

EXPLOSIVES ORDINANCE

AN ORDINANCE REGULATING THE MANUFACTURE, STORAGE, HANDLING, USE AND SALE OF EXPLOSIVES AND PROVIDING A PENALTY FOR VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF OAK PARK HEIGHTS, WASHINGTON COUNTY, MINNESOTA, DOES ORDAIN:

1110.01

Scope.

- A. This Ordinance shall apply to the manufacture, keeping, having, storage, sale, transportation, and use of explosives and blasting agents.
  
- B. It shall not apply to the following:
  - 1. Transportation of explosives or blasting agents when under the jurisdiction of and in compliance with the regulations of the Federal Department of Transportation.
  - 2. Shipment, transportation and handling of military explosives by the Armed Forces of the United States and the State Militia.
  - 3. Transportation and use of explosives or blasting agents in the normal and emergency operation of Federal agencies or State or Municipal fire and police departments, providing they are acting in their official capacities and in the proper performance of their duties.
  - 4. Sale and use (public display) of pyrotechnics commonly known as fireworks.
  
- C. This Ordinance shall not apply to the following commodities and items:
  - 1. Stocks or small arms ammunition; propellant actuated power cartridges; small arms ammunition primers in quantities of less than one million (1,000,000), smokeless propellant in quantities of less than seven hundred-fifty (750) pounds.
  - 2. Explosive actuated power devices when in quantities of less than fifty (50) pounds net weight of explosives.
  - 3. Fuse lighters and fuse igniters.
  - 4. Safety fuse (safety fuse does not include cordeau detonant fuse), and 3/32 inch cannon fuses or matchlock fuses (slow match).

5. The sale or transfer of black powder or other commonly used non-smokeless propellant in individual transactions involving quantities of five (5) pounds or less when used for muzzle loaded sports equipment or used in the hand loading of sports equipment.

1110.02

Definitions.

In this Ordinance, the following words are used as defined below:

- A. “Blasting Agent” means any material or mixture consisting of a fuel and oxidizer, intended for blasting not otherwise classified as an explosive and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

NOTE 1. A No. 8 test blasting cap is one containing two grams of a mixture of 80% mercury fulminate and 20% potassium chlorate, or a cap of equivalent strength.

NOTE 2. Nitro-Carbo-Nitrate. This term applies to any blasting agent which has been classified as nitro-carbo-nitrate under the Department of Transportation Regulations, and which is packaged and shipped in compliance with the regulations of the Department of Transportation.

- B. “Explosive-Actuated Power Devices” means any tool or special mechanized device which is actuated by explosives, but not to including propellant-actuated power devices. Examples of explosive-actuated power devices are jet tappers and jet perforators.
- C. “Explosive” or “Explosives” means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e. with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the DOT (formerly ICC). The term "Explosives" shall include all material which is classified as Class A, Class B and Class C.
- D. “Explosives” means all material which is classified as Class A, Class B and Class C, explosives by the DOT (formerly ICC) and includes, but is not limited to, dynamite, black powder, pallet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord, igniters, small arms ammunition, small arms ammunition primers, smokeless propellant, cartridges for propellant actuated power devices and cartridges for industrial guns, and some special fire works. (Commercial explosives are those

explosives which are intended to be used in commercial or industrial operations).

NOTE 1. Classification of explosives is described by the Department of Transportation, DOT (formerly Interstate Commerce Commission, ICC) as follows:

- (1) Class A. Explosives. Possessing, detonating or otherwise maximum hazard; such as dynamite, nitro-glycerin, picric acid, lead azide, fulminate of mercury, black powder, blasting caps and detonating primers.
- (2) Class B. Explosives. Possessing flammable hazard, such as propellant explosives (including some smokeless propellants), photographic flash powders, and some special fireworks.
- (3) Class C. Explosives. Includes certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities.
- (4) Forbidden or Not Acceptable Explosives. Shall mean explosives which are forbidden or not acceptable for transportation by common carriers, by rail freight, rail express, highway or water in accordance with the regulations of the DOT (formerly ICC).

