



**Planning Commission Meeting Minutes  
Tuesday, August 13, 2019**

**Planning Commission Members in Attendance:** Trevor Wood, Art Adcock, Pamela Colson, Brad Gunnell, Jessica Tolman, and Michelle Sperry.

**Other's in Attendance:** Community Development Director Jason Bond, Engineer Jon Lundell, Staff Planner Ryan Harris, Sam Cook, Bryce Lofgran, Robin Stevens, Craig Hone, Bill Gammell, Chandler Miller, Wayne Humphries, and April Abate.

Commission Chair Wood called the meeting to order at 7:02 p.m.

**Inspirational Thought:** Commissioner Adcock shared an inspirational thought.

**Pledge of Allegiance:** Commissioner Sperry led the Pledge of Allegiance.

**Public Forum:** Commission Chair Wood opened the Public Hearing at 7:03 p.m. and closed it at 7:03 p.m.

**DISCUSSION AND POSSIBLE ACTION ITEMS**

**PUBLIC HEARING- Proposed Ordinance Amendment Regarding Access Requirements in a Subdivision.**

*The Planning Commission will conduct a public hearing to consider an amendment proposed by Derk Palfreyman to modify Santaquin City Code Title 11-6-2M.*

Mr. Bond reported that current City Code only allows up to 10 lots along a one access road. He explained that Mr. Derk Palfreyman has requested a change to this code so he can develop 3 lots at the end of 820 South, which street has a single access (See Attachment 'A') Mr. Bond clarified that any amendment change made would apply to the entire City. Mr. Bond stated that he has discussed this with Fire Chief Lind who explained that international fire code allows homes to be built along a single access, up to 750 feet. They also discussed that it makes more sense to base the code off of feet rather than number of lots, as lots can vary greatly in size. Mr. Bond explained that the City Engineer stated that he is comfortable with allowing a 500-foot maximum distance for a one access road to ensure water quality.

Mr. Palfreyman explained that if he is allowed to develop these lots, he will complete the end of 820 South which is currently a half plus 10 road, he believes this will enhance fire safety. Mr. Palfreyman noted that the City Council indicated that a turnaround will most likely be required at the end of the road for fire safety. He also pointed out that the waterline is already greater than 500 feet to service the three existing homes across the street from the vacant property he would

like to develop. Mr. Bond clarified that Mr. Palfreyman's proposed subdivision is 744 feet long with a single access.

Commissioner Gunnell expressed his feeling that changing the code for this specific situation makes sense, however he is concerned with how this amendment could affect other situations in the future, specifically multifamily housing. Mr. Bond noted that International Fire Code has a both a footage requirement as well as a 30 lot maximum requirement for single accesses.

Commissioner Adcock expressed concern regarding congestion if a multifamily development were to build along a single access. Mr. Bond explained that multifamily housing is counted by units rather than lots. He also stated that he doesn't think that a single access of 750 feet is a problem for congestion, rather he believes the code is in place to address public safety concerns. Commissioner Tolman explained that she recently talked to firefighters who expressed that dead end roads cause access problems.

Commission Chair Wood opened the Public Hearing at 7:17 p.m.

Sam Cook lives across from the empty lots Mr. Palfreyman would like to develop. He stated that he wouldn't like to see three homes built on this empty lot, and that he likes the small town feel of having a dead end road. Mr. Cook clarified that he wouldn't mind seeing one home built on this lot, but he is concerned to see three additional homes. He is also concerned the additional cars from three more homes being on a dead end road. Mr. Cook stated that living on a dead end road with low traffic is safer for his family situation.

Bryce Lofgren lives next to the property that is being discussed. He expressed that he likes things the way they are. He is also concerned about the additional cars three more lots would bring down this street. Mr. Lofgren believes that not having a turnaround at the end of the road isn't an issue. He is also worried about the concerns voiced by Commissioner Gunnell regarding multifamily housing.

Chandler Miller lives along this access as well. He believes that a turnaround needs to be added at the end of the road if three more homes are built. Mr. Miller noted that he currently sees cars turning around in his driveway daily.

Commission Chair Wood close the public hearing at 7:24 p.m.

Commissioner Gunnell asked what this property is zoned as. Mr. Bond stated that it is zoned as R-10 residential. Commissioner Gunnell asked if high density is an option in an R-10 zone. Mr. Bond explained that it isn't allowed in that zone. Commissioner Gunnell pointed out that the road is already non-compliant, because code states that 10 or more lots are not allowed to be along a single access road. Mr. Lundell explained that this subdivision was developed prior to current Staff working at the City, and they are not sure why it was approved.

Mr. Lundell explained that right of way dedication, and installing improvements would be required for the developer to develop these lots. Regarding the 500 feet maximum length for a dead end water line, Mr. Lundell explained that he is currently in the process of reviewing other municipalities single access requirements for utilities. He explained that the reason for a 500-foot

maximum is to avoid water quality issues. Mr. Lundell reiterated that Engineer Beagley expressed that he doesn't feel comfortable moving past the 500-foot requirement, without waterline looping. Mr. Bond noted that 820 S. is currently over 700 feet. Mr. Lundell clarified that the concern is that without water looping, a line that long requires the system to be flushed out yearly. Commissioner Colson asked if the residents along this road should be concerned about their water quality. Mr. Lundell explained that they can request a water test if they would like, but the system is currently tested monthly throughout the City. Mr. Lundell relayed that without adequate flow or water looping, the system needs to be flushed in order to ensure quality. Commissioner Wood thinks it would be difficult to recommend this language, without addressing utility and engineering issues. Mr. Lundell explained that he needs to look at water ordinance to make sure that it correlates with single access requirements. Commissioner Wood asked if a conditional agreement could be made for Mr. Palfreyman's situation rather than changing the whole ordinance. Mr. Bond explained that there is no exception clause, and going case by case is difficult. Commissioner Sperry asked if Mr. Palfreyman would move forward if he were only able to build one home. Mr. Palfreyman indicated that he wouldn't, because it's not financially feasible.

**Motion:** Commissioner Sperry motioned to table the Proposed Ordinance Amendment to Modify Santaquin City Code 11-6-2M Regarding Access Requirements. Commissioner Colson seconded.

Roll Call:

Commissioner Sperry	Aye
Commissioner Tolman	Aye
Commissioner Gunnell	Aye
Commissioner Colson	Aye
Commissioner Adcock	Aye
Commissioner Wood	Aye

The vote passed 6 to 0.

**Proposed Ordinance Amendment and Creation of a Mining Zone.**

*The Planning Commission will discuss modifying Santaquin City Code Title 10 Chapter 2 to include definitions regarding mining. They will also consider the creation of a new mining zone.*

Mr. Bond reported that this is a continuation of a discussion from the last Planning Commission Meeting. The Planning Commission requested that the Division of Oil Gas and Mining (DOGM) and local farmers be reached out to for tonight's meeting. He explained that there are no representatives from local Orchards in attendance, but April Abate from DOGM is present to answer questions.

