an owner or occupant of property denies permission to enter a property for purposes of the video recorded survey and there is no other means of conducting the survey for that property, or where the owner or occupant denies permission to enter the property for purposes of testing the drinking water supply well, the contractor shall list the names and addresses of all properties where such permission was denied and submit a copy of the list to the Code Enforcement Office and to the insurance company issuing the insurance required by Subsection h of this section.
- h) The video recorded survey and the well test results shall be held by the insurance company providing liability coverage to the entity performing the blasting work and upon request, said video recorded survey and/or well test results shall be made available to the landowner at the expense of the contractor.
- i) The contractor shall submit proof of adequate liability insurance to cover the blasting operations to the Code Enforcement Office.
- j) Prior to any blast, the entity conducting such blast shall first notify the Code Enforcement Office that a blast is planned to occur at a specific time. Such notification shall be made to the Code Enforcement Office at least four (4) hours prior to the planned detonation and shall give the time, within thirty (30) minutes of the blast, the location where the blast will occur and the name and address of the company responsible for the blasting operation. This notification may be given by telephone; however, the burden of proof as to whether such notification was in fact received rests with the company responsible for the blasting operation.
- k) The contractor shall submit a post-blast report to the Code Enforcement Office within ten (10) days of completing blasting operations. The Code Enforcement Office shall keep the post-blast report on file and make it available to all interested parties.
- l) A Blasting Permit Fee shall be established by the Municipal Officers in compliance with the Municipal Code.

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- n) Failure to comply with any and all terms of this section will result in fines being imposed at a rate of not less than One Hundred (\$100.00) Dollars per day or more than Two Thousand Five Hundred (\$2,500.00) per day as per Title 30-A M.R.S.A, Section 4452.
3. The Code Enforcement Officer or his/her designee shall:
- a) issue a Blasting Permit within ten (10) days of the receipt of a complete application form, fee and all supporting evidence as set forth above;
 - b) notify any abutting town within two thousand (2,000) feet of the blast site of the issuance of said permit; and
 - c) post a notice of the said blasting ten (10) days prior to the actual blasting occurring in the usual places for posting of other Town notices;
 - d) solicit acknowledgement of such blasting notification from the Police Chief and Fire Chief (or their designees).

Section 5 – Records

The entity responsible for the blasting operations shall maintain a record of each blast. All records shall be retained for a period of no less than three (3) years following cessation of the blasting operation and shall be available for inspection by the Town of Ogunquit's designee. Such records shall include the following data:

1. The name of the company responsible for the blasting operation.
2. The location, date and time of each and every blast.
3. The name of the licensed blaster in charge of any specific blast.
4. The type of material blasted.
5. Diameter and depth of the holes dug for the blasting.
6. Types of explosives used.
7. Amount of explosives used.
8. Method of firing and type of circuit.
9. Weather conditions at the time of each blast event to include such factors as the wind direction, cloud cover, etc.
10. Whether mats or other protection were used.

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11. Type of detonators and delay periods used.
12. Seismograph and airblast readings when measured and from where measured.

Section 6 – Compliance Schedule

Thirty (30) days after the adoption of this Ordinance all blasting operations shall be brought under the provisions of this Article.

Section 7 - Penalties

The submission of false information required by this Ordinance or the violation of this Ordinance or the violation of any condition attached to a permit granted under this Ordinance shall constitute a land use violation and the penalties in accordance with Title 30-A, M.R.S.A., Section 4452 shall be imposed.

Section 8 - Severability

If any provision of this Ordinance is declared unconstitutional or held invalid, it shall not affect any other section, clause or provision thereof, but the same shall remain in full force and effect.

IN WITNESS WHEREOF, UNDER SEAL OF THE TOWN, this Ordinance was duly approved by the voters acting on Article 5 at an Annual Town Meeting held on April 5, 2003; and furthermore, as amended by the voters acting on Article 2 at a Special Town Meeting held on October 28, 2003. ATTEST:

s/s Judy Shaw-Kagiliery
Office of the Town Clerk

ATTEST:

A TRUE COPY,

s/s Judy Shaw-Kagiliery
Judy Shaw-Kagiliery, Town Clerk

Dated: November 17, 2003