

BLASTING ORDINANCE  
TOWN OF EDGECOMB  
(Amended May 10, 2014)

Section 1  
AUTHORITY AND SCOPE

A. This ordinance is enacted pursuant to 30-A M.R.S.A., Section 3001.

B. This ordinance in no way replaces or negates or relieves any person from compliance with the provisions pertaining to explosives contained under 25 M.R.S.A., part 6, Chapter 318, subchapter 1, as they may be amended, regarding rules for the manufacture, transportation, storage and use of explosive materials. This ordinance is supplemental to the State Statute, and the Town of Edgcomb expects firms or persons conducting blasting activities to be in compliance with said statute.

Section 2  
PURPOSE

Because the transport, storage and use, including detonation, of explosive material (hereinafter referred to as blasting activities) are inherently dangerous, and because blasting activities may involve risks of psychological, physical, economic or nuisance damage to persons, property, geologic and hydro-geological resources, wildlife resources and the environment in the Town of Edgcomb, it is the purpose of this ordinance to secure and promote the public health, safety and welfare of the inhabitants of Edgcomb by controlling and regulating blasting activities in the Town and to require that firms or individuals who engage in such activities accept and assume strict liability for them.

Section 3  
EXCLUSIONS

This ordinance does not apply to:

- A. The Armed forces of the United States or the State Militia;
- B. Explosives in forms prescribed by the official United States Pharmacopoeia;
- C. Possession, transportation and use of small arms, small arms ammunition including smokeless or black powder when possessed for noncommercial purposes in quantities of five pounds or less;
- D. The sale or use of fireworks; and

E. The sale or use of explosives or blasting agents by the Town of Edgecomb or the Edgecomb Fire Department acting in their official capacity.

#### Section 4 DEFINITIONS

Applicant: The person, company or corporation identified on the application for a blasting permit as responsible and accountable for managing and conducting the requested blasting operations.

Blasting: the use of one or more explosives to break up or otherwise aid in the extraction of rock, earth or other materials.

Blast site: the location or locations in which the explosive materials will explode when detonated.

Blast zone: the area within a radius of 500 feet of the blast site.

Business day: any day that is not a Saturday, Sunday or a legal holiday observed under the laws of the United States.

Explosive: Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion.

Strict Liability: Liability to others for personal injury and property damage without regard to fault or negligence arising from inherently dangerous activities, herein regarding blasting.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

Unforeseen Circumstance: A minor, unforeseen blasting need which arises in the completion of a previously permitted building project.

#### Section 5 PERMITS

The following permits are required:

A. A permit from the Maine Commissioner of Public Safety is required to manufacture, store, transport, use or detonate explosives within the Town of Edgecomb.

B. A Blasting Permit issued by the Code Enforcement Officer is required for blasting within the Town of Edgecomb. Application for a Blasting Permit shall be made in writing to the Code Enforcement Officer and shall set forth the purpose of obtaining the blasting permit. Blasting that requires filling and/or earth moving in excess of 100 cubic yards or that will be carried out in connection with any other activity or use that requires Planning Board approval shall require Planning Board approval before a blasting permit is issued. The following information shall be submitted in the application:

1. Name, address, phone number of the applicant.
2. Names of individual(s) who shall actually be doing the blasting and a photocopy of each such identified person's current Maine explosives permit issued by the Commissioner of Public Safety.
3. Name of the insurer, policy number and agent providing insurance coverage as required by this ordinance.
4. Location listing tax map and lot number and date of proposed blasting and a description of the precise location of the blast site.
5. Procedure for pre- and post-blasting inspections
6. Such other information as may be required by the Code Enforcement Officer to decide the application.
7. The application shall be accompanied by a fee which is set by the Board of Selectmen.
8. The application shall provide a space for comments by the Planning Board and Fire Chief.

C. A true copy of the permit issued by the Town of Edgecomb shall be conspicuously posted at the job site.

D. A Blasting Permit shall be valid for six (6) months from the date of issuance

## Section 6 BOND AND PROOF OF INSURANCE

The applicant shall submit with the application a certificate of insurance issued by an insurance carrier authorized to conduct business in the State of Maine showing that comprehensive liability insurance is in full force and effect for the blasting operations to be carried out by applicant in the Town of Edgecomb, for all personal injury and property damage arising out of blasting operations including

completed operations, contractual liability, explosion, underground and collapse, in an amount not less than \$2,000,000 per occurrence, combined single limit. Said certificate shall indicate the effective dates of the liability coverage, the name and address of the agent or broker through whom the insurance coverage was issued and who is responsible for attesting to the existence of the insurance coverage. Said certificate shall provide for 10 days' advance written notice to the Code Enforcement Officer in the event the insurance policy is canceled, terminated or modified and receipt of such notice of termination shall be grounds to revoke a permit for blasting.

#### Section 7 INDEMNIFICATION

By accepting a Blasting Permit under this ordinance, the applicant agrees, as a condition of the permit, to indemnify and hold harmless the Town of Edgecomb and its agents and employees from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the performance of the applicant's blasting operations, provided each claim, damage, loss or expense is attributed to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the blast itself), including the loss of use as a result, caused in whole or in part by any act or omission of the applicant, anyone directly or indirectly employed by them, or anyone for whose acts applicant may be liable.