Mr. Bond relayed that he reached out to Rachel Otto at Council Member Montoya's request, regarding State Legislation. They discussed House Bill 288 which is the consideration of a critical infrastructure materials, or a protected mining zone. Mr. Bond explained that there are possible changes upcoming with the State legislature regarding mining. Commissioner Wood asked if any local farmers shared specific concerns. Mr. Bond indicated that they noted concerns regarding proximity and dust standards

Ms. Abate explained that DOGM has four subgroups, oil, gas, mining, and hard rock. She explained that the intent of DOGM is beginning with the end in mind. Specifically, land use at the end of mining. Ms. Abate stated that there are specific reclamation rules in place. She reported that all permitted operations are required to post a reclamation Bond. Commissioner Wood asked if DOGM is primarily concerned with reclamation rather than patrolling ongoing mining. Ms. Abate explained that they conduct general inspections to ensure that mines aren't causing environmental problems. However, she noted that specific problems such as water and air would fall to the Utah Division of Environmental Quality. Ms. Abate explained that nuisances and complaints are fielded by DOGM. Commissioner Wood asked how they handle residential complaints. Ms. Abate reported that blasting isn't regulated unless there is a public safety issue. Blasting is instead regulated by the Mine Safety and Health Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives. She also stated that noise and odor isn't regulated by DOGM.

Commissioner Gunnell asked if it would be appropriate for the City to require a copy of the notice of intent that is filed with DOGM, or if it is confidential. Ms. Abate answered that exploration permits are confidential, but small and large mine permits are public record.

Mr. Bond explained that the City is looking to have local control by implementing a mining zone in Santaquin City. Ms. Abate encouraged the Planning Commission to read the DOGM rules and standards.

Commissioner Gunnell recommended that the City Engineer looks at the amount of bonding required by DOGM to avoid double bonding.

Commissioner Wood asked if the Division of Environmental Quality has primary regulations, or if it is on a referral basis only. Ms. Abate explained that it depends on environmental factors and DEQ is usually consulted in site specific instances.

Mr. Bill Gammell clarified that the DEQ and the Division of Water Quality require mining sites to be permitted through them and conduct inspections at least yearly.

Commissioner Wood indicated that he feels that the draft language is a good start, although he has concerns regarding environmental issues. Commissioner Tolman referred to the Town of Newhaven which requires that notification is given prior to blasting. She would like to require mining operations to notify the public 72 hours prior to blasting.

Commissioner Wood would like to include standards for particle velocity where an operation abuts a residential area. Mr. Bond asked if particle velocity is monitored by DOGM. Ms. Abate answered that it isn't. Mr. Bond asked how it can be monitored. Commissioner Gunnell stated that the Town of Newhaven requires the blasting party to use seismographs and keep records that are available to the City. Commissioner Gunnell indicated that he would like to source blasting regulations to outside information.

Mr. Bond noted that Commissioner Gunnell provided feedback on the proposed language (See Attachment 'B'). Commissioner Gunnell noted that after today's discussion with DOGM he doesn't think his proposal regarding double bonding needs to be included.

Commissioner Adcock pointed out that the Planning Commission would like parking requirements to be monitored by the DRC rather than the Planning Commission. Mr. Bond noted the change in the proposed language. Commissioner Adcock stated that he would like to see setback requirement increased to 500 feet.



Commissioner Gunnell would like to see requirements regarding fly rock added to the zone. Commissioner Wood suggested that proof of insurance is required incase damage occurs. Mr. Bond asked how a requirement for fly rock would be addressed. Commissioner Gunnell suggested that this could be addressed by the peak decibel location for air blast or fly rock. Requiring the use of mats was also discussed. Mr. Wayne Humphries noted that he isn't familiar with mats used for blasting. He noted that most mining operation who blast already monitor their blasts as standard practices.

Commissioner Gunnell referred to Newhaven's ordinance that addresses fly rock. He explained that that they require; That all reasonable action is taken to prevent fly rock from leaving the controlled blasting site area. And that fly rock is not cast more than one half the distance to the nearest inhabited building within or outside the controlled blasting site area (See Attachment 'C'). Commissioner Wood pointed out that blasting can have a potential impact on water wells. Mr. Gammell explained that private wells must be identified as required per DOGM. Mr. Lundell stated that if there is any potential for contamination to wells, he assumes there are distance requirements between wells and mining. However, he isn't sure what those requirements are. He noted that if chemical agents aren't used it is less likely for wells to be contaminated. Commissioner Wood noted that blasting could cause potential damage to the well. Mr. Gammell explained that they haven't had any infrastructure problems with their wells that blasting occurs within 100 feet of.

Commissioner Wood asked if it makes sense for blasting to be a conditional use considering the potential impact on neighboring residential uses. Commissioner Gunnell thinks that blasting it will come up in the application regardless of if it's conditional or permitted. Mr. Bond explained that conditional uses can cause issues, for example if not all of the Commissioners are in attendance, there can be equality issues between applicants.

The Commissioners discussed notification requirements for blasting. Commissioner Gunnell noted that Newhaven requires that residents within 330 feet of the blast are notified. Commissioner Tolman relayed that the town of Newhaven has a call list to notify residents. Mr. Bond asked if it can be detrimental to notify regarding blasting as many residents don't know when blasting is occurring.

Commissioner Adcock asked what can be done about dust creation during nonoperational times. Mr. Humphries noted that mining operations are required to have an air quality permit who dictate opacity levels. They require dust suppression systems, and water trucks onsite. He explained that dust can't always be controlled when disturbing the soils. But, they try to water down areas while mining and apply mag chloride to dirt roads to hold in moisture.

Mr. Lundell noted that similar standards are looked at with developments. When building a subdivision DAQ inspects subdivision developments in the City. Commissioner Wood suggested that language is included stating that special consideration should be given for residential and agricultural areas. Mr. Bond indicated that any language regarding this should outline ways to measure what that special consideration is, rather than a general statement.

Commissioner Wood asked if changes made down the road to a mining zone would affect a vested operation. Mr. Bond explained that vested operations wouldn't be subject to any changes.

Mr. Bond communicated that the last direction he received from Council was that the Planning Commission provide a recommendation for the mining zone as soon as possible. However, any recommendation made tonight would have a long list of conditions.

Mr. Bond reviewed the following additions/changes the Commissioners would like to see implemented in the mining zone: That the definition and purpose of mining are made consistent. That blasting is listed as a controlled detonation not a controlled use. That blasting is changed to a conditional use. A requirement regarding screening the area is added. That parking in the City right of way is prohibited. The time requirement is clarified to be between 7 a.m. to 7p.m. That the mining operation must notify the public to when they will be blasting. That blasting velocity is measured and a chart is incorporated. That the Planning Commission is changed to the DRC in the parking section. That the setbacks for mining are increased to 500 feet. Reports regarding blasting are available to the City upon request. That a proof of insurance requirement is added. And that requirements regarding fly rock are added as discussed earlier.