NOTE 2. Certain chemicals and certain fuel materials may have explosive characteristics which are not specifically classified by the DOT (formerly ICC) and are not readily classified for coverage in the Code. Authoritative information should be obtained for such unclassified materials and action commensurate with their hazards, location, isolation and safeguards, should be taken.

E. "Highway" means any public street, public alley or public road.

F. "Inhabited Buildings" means a building or structure regularly used in whole or in part as a place of human habitation. The term "inhabited

building" shall also mean any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, storage and use of explosives.

- G. "Magazine" means any building or structure, other than an explosives manufacturing building, approved for the storage of explosives.
- H. "Motor Vehicle" means any self-propelled vehicle, truck, tractor, semi-trailer, or truck-full trailers used for the transportation of freight over public highways.
- I. "Propellant-Actuated Power Devices" means any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.
- J. "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association, and including any trustees, receiver, assignee, or personal representative thereof.
- K. "Public Conveyance" means any railroad car, street car, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.
- L. "Railway" means any steam, electric, diesel, electric, or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives are stored or where explosives manufacturing buildings are situated.
- M. "Small Arms Ammunition" means any shotgun, rifle, pistol or revolver cartridge, and cartridge for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, sporting or pyrotechnic projectiles is excluded from this definition.
- N. "Small Arms Ammunition Primers" means small percussion-sensitive explosive charges, encased in a cup, used to ignite propellant powder.
- O. "Smokeless Propellants" or "Smokeless Powders" are used in small arms ammunition, cannon, rockets, propellant-actuated power devices, etc.

- P. “Special Industrial Explosive Devices” are explosive-actuated power devices and propellant actuated power devices.
- Q. “Special Industrial Explosives Materials are shaped materials and sheet forms and various other extrusions, pellets and packages of high explosives, which include dynamite, TNT, PETN, RDX, and other similar compounds used for high-energy-rate forming, expanding and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

1110.03 Mandatory Permits for Acquisition and Use.

It shall be unlawful for any person to acquire, possess, use, sell, or handle any explosive as defined in 1110.02 of this Ordinance, except as otherwise provided by 1110.01, within the City of Oak Park Heights without having a permit in his possession.

- A. Such a permit shall be issued only by the City Clerk, upon approval of the City Council.
- B. Any person desiring a permit as required by this section shall make application therefore in writing to the City Clerk on such forms as the City Council may prescribe.
- C. Before any permit is issued by the Clerk he shall notify the Chief of Police that such permit is desired. Upon receipt of such notification, the Chief shall inspect the premises upon which the applicant desires to store, handle and use the explosives set forth in the application, and if he is satisfied that:(1) no serious fire hazard will be created, and (2) the applicant plans to store and use the explosives in the manner prescribed by this Ordinance, he shall endorse his approval upon said application and return it to the Clerk who shall present the same to the council.
- D. The Council shall deny the issuance of any such permit to anyone who:
  - 1. Has been convicted within the past ten (10) years of a felony or gross misdemeanor involving moral turpitude or anyone who is presently under indictment for any such crime; or
  - 2. Has been, within the past ten (10) years, convicted of a crime in which the use, possession or sale of narcotics or illicit drugs was an element; or
  - 3. Has been treated within the past ten (10) years for addiction to narcotic or illicit drugs, or has been within such time period admitted

to any hospital or institution for treatment of narcotic or illicit drug addiction, or has been within such time period, certified by a licensed medical doctor as being addicted to narcotic or illicit drugs; or

4. Has been, within the past ten (10) years, treated for alcohol addiction, admitted to any hospital or institution for treatment of alcohol addition, or certified by a licensed medical doctor as being addicted to alcohol; or
5. Has been, within the past ten (10) years, admitted to any hospital or institution because of or for treatment of any mental deficiency, or certified by a licensed medical doctor as being mentally ill or mentally deficient; or
6. Has been, within the past ten (10) years, acquitted of any criminal charge by reason of insanity; or
7. Is not twenty-one (21) years of age at the time when application for such permit is made.

