

ORDINANCE NO. 3578

AN ORDINANCE AMENDING CHAPTER 10, FIRE PREVENTION AND PROTECTION, ARTICLE IV, EXPLOSIVES, SECTION 10-76, DISCHARGE OF CLASS 2 EXPLOSIVES; BLASTING OPERATIONS, SECTION 10-78.1, DEFINITIONS, SECTION 10-78.3, BLASTING PERMITS, OF THE BROKEN ARROW CODE; REPEALING ALL ORDINANCES TO THE CONTRARY; AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION I. That Chapter 10- Fire Prevention and Protection, Article IV- Explosives, Section 10-76- Discharge of Class 2 explosives; blasting operations shall be amended as follows:

Sec. 10-76. - Discharge of Class 2 explosives; blasting operations.

- (a) It shall be unlawful for any person to use or discharge any Class 2 explosives within the corporate limits of the city, except in connection with blasting operations or demolitions.
- (b) No person shall blast or carry on any blasting operations without first having obtained a permit from the department of community development.
- (c) The applicant for permit under this section shall present a plan showing the location and expected time of blasting, size of charge, type of explosive and any other information pertaining to the blasting operation deemed necessary by the chief of the fire department and shall pay a fee as set out in the Broken Arrow Code, chapter 6, article XI, section 6-301 et seq.
- (d) All blasting shall be blanketed with mats, wire, mesh, dirt or other material to prohibit any debris or material from being discharged into the air.

SECTION II. That Chapter 10- Fire Prevention and Protection, Article IV- Explosives, Section 10-78.1- Definitions shall be amended as follows:

Sec. 10-78.1. - Definitions.

When used in this section, the terms below shall be defined and limited as follows:

Appeal shall mean a request for a review of the city manager or his designee's interpretation of any provision of this chapter or a request for a variance.

Blast area shall mean the area in which concussion (shock wave), flying material or gases from an explosion may cause injury to a person.

Blast site shall mean the area where explosive material is handled during loading, including the perimeter formed by the loaded blast holes and 50 feet in all directions from loaded holes.

Blast standards as described by the most applicable blasting project scenario listed below:

- (1) Three hundred feet perpendicular and on each side of the line of the proposed blasting, i.e., blasting performed down the center of a street; or

- (2) Three hundred feet from each exterior boundary or property line, whichever is greater, of the proposed blasting.

The city manager or his designee may require a larger area than that described herein if he finds that strict adherence to the distance requirements does not result in a logical boundary. Consideration should be given to proximity of structures to each other, geology or topography of the area, density of development and sensitivity of structures.

Blasting agent, blasting cap, block holing, detonating cord, detonator, electric blasting cap, electric blasting circuitry, and electric delay blasting caps shall mean as stated in the definitions defined in Title 460, Oklahoma Department of Mines, Chapter 25: Oklahoma Explosives and Blasting Rules and Regulations.

Fuse lighters, magazine, misfire, mud-capping, nonelectric delay blasting cap, primary blasting, primer, safety fuse, secondary blasting, semiconductive hose, springing, stemming, water gels, or slurry explosives shall mean as stated in the definitions defined in Title 460, Oklahoma Department of Mines, Chapter 25: Oklahoma Explosives and Blasting Rules and Regulations.

Certified blaster shall mean a person who has certified blaster status pursuant to the State of Oklahoma Explosives and Blasting Regulation Act and implementing regulations thereof.

Department shall mean the department of community development of the City of Broken Arrow.

Department of mines shall mean the State of Oklahoma agency responsible for the administration, regulation and enforcement of the State of Oklahoma laws and regulations regarding blasting operations.

Development shall mean any manmade changes to improved or unimproved property, including but not limited to buildings or other structures, mining, excavation and construction.

Director shall mean the duly appointed director of the department of community development of the City of Broken Arrow or his designated representative.