Mr. Bill Gammell representing SITLA asked if the 500 setback means that mining can't happen within 500 feet of the property line. Commissioner Wood stated that if the mining operation borders a residential zone he thinks a 500-foot setback should be required. Commissioner Gunnell expressed his thoughts that setbacks for dwellings should be less stringent than for a crusher and mining operations. Different setbacks for each use were discussed; such as a setback of 100 feet for dwellings, and equipment, but 500 feet for any operations. Commissioner Gunnell requested that for the next meeting a graphic of the two proposed projects is provided illustrating 100, 300 and 500 foot setbacks.

**Motion:** Commissioner Tolman motioned to table the proposed Ordinance Amendment and Creation of a Mining Zone. Commissioner Gunnell seconded.

Roll Call:

Commissioner Sperry	Aye
Commissioner Tolman	Aye
Commissioner Gunnell	Aye
Commissioner Colson	Aye
Commissioner Adcock	Aye
Commissioner Wood	Aye

The vote passed 6 to 0.

## PLANNING COMMISSION BUSINESS

Approval of minutes from:

July 23, 2019

**Motion:** Commissioner Adcock motioned to approve the minutes from July 23, 2019 with the suggested change from Commissioner Gunnell that the silence isn't interpreted as agreement and the general statement on page 7 is removed. Commissioner Tolman seconded. The vote was unanimous in the affirmative.

Commissioner Adcock stated that he will be gone the meeting of September 24<sup>th</sup>. Commissioner Tolman stated that she will be gone on September 10<sup>th</sup>.

## Adjournment

Commissioner Tolman motioned to adjourn at 9:42 p.m.



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Trevor Wood, Commission Chair



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Kira Petersen, Deputy Recorder

8.13.19  
Planning Commission  
Attachment 'A'

**ORDINANCE NO. 08-03-2019**

**AN ORDINANCE AMENDING SANTAQUIN CITY CODE RELATED TO ACCESS TO AND FROM SUBDIVISIONS, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE.**

**WHEREAS**, the City of Santaquin is a fourth class city of the state of Utah; and

**WHEREAS**, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the city to pass ordinances which are reasonably and appropriately related to the objectives of that power, i.e. providing for the public safety, health, morals, and welfare; and

**WHEREAS**, the City Council desires to amend Santaquin City Code Title 11 Chapter 6 Section 2M regarding access requirements to and from subdivisions; and

**WHEREAS**, the Santaquin City Planning Commission held a public hearing on August 13, 2019, which hearing was preceded by the posting of public notice in at least three public places within the City limits of Santaquin City, and which notice of public hearing was published in a newspaper in accordance with Section 10-9a-205 of the Utah State Code; and

**WHEREAS**, after the noted public hearing, the Santaquin City Planning Commission forwarded a recommendation to the City Council;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of Santaquin City, State of Utah, as follows:

**Section I. Amendments**

**Title 11 Chapter 6 Section 2M is amended as follows:** (underlined text is added, stricken text is deleted)

M. Access To And From Subdivisions: All subdivisions, or plats thereof, with an access in excess of one-hundred fifty feet (150 feet) containing a combined total of ten (10) or more lots shall provide two (2) or more accesses onto other approved and dedicated City streets. All such accesses shall be dedicated to the City as fully improved streets as a part of the required subdivision improvements, and shall be accessible from every lot within the subdivision or plat(s), and shall be provided with turnaround provisions in accordance with the following table:- (Ord. 05-01-2003, 5-7-2003, eff. 5-8-2003)

<u>LENGTH</u>	<u>TURNAROUNDS REQUIRED</u>
<u>0 feet – 150 feet</u>	<u>None required</u>
<u>151 feet – 500 feet</u>	<u>In accordance with Santaquin City's adopted standard street cross sections</u>
<u>501 feet – 750 feet</u>	<u>In accordance with Santaquin City's adopted standard street cross sections</u>
<u>Over 750 feet</u>	<u>Special approval required from the City Council</u>



## **Section II. Severability**

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

## **Section III. Contrary Provisions Repealed**

Any and all other provisions of the Santaquin City Code that are contrary to the provisions of this Ordinance are hereby repealed.

## **Section IV. Codification, Inclusion in the Code, and Scrivener's Errors**

It is the intent of the City Council that the provisions of this ordinance be made part of the Santaquin City Code as adopted, that sections of this ordinance may be re-numbered or re-lettered, and that the word ordinance may be changed to section, chapter, or other such appropriate word or phrase in order to accomplish such intent regardless of whether such inclusion in a code is accomplished. Typographical errors which do not affect the intent of this ordinance may be authorized by the City without need of public hearing by its filing a corrected or re-codified copy of the same with the City Recorder.

## **Section V. Posting and Effective Date**

This ordinance shall become effective at 5:00 p.m. on Wednesday, August 21, 2019. Prior to that time, the Deputy City Recorder shall deposit a copy of this ordinance in the official records of the City and place a copy of this ordinance in three places within the City.

PASSED AND ADOPTED this 20<sup>th</sup> day of August 2019.

\_\_\_\_\_  
Kirk Hunsaker, Mayor

Councilmember Elizabeth Montoya	Voted	___
Councilmember Lynn Mecham	Voted	___
Councilmember Keith Broadhead	Voted	___
Councilmember Nick Miller	Voted	___
Councilmember Chelsea Rowley	Voted	___

ATTEST:

\_\_\_\_\_  
Kira Petersen, Deputy City Recorder



STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, KIRA B. PETERSEN, Deputy City Recorder of Santaquin City, Utah, do hereby certify and declare that the above and foregoing is a true, full, and correct copy of an ordinance passed by the City Council of Santaquin City, Utah, on the 20<sup>th</sup> day of August, 2019, entitled

**“AN ORDINANCE AMENDING SANTAQUIN CITY CODE RELATED TO ACCESS TO AND FROM SUBDIVISIONS, PROVIDING FOR CODIFICATION, CORRECTION OF SCRIVENER’S ERRORS, SEVERABILITY, AND AN EFFECTIVE DATE FOR THE ORDINANCE.”**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of Santaquin City Utah this 20<sup>th</sup> day of August, 2019.

\_\_\_\_\_  
KIRA B. PETERSEN  
Santaquin Deputy City Recorder

(SEAL)

AFFIDAVIT OF POSTING

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF UTAH                )

I, KIRA B. PETERSEN, Deputy City Recorder of Santaquin City, Utah, do hereby certify and declare that I posted in three (3) public places the ordinance, which is attached hereto on the 20<sup>th</sup> day of August, 2019.

The three places are as follows:

1.     Zions Bank
2.     Post Office
3.     City Office

I further certify that copies of the ordinance so posted were true and correct copies of said ordinance.

\_\_\_\_\_  
KIRA B. PETERSEN  
Santaquin Deputy City Recorder

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by KIRA B. PETERSEN.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Residing at:             Utah County

8-13-19  
Planning Commission  
Attachment 'B'

Definitions to be included in Title 10 Chapter 2 of the Santaquin City Code:

MINING: The process of extracting ~~peat~~, gravel, rock, sand, ~~clay~~ and other soils by way of excavation, quarrying, blasting, and crushing operations. Such soils or aggregate materials may be removed from the site and sold by the owner or its assigned agent. Mining shall only take place in an area approved to be zoned as "M-1 Mining Zone".