- E. If the Council grants the permit, the City Clerk shall, upon receipt of a fee as established by Council resolution from time to time, prepare and deliver to said applicant such permit as is required in said application, provided, that no permit shall be granted for a period exceeding one (1) year.

1110.04 Permit Application.

The application for a user's permit shall be sworn to by the applicant and shall contain the following information:

- A. Name and address of the applicant;
- B. The applicant's date of birth;
- C. Where applicant intends to permanently store the explosives he intends to use and the storage security measures provided at the storage and use sites;
- D. The applicant's intended use for explosives he purchases pursuant to any permit that may be issued to him; and
- E. All such additional information as may be prescribed by the City Council in determining whether the applicant is qualified pursuant to 1110.03 of this Ordinance to possess such permit.

- 1110.05      Permit Revocation.  
A permit may be revoked or suspended at any time by order of the City Council for any violation of the provisions of this Ordinance or upon the creation or existence of any condition which would be in the opinion of the Chief of Police create or tend to create a serious fire hazard.
- 1110.06      May not Transfer to Unauthorized Person.  
No person shall sell, transfer or give away any explosive or blasting agent to anyone who does not possess a valid permit issued pursuant to 1110.03 of this Ordinance.
- 1110.07      Seller's Record.  
A.      Every person selling or giving away any explosives covered by this Ordinance shall keep at all times an accurate record in a bound book, of all such explosives handled by him, indicating a detailed account of:
1.      Date of each transference of explosives;
  2.      Amount of each such transference;
  3.      Name and address of each purchaser or transferee;
  4.      Manufacturer of the explosives being transferred;
  5.      The type of and any identification numbers of explosives being transferred;
  6.      Explosives owner's or user's permit number;
  7.      Intended place of storage of the explosive by the purchaser or transferee;
  8.      Intended use site; and
  9.      Security measures provided at the storage site and at the use site.
- B.      Such record book shall be at all times open to the inspection of the Chief of Police and all duly constituted law enforcement officials of the City of Oak Park Heights. In addition, on the first day of every month the seller or transferor shall make a report to the Chief of Police of the transactions which took place that month.
- 1110.08      Storage and Security Requirements.  
Any person storing, handling, using, or in any way disposing of explosives covered by this Ordinance shall maintain minimum safety and security features of all

permanent and temporary storage facilities in a manner prescribed by the Rules and Regulations of the Minnesota State Fire Marshal governing the storage, handling, use, and transportation of blasting agents and explosives.

1110.09 Report of Thefts.

Any person who has explosives in his possession, and who incurs a loss or theft of all or a portion thereof, upon discovery of such loss or theft shall immediately, and in no event longer than twenty-four (24) hours from the time of discovery, inform the office of the local Chief of Police of the loss or theft, the amount missing and the approximate time of the occurrence.

1110.10 Bomb Threats.

It shall be unlawful for anyone:

- A. As a hoax, to communicate or cause to be communicated the fact that bomb or any other explosive device has been placed in any building or in any location other than a building;
- B. As a hoax, to threaten to bomb any person, place or building;
- C. To knowingly permit any telephone or other means of communication under his control to be used for purposes prohibited by this section;
- D. As a hoax, to place or cause to be placed in any location any article, constructed or placed with intent to give the impression that said article possesses explosive capability.

1110.11 Penalty.

Any person who shall violate any provision of this Ordinance, shall upon conviction thereof, before the Municipal Court of the City of Oak Park Heights, be punished by a fine of not more than Seven Hundred Dollars (\$700.00) or by imprisonment for a period of not more than ninety (90) days, or both, for each such offense.

1110.12 Severability. The contents of this Ordinance are declared to be severable and should any section, clause, paragraph or provision hereof be declared by any court to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.