#### Section 8 PROCEDURE

The Code Enforcement Officer shall act upon a Blasting Permit application within 10 business days from receipt of a complete application, but not before Planning Board approval if the blasting will be carried out in connection with an activity or use that requires Planning Board approval. The Code Enforcement Officer shall notify the applicant in writing by first class mail within five business days after acting upon the application. For an unforeseen circumstance as defined in Section 4 of this ordinance, the Code Enforcement Officer may issue a temporary blasting permit, which shall be valid for no more than 48 hours.

#### Section 9 STRICT LIABILITY

By accepting a Blasting Permit under this ordinance, the applicant agrees, as a condition of the permit, to be strictly liable for personal injury and property damage arising from blasting operations conducted by applicant in the Town of Edgecomb.

Section 10  
PRE-BLAST NOTIFICATION AND INSPECTIONS

A. Except in the case of a temporary blasting permit for an unforeseen circumstance, the applicant must provide written notification at least ten business days before the commencement of the initial blast (the “waiting period”) to all the owners of properties abutting the property on which the blasting will occur and to all owners of structures within the blast zone. At the discretion of the Code Enforcement Officer, the waiting period required under this section may be shortened if all owners who requested a pre-blast inspection during the 5-business-day window described in paragraph C below have received a pre-blast inspection report. Notification will be conducted as follows:

1. Notification via certified mail, return receipt, must be provided at applicant’s expense to the property owners referenced in Paragraph 10 A above at the most recent address listed in the records maintained by the Town of Edgecomb; or

2. Alternatively, if the notice is hand-delivered, proof of delivery of the required notice must be obtained as evidenced by the signature of an occupant of the structure who is not a minor. The signed receipt must indicate whether or not the signing occupant is the owner of the property. If the signing occupant is not the owner of the property, then written notification to the property owner is not excused and must be provided as set forth in the above paragraph.

B. The written notification must describe the blasting that will take place, including dates and times, or a range of dates and times, when blasting may occur, its possible effect on the owners or residents, the ability to obtain, at applicant’s expense a pre-blast and post-blast inspection of structures and wells, instructions about how and where to contact the applicant, or his/her representative concerning blast-related complaints or claims.

C. The written notification must include a mailing address and telephone number that property owners can use to obtain information or, to request at no cost, pre-blast/post-blast inspections. Property owners must be given a five-business day window to request pre-blast/post-blast inspection. Property owners are not obliged to accept a pre-blast/post-blast inspection offer.

D. Prior to detonation of explosives, the applicant must provide to the Code Enforcement Officer a list of all parties and property owners notified under Paragraphs 10A, B and C above, including whether or not a pre-blast inspection request was received by the applicant in each case. Applicant shall also make certification that all requests for pre-blast inspection have been carried out.

E. The pre-blast inspection must contain complete documentation of all visible interior and exterior defects observed at the structure(s). Interior and exterior photographs, or video documentation of structures containing observed defects must be identifiable as to the property, structure, location, and date recorded.

F. Water quality protection: Water is a precious resource and measures shall be taken to protect and preserve groundwater quality. Wells within the blast zone shall be tested for quality/quantity and turbidity pre-blast and post-blast with post-blast testing to be done no sooner than 24 hours or not later than 72 hours following the final detonation. Testing shall be conducted by the Maine Health & Environmental Testing Laboratory using "Test A" at the expense of the applicant.

G. The date and location of each inspection and/or test and the name of the person or firm performing the inspection or making the test must be recorded in written form along with a description of observed defects and/or well water test results.

H. Before the first blast, a copy of the pre-blast inspection and test results shall be provided upon request by the applicant without charge to each property owner or occupant. Additionally, when requested, a copy shall be provided by the applicant without charge to the Code Enforcement Officer.

I. Not later than ten business days after completion of blasting operations, applicant shall, at applicant's expense, provide post-blast inspection and well-test reports to property owners and residents who previously requested same under the provisions above. Water for post-blast well tests shall be drawn not less than 24 hours or more than 72 hours from time of the final blast. The owner may request an additional test of the water quality/quantity within 90 days of the initial post-blast test and the applicant shall provide such additional test at the applicant's expense.

J. Content and documentation of post-blast inspections shall be the same as required for pre-blast inspections.

K. Certification by the applicant that all initial post-blast inspections and tests have been completed, including all the names and addresses, must be provided to the Code Enforcement Officer within 15 business days following the completion of blasting operations.

#### Section 11 RESTRICTIONS

Detonation may take place no earlier than 8 a.m. and no later than 6 p.m. and only on business days, as defined in Section 4 of this ordinance.

#### Section 12 CONFLICT

Whenever the requirements of provisions of this ordinance are in conflict with the provisions of any other ordinance or statute, the most restrictive requirements will apply.

Section 13  
SEVERABILITY

The provisions of this ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that portion will be deemed a separate provision and will not affect any remaining provision of the ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such unconstitutional provision was not included.

Section 14  
ADMINISTRATION AND ENFORCEMENT

This ordinance shall be administered and enforced by the Town of Edgecomb Code Enforcement Officer. Noncompliance with any provision of this ordinance or with any condition attached to a permit granted under this ordinance shall be grounds for revocation of a permit, and shall constitute a civil violation for which shall be imposed a minimum penalty of \$100 and a maximum penalty of \$1,500. Each day that the violation is not corrected after notice of violation will be considered an additional, separate violation. Upon becoming aware of a violation, the Code Enforcement Officer shall serve written notice upon the person or persons responsible for the violation and order corrective action, where applicable. If such notice does not result in correction or abatement of the violation, the Board of Selectmen is authorized to institute any and all actions or proceedings, legal or equitable, that may be necessary or appropriate to enforce the provisions of this ordinance and obtain the civil penalties provided for herein.