**Commented [GF1]:** This should be the same as what you provide in the opening paragraph of 10-7-6R-2. Changes provided here and there are to make them match up.

BLASTING: The controlled ~~use~~ detonation of explosives underground by a qualified person to fracture, break and loosen rock for excavation and quarrying.

**Commented [GF2]:** There was a concern by Sunroc at the last meeting that the hours in which we permit "Blasting" might be too little time if it regulates the placement and wiring of the explosives as well. Changing "use" to "detonation" here clarifies that we are only talking about the "BANG" aspect in blasting.

HOT/BATCH PLANT: Machinery or equipment used to create hot asphalt. The plant usually consists of a cold aggregate elevator with means for feeding, rotary dryer, either oil or gas fired, hot aggregate elevator, screening and classifying system, weight hoppers, and mixer.

## ARTICLE R. M-1 MINING ZONE

- 10-7-6R-1: OBJECTIVES AND CHARACTERISTICS
- 10-7-6R-2: PURPOSE OF PROVISIONS
- 10-7-6R-3: PERMITTED USES
- 10-7-6R-4: LAND USE AUTHORITY AND APPEAL AUTHORITY
- 10-7-6R-5: INTERPRETATION, EXISTING OPERATION, AND RESTRICTIONS
- 10-7-6R-6: APPLICATION PROCESS
- 10-7-6R-7: FEES
- 10-7-6R-8: BONDING
- 10-7-6R-9: MARKETING OF MATERIALS
- 10-7-6R-10: AREA REQUIREMENTS
- 10-7-6R-11: SETBACKS
- 10-7-6R-12: FENCING AND SCREENING
- 10-7-6R-13: ROAD ACCESS
- 10-7-6R-14: ROAD MAINTENANCE
- 10-7-6R-15: TRANSPORTATION VEHICLE STANDARDS
- 10-7-6R-16: PARKING
- 10-7-6R-17: DUST STANDARDS
- 10-7-6R-18: NOISE STANDARDS
- 10-7-6R-19: ODOR STANDARDS
- 10-7-6R-20: TIMES OF OPERATION
- 10-7-6R-21: BLASTING

**10-7-6R-22: LIGHTING**

**10-7-6R-23: DRAINAGE**

**10-7-6R-24: EXCAVATION AND BACKFILLING**

**10-7-6R-25: VIOLATIONS, PENALTIES, SUSPENSION, AND  
REVOCATION OF PERMIT**

**10-7-6R-1: OBJECTIVES AND CHARACTERISTICS:**

The M-1 mining zone has been established for the primary purpose of providing a location and conditions where mining can be carried out most appropriately and with minimum conflict or deleterious effects upon surrounding properties.

Other objectives in establishing the zone are to promote the economic well-being of the City and its residents. This zone is characterized as mining operations with the potential of intermittent open land served by streets, power, water and other utilities and facilities or where such facilities can be readily provided for purposes related to the mining operation.

**10-7-6R-2: PURPOSE OF PROVISIONS:**

This section is adopted for the purposes of establishing regulations for the safe, effective and viable removal of sand, gravel, rock, soil, and other materials soils through mining, excavation and mass grading within this zone, by:

- A. Establishing regulations, safeguards, and controls in the incorporated areas of Santaquin City regarding noise, dust, traffic, drainage, and other factors which will minimize the environmental and aesthetic impacts on the mined, excavated, mass graded, or adjacent property.
- B. Reducing the potential for pollution caused by wind, soil erosion, and sedimentation.
- C. Establishing locations, an orderly approval process, and operating conditions under which such operations will be allowed in incorporated areas of Santaquin City and to establish conditions which ensure the mining or grading of land areas consistent with the existing and planned land use patterns.
- D. Ensuring that mining is only permitted when Santaquin City and the Division of Oil Gas and Mining (DOGM) ~~has~~ have approved a site to be mined and ~~have~~ has deemed it prudent to mine and/or extract the materials.
- E. Ensuring that proper reclamation of ~~ff~~ mined land is accomplished.

**Commented [GF3]:** This should be the same as what you provide in the definition of mining. Changes provided here and there are to make them match up.

**Commented [GF4]:** Mining is already a defined term, so adding excavation and mass grading creates some ambiguity.

**Commented [GF5]:** There are a number of references to "mass grading" throughout. Is the intent to regulate mass grading as well, or just mass grading that involves blasting?

**10-7-6R-3: PERMITTED USES:**

Land uses in the M-1 mining zone are permitted as follows. Alphabetical use designations in the table below have the following meanings:

P	The listed use is a permitted use within the represented area, based on city development standards and ordinances.
C	The listed use requires a conditional use permit within the represented area in addition to complying with all applicable development standards and ordinances.
N	The listed use is a prohibited use within the represented area.

USE	M-1
Accessory buildings and parking lots	P
Commercial, heavy	P
Dwelling, caretaker	C
Mining, quarrying, rock, gravel, sand, earth extraction and mass grading	P
Crushing Operations, Stockpiling, Conveying	P
Hot Plants, Batch Plants, Processing Plants	N
Water Storage, Fuel and Oil Storage Tanks	C
Manufacturing, compounding, processing, packing, fabrication, and warehousing of goods and materials, excluding the processing of animal byproducts, livestock feed yards, oil refineries, wallboard manufacturing, and similar establishments which emit offensive fumes, smoke, noise, odor, etc.	C
Blasting	PC
Heavy Equipment Operation and Storage	P
Metal Ore Mining / Metal Ore Smelting	N

#### 10-7-6R-4: LAND USE AUTHORITY AND APPEAL AUTHORITY:

- A. Development Review Committee (DRC) shall be the land use authority. Only upon finding the applicant has complied with the terms and requirements of this title may approval be given. As part of approval of an application, the DRC may impose as requirements of the approval any reasonable restrictions or requirements related to the location, design, or operation of the proposed use as deemed necessary to ensure the public health, safety, and general welfare, to ensure that the operations will not create a nuisance, or unreasonably interfere with the enjoyment of property. Such requirements may be in addition to the express requirements of this title.
- B. A party aggrieved or affected by a decision may appeal the DRC's decision to the City Council by filing a written appeal within ten (10) days after the DRC's decision. A party aggrieved or affected by said decision of the City Council may appeal the decision to the appeal authority, subject to the provisions of the Utah State Code, section 10-9-704.

#### 10-7-6R-5: INTERPRETATION, EXISTING OPERATION, AND RESTRICTIONS:

It is not the intent of this section 10-7-6R to annul, or in any way, repeal any existing law or



ordinance unless expressly so stated in this title. Further, it is not the intention of this section 10-7-6R to interfere with operations already existing except that this section 10-7-6R sets forth minimum standards which shall apply to such operations. To the extent that any restrictions or standards imposed by this section 10-7-6R are more stringent and restrictive than existing restrictions or standards, this title shall control.