Explosives shall mean any substance, chemical compound or mechanical mixture that is commonly used for the purpose of producing an explosion to demolish a structure or to fragment rock for excavation or construction, including initiating devices.

Flyrock shall mean any dirt, mud, stone, fragmented rock or other material that is displaced from the blasting area by being thrown in the air or cast along the ground.

Oklahoma Mining Commission shall mean the State of Oklahoma commission having jurisdiction over mining operations.

Person shall mean any individual, partnership, firm, association, public or private corporation or institution, municipal corporation, any trust estate or any other legal entity, and any successor, representative, agent or agency of the foregoing.

Underground facility shall mean any underground line, facility, system and appurtenances thereto, for producing, storing, conveying, transmitting or distributing communication, electricity, power, light, heat, gas, oil, petroleum products, water (including storm water), steam, sewage and other commodities.

Variance shall mean a grant of relief to a person from the requirements herein when specific enforcement would result in unnecessary hardship, permitting the use of explosives in a manner otherwise prohibited by this chapter.

Violation shall mean the failure to be in full compliance with any of the provisions of this chapter.

SECTION III. That Chapter 10- Fire Prevention and Protection, Article IV- Explosives, Section 10-78.3- Blasting permits shall be amended as follows:

Sec. 10-78.3. - Blasting permits.

- (a) *General requirements.* Application for a blasting permit required under this chapter shall be submitted to the department of community development with the following information:
- (1) Name and business address, phone number and email of the applicant.
 - (2) A written description of the purpose of the proposed blasting.
 - (3) Blasting permit issued by the Oklahoma Department of Mines for the specific project for which application is being made.
 - (4) A copy of the blasting plan for the specific project associated with the current blasting permit issued by the Oklahoma Department of Mines.
 - (5) Current copy of the State of Oklahoma blaster's certification number with issuance date and expiration date related to the business and person who will supervise all blasting operations.
 - (6) A development site plan consisting of the following:
 - a. A project map or aerial photo to scale which depicts the site to be blasted and all real property within 700 feet of the blasting area as calculated pursuant to the requirements of this chapter; and
 - b. Proposed location of seismographic instruments. Two seismographic instruments are required. Their proposed location shall be shown on the project map. The seismographs shall have a frequency response from two to 250 hertz, within -3 dB at two hertz. The accuracy shall be +/-5 or +/-0.02 in./sec., whichever is larger, between four and 125 hertz; and
 - (7) Proposed blasting schedule; and
 - (8) A certificate of blasting liability insurance coverage as required by the Oklahoma Explosives and Blasting Regulation Act and implementing regulations thereof in the amount of \$1,000,000.00 per occurrence to become available for the payment of all damages to persons or property which may arise from, or be caused by, the conduct of any act of blasting. The insurance certificate must be executed by a company licensed to do business in the state of Oklahoma and name the city as an additional insured; and
 - (9) Non-refundable application fee, for each occurrence as described in the current Manual of Fees.

- (10) Applicant shall notify the director 24 hours in advance of blasting operation so that proper notices to public agencies of the upcoming blasting at the site.
- (b) *Inactive permit application denial.* Failure of an applicant to provide all the information required by this section within 30 days of beginning the application process shall result in denial of the application unless an extension is granted in writing by the director.
- (c) *Permit issuance.* Once the application has been approved, the director shall issue the blasting permit. The permit shall be signed by the director and shall expire 30 days after the projected completion date.
- (d) *Permit fee.* The applicant shall setup an escrow account with the city and place monies in escrow to cover the permit fee for each day blasting occurs.
- (e) *Denial.* Denial of a blasting permit shall be accompanied by a statement of the reasons for the denial.
- (f) *Transfer.* A blasting permit shall not be transferable.

SECTION IV. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

PASSED AND APPROVED this 3rd day of June, 2019.

ATTEST:

MAYOR

(Seal) CITY CLERK

APPROVED AS TO FORM:

DEPUTY CITY ATTORNEY