#### **10-7-6R-6: APPLICATION PROCESS:**

- A. Application Required: No person shall operate an excavation, or mining site in the city except in accordance with an approved application issued under this title.
- B. Application Procedure: The following application procedure shall govern any mining, excavation or mass grading which is proposed as of or after the effective date hereof.
  - 1. All applicants shall use forms provided by Santaquin City, accompanied by the documents enumerated on that form. Approvals shall be issued to applicants for the duration of an approved project provided that the work is progressing as per the approved plan in the submitted documents and in accordance with all requirements.
- C. Application Contents: All applications must contain, but not be limited to, the following:
  - 1. Name, address, and phone number of the owner, or owners, of land on which the proposed use will take place.
  - 2. Name, address, and phone number of the applicant making a request for the permit.
  - 3. Name, address, and phone number of the person, firm, or corporation who will be conducting the proposed use.
  - 4. Location, size, and legal description of the area from which the proposed use is to be made.
  - 5. Type of materials or resources to be mined, excavated, processed, stockpiled, or hauled away.
  - 6. Proposed method of removal and general haul route.
  - 7. General types of equipment to be used.
  - 8. The estimated time frame to complete operations and the number of phases where appropriate.
  - 9. As a part of the application, the applicant shall submit a plan of operation and will be expected to comply with such a plan. Said plan of operation shall include a topographic survey of the existing parcel drawn to a scale of one inch to one hundred feet (1":100') and prepared by a registered civil engineer or land surveyor with contour intervals not to exceed five feet (5') based on United States geological survey datum. The drawing shall also clearly show the area to be mined, excavated or mass graded, including existing features

and roads within five hundred feet (500') of all property lines, areas for stockpiling, maintenance areas, berms, fencing, screening and similar use areas.

10. As a part of the application, the applicant shall submit a site plan and will be expected to comply with such a plan. Site plans for such projects shall provide a complete set of plans, which include:
  - a. All necessary detail drawings;
  - b. All temporary and permanent improvements;
  - c. Details of all buildings and other structures to be placed on the location;
  - d. Surveyed boundary lines;
  - e. Engineered studies, reviews, and designs, as warranted;
  - f. Details of all access routes, egress routes, and on site travel routes;
  - g. Plans to address surface water and storm water issues; and
  - h. All adjacent properties with the name and address of each property owner within three hundred feet (300') of the proposed site;
11. As a part of the application, the applicant shall submit nuisance mitigation plans and will be expected to comply with such plans during the time for which a permit is issued. These plans should provide written and drawn details of the applicant's control of:
  - a. Dust;
  - b. Noise;
  - c. Odors;
  - d. Any other possible nuisances that could originate from the site, any other possible nuisance recognized by the city, and/or any pertinent nuisance contained within the city's nuisance ordinance.
12. As a part of the application, the applicant shall submit a site reclamation plan and will be expected to comply with such a plan. This plan shall include a complete set of written and drawn plans outlining the applicant's requirement for reclamation of the land after the expiration of the conditional use permit and the applicant removes any extraction facility from the land. This plan shall address:
  - a. Issues concerning topsoil and subsoils;

- b. Grading and contouring;
  - c. Compaction;
  - d. Surface water diversions;
  - e. Water impoundments;
  - f. Revegetation;
  - g. Roads;
  - h. Structures;
  - i. Any and all waste materials; and
  - j. Any other site pertinent issues.
13. The applicant shall also prepare a finished grading plan that complies with the requirements of Santaquin City Code.
14. The applicant shall also prepare a haul route plan. The City Engineer ~~may~~ shall recommend ~~that the amount of additional bonding be provided to mitigate any potential damage to roads or property along the proposed haul route based upon the review of the proposed plan.~~
15. The applicant shall submit a copy of their application submitted to, and approved by, the Utah Division of Oil, Gas and Mining for the proposed site.
16. The applicant shall provide verification from the following agencies to Santaquin City that they comply with all requirements:
- a. Utah Division of Oil, Gas and Mining (DOGM),
  - b. ~~Mining~~ Safety and ~~Health~~ Hazard Awareness (MSHA),
  - c. Utah Department of Environmental Quality (UDEQ) ~~(including without limitation the Utah Department of Air Quality (UDAQ))~~,
  - d. Utah Department of Transportation (UDOT),
  - e. ~~Utah Labor Commission,~~
  - f. ~~Utah Occupational Safety and Health (UOSH), and~~
  - g. ~~And any other applicable county, state, and federal regulatory agency.~~

#### **10-7-6R-7: FEES:**

All applications shall be accompanied by an application and processing fee to be paid by the applicant in an amount established by resolution of the City Council.

#### **10-7-6R-8: BONDING:**

All such operations shall be required to put forth a bond for the reclamation of the project to ensure the adequate restoration of the site as previously proposed for further use or development.

Such bonding shall follow the City's guidelines and procedures and be subject to approval by the City Engineer and City Council. The City Council reserves the right to determine the terms of bond value and pertinent time frame for completion of the reclamation project.

The amount of the bond required under this section may be reduced by the amount of any other reclamation bonds or sureties in place covering the project required by any other regulatory agency, provided that the City of Santaquin is added to as a co-beneficiary to such bonds or sureties and that such bonds or sureties remain in place until reclamation is completed pursuant to this ordinance.

#### **10-7-6R-9: MARKETING OF MATERIALS:**

The owner and/or operator may market and sell the materials. In order to conduct sales, the owner and/or operator must maintain an onsite office, or other suitable facility, and hold and clearly display within said office, a current Santaquin City business license. The point of sale, as defined by the Utah State Tax Commission, shall be Santaquin City.

#### **10-7-6R-10: AREA REQUIREMENTS:**

The minimum size of a parcel of land for any M-1 zoning designation shall be fifty (50) acres.

#### **10-7-6R-11: SETBACKS:**

All on site structures of a permanent or temporary nature shall be set back from property lines as follows:

- A. Setbacks: No structure, dwelling, weigh station, crushing equipment, or other related mining facility or operation shall be located within three hundred feet (300') of all property lines.

#### **10-7-6R-12: FENCING AND SCREENING:**

- A. Mined, excavated and graded areas shall be fenced according to current mine safety and health administration regulations.

- B. All active mining, excavation or mass grading equipment shall be visually screened where reasonable. The following methods are acceptable for screening of mining, excavation or mass grading areas:

1. Construction of a raised earth berm area on the site along boundary lines thereof where such lines abut a public highway or privately owned property which is improved and occupied for residential purposes. This provision with regard to lands improved and occupied for residential purposes shall be applicable to any land upon which dwellings are built and

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occupied subsequent to the date hereof. The berm shall be sufficient in length and height to screen the excavation, crushing or grading area. Where the topography of the area acts as a screen, the DRC may waive the berm requirement. Berms shall have slopes not in excess of one foot (1') vertical to two feet (2') horizontal.

2. Trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining, excavation or mass grading area.
3. To the extent that the foregoing is not practical, the proposed permittee may submit alternate proposals.

#### **10-7-6R-13: ROAD ACCESS:**

All sites permitted under the provisions of this section 10-7-6R shall have direct access to a city, county, or state road. When the operation of the permitted area results in the excavated material, overburden, and/or similar material being deposited or spilled upon a public roadway, it shall be the responsibility of the permitted operator to remove such material immediately.

#### **10-7-6R-14: ROAD MAINTENANCE:**

Access roads within the permitted site shall be maintained by the operator so as to minimize the dust arising from the use of said roads. Such maintenance shall be accomplished through the application of chloride, water, and/or similar dust retardant materials. Application of oil shall be prohibited. A paved road of no less than forty feet (40') in width from the entrance and exit, a distance of not less than three hundred feet (300') from the right of way line into the area of operation shall be provided by the owner in order to minimize the deposit of dirt and gravel from trucks onto the public highway. Entrances and exits shall be gated and securely locked except during hours of operation.

#### **10-7-6R-15: TRANSPORTATION VEHICLE STANDARDS:**

All vehicles used to transport excavated material shall be required to be loaded in such a manner that the material may not be unintentionally discharged from the vehicle. Vehicles shall be cleaned of all material not in the load bed prior to entering any public street.

Commented [GF8]: Add requirement for tracking pads here?

#### **10-7-6R-16: PARKING:**

All parking shall be provided on site. No parking shall be permitted within any city right of way, required setback, or landscaped area. Each facility shall provide one parking space for each on-site employee with an additional amount of parking for drivers and visitors as approved by the Planning Commission.

#### **10-7-6R-17: DUST STANDARDS:**

Dust generated in the extraction and processing of the earth products shall be kept under control by the operator by keeping the extraction area, main roads in the pit, and loaded trucks, watered



down. Any un-paved access road to the pit from the paved road system shall be maintained by the pit operator for dust control by watering down the access road surface or placing dust inhibiting material on the surface of the access road.

#### **10-7-6R-18: NOISE STANDARDS:**

A project approved under this section 10-7-6R shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to the inhabitants of neighboring properties. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent properties. Equipment on permitted sites shall not be operated at any time or under any condition so as to result in noise exceeding the following levels for specified adjacent land uses when measured at the common property line nearest the active work area:

##### **ADJACENT USE MAXIMUM SOUND LEVELS**

Residential	75 dBA
Commercial	85 dBA
Industrial and other	90 dBA

The city shall, at its discretion, monitor noise levels using weighted decibel measurements (referenced to 20 micropascals) with a type of audio output meter approved by the united bureau of standards.

#### **10-7-6R-19: ODOR STANDARDS:**

A project approved under this section 10-7-6R shall be operated in such a way to reduce odors as much as possible. Masking agents, scrubbing, and other industry standards must be considered to reduce the impact on neighboring residential and agricultural uses.

#### **10-7-6R-20: TIMES OF OPERATION:**

No project approved under this section 10-7-6R shall operate ~~between~~ earlier than the hours of six o'clock (6:00) A.M. ~~nor later than~~ and ten o'clock (10:00) P.M. No project approved under this section 10-7-6R shall operate on Sundays and city observed holidays. In emergency situations this time period may be modified by the mayor provided such emergency order shall not be effective for more than seventy-two (72) hours.

#### **10-7-6R-21: BLASTING:**

Blasting shall be permitted as a part of any mining, earth extraction, or similar operation conducted within the city. Blasting will be conducted only between the hours of ten o'clock (10:00) A.M. and four o'clock (4:00) P.M. No blasting shall occur on Saturday, Sunday, or city observed holidays.

All blasting shall comply with the Mine Safety and ~~Hazard-Health Administration~~Awareness (MSHA) regulations.

**10-7-6R-22: LIGHTING:**

All lighting used to illuminate the proposed use(s) shall be directed downward and away from all surrounding property.

**10-7-6R-23: DRAINAGE:**

Property drainage shall be provided at all times to prevent the collection and stagnation of water. Surface water shall not be discharged onto adjoining property. Any water areas, retention ponds, settling ponds, or similar water areas shall be fenced in accordance with section 10-7-6R-12 of this chapter.

**10-7-6R-24: EXCAVATION AND BACKFILLING:**

All mining, excavation and mass grading areas shall be made to the finished elevation as included on the approved finished grading plans. Backfill, if necessary, shall consist of inert, noxious free, nonflammable, nonradioactive, nonhazardous, and noncombustible materials, to assure:

- A. That the excavation shall not collect and permit to remain therein, stagnant water;
- B. That the surface of any area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof; and
- C. To produce a surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.

**10-7-6R-25: VIOLATIONS, PENALTIES, SUSPENSION, AND REVOCATION OF PERMIT:**

If the zoning administrator, or other authorized City officer, notifies the permittee of any violation of the permit, or of this title, and upon failure of the permittee to abate said violation within thirty (30) days after mailing of said notice, said mining or excavation site may be summarily closed, and the permit and/or business license therefore, suspended or revoked. Any permittee aggrieved by any notice pursuant to this section 10-7-6R may file a written request for a hearing before the City Council. The permittee shall set forth why operations on the site should not be summarily closed and/or the permit suspended or revoked. If a request for a hearing is received by the City Council, the City Council shall provide to the permittee notice of the time and place of the hearing, an opportunity to be heard, and shall make an impartial determination of whether a violation of this title or this section 10-7-6R has occurred and whether the health, safety, and welfare of persons or property dictates the necessity of a suspension or revocation of said permit. Upon receipt of a request for a hearing, the City Council may summarily close the site, if not yet closed by the zoning administrator, or other authorized City officer, pending the hearing if it is determined that the health, safety, and welfare of persons or property require such action.

8.13.19  
planning commission  
Attachment 'c'

## **TOWN OF NEW HAVEN, DUNN COUNTY**

### **BLASTING ORDINANCE**

#### **ORDINANCE NO: 2012-02**

##### **1. Title**

This ordinance shall be cited as the "Town of New Haven Blasting Ordinance" and hereinafter referred to as "this ordinance".

##### **2. Authority**

This ordinance is adopted to protect the public health, safety and welfare of residents of the Town of New Haven. This ordinance is authorized by the powers granted to the Town of New Haven by the Town's adoption of Village powers under sec. 60.10, Wis. Stats., and is in accord with sec. 61.34, Wis. Stats., and Wis. Admin.Code SPS 307.

##### **3. Purpose and Intent**

The purpose of this ordinance is to regulate the use of explosives in non-metallic mining operations, in the erection or placement of structures greater than 15 feet high above the ground surface and in demolition of structures that require a level 3 license or higher. This ordinance is intended to limit the adverse effects of blasting on persons or property outside any controlled blasting site area.

##### **4. Definitions**

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

1. Affected building or structure. A building or structure within a distance extending 1320 feet from the outer perimeter of a controlled blasting site area.
2. Airblast. An airborne shockwave resulting from the detonation of explosives.
3. Blast area. The area of the blast as determined by the blaster in charge within the influence of flying rock missiles, the emission of gases, and concussion as determined by the blaster in charge.
4. Blast site. The area where explosive materials are handled during the loading of blast holes, including 50 feet in all directions from the perimeter formed by the loaded blast holes. A minimum of 30 feet may replace the 50 foot requirement, if the perimeter of loaded blast holes is marked and separated from the non-blast

area outside of the site by a protective barrier. The 50 feet or 30 foot distance requirements apply in all directions along the full depth of the blast hole.

5. Blaster. Any individual holding a valid blaster's license issued by the Wis. Dept. of Commerce.
6. Blaster in charge. The qualified person in charge of and responsible for loading and firing the blast.
7. Blasting. The use of explosives to loosen, penetrate, move or shatter masses of solid materials.
8. Blasting resultants. Effects caused by blasting including, but not limited to, projectile matter, vibrations and concussion that cause injury, damage or unreasonable annoyance to persons or property located outside the controlled blasting site area.
9. Controlled blasting site area. An area that surrounds a blast site from which the operator has a legal right and duty to take all reasonable means to assure the safety of persons and property, either because the operator owns the area, or because the operator has leased or has some special agreement with the owner of that area.
10. Flyrock. Rock or karst that is propelled through the air from a blast.
11. Ground vibration. A shaking of the ground caused by the elastic wave emanating from a blast.
12. Karst. An area or surficial geological features subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include areas with soils less than 60 inches thick over bedrock, caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps, swallets, and depressions with no surface drainage.
13. Particle velocity. A measure of ground vibration describing the velocity that a particle of ground vibrates when excited by a seismic wave.

## **5. Applicability**

1. This ordinance shall apply:
  - a. To any person who blasts in the Town of New Haven in order to establish a footing, foundation, or other method of support for the construction, placement or erection of structures greater than 15 feet high above the ground surface.

- b. To any person who conducts blasting in the Town of New Haven as part of a non-metallic mining operation.
  - c. To any person who blasts in the Town of New Haven in order to demolish buildings or other structures when these require a level 3 license or higher.
- 2. Applications for a permit to blast shall only be submitted by and issued to an individual who holds a valid blaster's license issued by the Wisconsin Department of Commerce with the proper classification or who is supervised by a licensed blaster.
- 3. Applications for a permit to blast may be submitted by and issued to a blasting business, provided that the individual operating under the permit holds a valid blaster's license issued by the Wisconsin Department of Commerce with the proper classification or is supervised by a licensed blaster.
- 4. No blasting permit shall be issued to any person, unless the operation which blasting supports has all necessary state, county and town permits and is in compliance with all Town, County and State regulations, including but not limited to, the requirements of this chapter.

## **6. The Application**

- 1. An applicant shall obtain an application form for a blasting permit from the Town Clerk. The applicant shall submit the completed application form together with all additional documentation to the Town Clerk.
- 2. The application shall include the following information on the form itself or on documents attached to the form:
  - a. Name, license number, address, land and cell phone numbers, and email address of the applicant.
  - b. Name address, license number, land and cell phone numbers, and email address of the blaster in charge of the blast, if other than the applicant.
  - c. Name address, land and cell phone numbers, and email address of the person in charge of the operation that blasting will be used to support.
  - d. A map showing the location of the blasting site and a brief description of the operation at the site. Include on this map the location of all buildings located within 500 feet of the controlled blasting site, attaching the names, addresses and land phone numbers of owners of those buildings.
  - e. Copies of all County and State permits that have been granted to the operator for whose operation blasting is giving support.



- f. Proof of financial insurance.
  - g. A pre-blasting site inspection report.
  - h. Copies of pre-blast report
3. An application shall be regarded as “complete” only when the information requested in section 15.06(2)a-h of this ordinance has been provided to the Town Clerk on the form or on attachments to the form.

## **7. Pre-blasting Surveys**

1. Pre-blasting surveys shall be conducted to determine the condition of all buildings or structures within 1320 feet of the blast site(s) and the quality of water in all wells in that area shall be tested prior to the onset of blasting. The pre-blasting surveys shall be completed at the applicant’s expense. Each survey shall provide the name and address and telephone number (if known) of the resident or owner of said buildings, structures and/or wells, and shall document any pre-blasting presence or absence of damage or other physical factors that could reasonably be expected to be affected by the use of explosives. The testing of wells shall determine whether the water is safe for human consumption according to established drinking water quality standards, including standards applicable to children of all ages and pregnant women. If the blasting for which a permit application is being made is part of an operation that has been already permitted and that tested the wells within a time frame acceptable to the Town of New Haven, information regarding those tests can be submitted instead of testing the wells again.
2. If any new building or structure is added or a new well drilled subsequent to the effective date of the permit, the owner may request a survey to be done of that building or well and the permittee shall conduct that survey, at the permittee’s expense. In addition, if a building or structure is improved and the cost of the improvement exceeds 50% of its fair market value prior to the improvement, the owner of that building or structure may request that a pre-blasting survey be completed, at the permittee’s expense.
3. Prior to obtaining a blasting permit, the applicant shall notify, in writing, all residents or owners of buildings or other structures (including, but not limited to, wells) located within 1320 feet from the blasting site that the applicant intends to apply for a blasting permit from the Town of New Haven and will be completing a pre-blasting survey as part of the application and review process. The written notification shall include a statement indicating that the survey provides a baseline record of the pre-existing condition of building or a structure against which the effects of blasting can be assessed and it should include both the interior and exterior of the buildings. It shall also indicate that no survey will be

done unless the resident or owner makes a written request for a pre-blast survey and a water quality test for existing wells. The resident or owner shall make this request in writing to the applicant. The applicant shall conduct a pre-blast survey only of requested dwellings or structures and conduct water quality testing for existing wells.

4. If the resident or owner requests a copy of the survey, then, within 48 hours of the request, the blaster shall provide the copy.
5. In cases where a blasting permit is renewed because it is part of a permitted continuing operation that lasts over a number of years, the applicant shall not be required to conduct a pre-blast survey of any dwelling or structure, or conduct a well water quality test more than once every five (5) years.
6. The pre-blast survey and water quality testing shall be conducted by an independent survey company and a laboratory approved by the State of Wisconsin or an organization selected by the applicant and acceptable to the owner or resident and the Town. Reasonable and reasonably related costs of such independent survey shall be the sole responsibility of the applicant/permittee.

## **8. Procedures**

Upon receipt of complete application form and the permit fee(s), the Town Clerk shall place the application on the agenda for the next meeting of the Town Board. The Town Board shall review the application. The Town Board may approve, approve with conditions, deny or request additional information, as appropriate.

## **9. Pre-Blasting Site Inspection**

1. The blaster shall visually inspect the controlled blasting site area to determine if there is any evidence of a sinkhole, a cave or a subsurface void in the karst that could be part of a sinkhole or cave. If visual inspection reveals such, no blasting shall occur, nor shall any structure support be placed therein.
2. In addition to a visual inspection, especially if visual inspection is inconclusive and the general area is known to have sinkholes and caves, it is recommended that the blaster use probes (such as borings) or geophysical methods such as resistivity tomography, seismic refraction, microgravity or ground penetrating radar, to ascertain the presence of sinkholes or caves.
3. The blaster shall submit a pre-blasting site inspection report regarding his finding and methods used to the Town Board at the time an application for a permit to mine is made.

## **10. Notification of Blasting**

Notification must be given to the following persons and by the following means at least 72 hours prior to the initial blasting at a blast site as well as prior to all subsequent blasting events at the blast site:

1. At least 72 hours prior to initial blasting at a blast site, the blaster in charge shall make a reasonable effort to notify all residents or owners of affected buildings, as defined in section 5.09 (2) of this ordinance. The blaster shall make all reasonable efforts to ensure timely and effective notice that a blasting operation is to begin, using such means as a written notice, a phone call, email or verbally in person.
2. A resident call list shall be established for the purpose of notifying persons living in the vicinity of the blast site at least 72 hours prior to a blasting event. A resident shall be placed on this call list only upon request to be so listed and called. The call list must be maintained and used prior to any blast.
3. Before any blasting operation or blasting event, the blaster in charge shall give notice thereof by the conspicuous display of a fluorescent flag and legible sign displayed within 100 feet of all public roads bordering the blasting site or at least the nearest public road bordering the blasting site. Said sign should also warn against the use of all mobile wireless communication equipment on all roads within 1000 feet of the blasting operations. The flag and sign shall be displayed prior to and during all blasting operations and events.
4. A distinctive warning signal shall be sounded prior to commencing blasting. Automotive or truck horns shall not be used as a warning signal.
5. Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph or steam utilities, these utilities shall be notified no less than 72 hours prior to commencing blasting.
6. Verbal (in person or by phone) or written (on hard copy or email) notice shall be given to the Town Clerk and the Town Chairperson at least one full working day prior to the onset of any blasting event. If a schedule including dates and times of blasting events is known at the time of application, making that schedule part of the application can serve as written notice. If part of the application, further notice shall be required only if there is deviation from the schedule.

## **11. Blasting Schedule.**

All surface blasting shall be conducted between sunrise and sunset, unless one of the following conditions applies:

1. A more restrictive time period is specified by the Town as a condition of use.

2. The operator has shown that the public will not be adversely affected by noise and other impacts, and the Town Board has approved the deviation from normal blasting hours.

## **12. Blasting Log**

An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of this log shall be kept by the permittee for a period of not less than 5 years and furnished to the Town of New Haven within 3 working days of a request for a copy of said log by the Town Clerk or Town Board. The Town of New Haven may require that the permittee furnish an analysis of any particular blasting log to be prepared by the permittee. Each blasting log shall include, but not be limited to, the following information:

1. Name and license number of the blaster in charge of the blast.
2. Blast location references on an aerial photograph.
3. Date and time of blast.
4. Weather conditions at the time of blast.
5. Diagram and cross section of blast hole layout.
6. Number of blast holes.
7. Blast hole depth and diameter.
8. Spacing and burden of blast holes.
9. Maximum holes per delay.
10. Maximum pounds of explosives per delay.
11. Depth and type of stemming used.
12. Total pounds and type of explosives used.
13. Distance to nearest inhabited building not owned by the operator/blaster in charge.
14. Distance of blast hole to groundwater.
15. Type of initiation used.

16. Seismographic and air blast records which shall include all of the following:
  - a. Type of instrument and last laboratory calibration date.
  - b. Exact location of instrument and the date, time, and distance from the blast.
  - c. Name of person and firm taking the reading.
  - d. Trigger levels from ground and air vibrations.
  - e. The vibration and air blast levels recorded.

### **13. Monitoring**

1. The permittee shall monitor all blasts at the closest location to the controlled blast area of any affected building or structure beyond the controlled blast area, provided, however, that the permittee may monitor at another location approximately the same distance from the perimeter of the controlled blast area, if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location.
2. The Town of New Haven, by its Town Clerk or Town Board, may, at its discretion, require the relocation of the monitoring equipment to a more suitable site.

### **14. Storage of Explosives**

No storage of explosive material on site is allowed.

### **15. Control of Adverse Effects**

The permittee and the operation requiring blasting shall be responsible for taking all reasonable actions necessary to control the adverse effects described herein.

1. General requirements. Blasting shall be conducted by the permittee and the operation requiring such blasting so as to prevent injury and unreasonable annoyance to persons and damage to public or private property outside the controlled blasting site area.
2. Flyrock. The permittee and the operation requiring blasting shall take all reasonable actions to assure that flyrock traveling in the air or along the ground meets all of the following conditions:
  - a. Remain within the controlled blasting site area.

- b. Not be cast more than one-half the distance to the nearest inhabited building within or outside of the controlled blasting site area.

### 3. Airblast.

- a. An air blast may not exceed 133 peak dB at the location of any dwelling, public building or place of employment outside the controlled blasting site area.
- b. The blaster shall conduct monitoring of every blast to determine compliance with the air blast limit. The measuring system used shall have a lower-end flat frequency response of not more than 2 Hz and an upper-end flat frequency response of at least 200 Hz.

### 4. Ground Vibration.

- a. The maximum ground vibration at the location of any dwelling, public building or place of employment outside the controlled blasting site area shall be established in accordance with the blasting-level chart of par. (b).
- b. All structures in the vicinity of the controlled blasting site area, not listed in subd.1., such as water towers, pipelines and other utilities, tunnels, dams, impoundments and underground mines, shall be protected from damage by establishment by the blaster of a maximum allowable limit on the ground vibration. The blaster shall establish the limit after consulting with the owner of the structure.
- c. The blaster shall use the ground vibration limits specified in Figure 3077.44 WI Admin. Code SPS 307 to determine the maximum allowable ground vibration. Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in 3 mutually perpendicular directions.
- d. The blaster shall make and keep a seismograph record including both particle velocity and vibration frequency levels for each blast. The method of analysis shall be subject to discretionary review by the Town Board.
- e. For quarry operations, the blaster shall report any ground vibration levels to the Town Board that are above 0.75 inch per second with frequencies less than 40 Hz.

## 16. Proof of Insurance

Each application for an explosives use permit as herein stated, or a renewal thereof, shall be accompanied by a certificate of Insurance for a Commercial General Liability Policy and said Policy of Insurance shall have limits of coverage of not less than two million



(\$2,000,000.00) dollars in the aggregate and one million (\$1,000,000.00) dollars per occurrence and the Town shall be named as an additional insured on said Policy of Liability Insurance.

#### **17. Permit Durations, Renewals and Fees**

1. A short-term permit may be issued for a single blasting event and shall be valid for 14 days from the effective date of the permit. The fee for a temporary permit shall be \$100. Only one subsequent short term permit may be granted and the fee for a subsequent short term permit shall be \$100.
2. A long term permit shall be granted for period of no more than 180 days. The fee for a 180 day permit, and for a renewal thereof, shall be \$300.
3. An application for a renewal of an existing permit shall be made 60 days prior to the expiration date of the existing permit.

#### **18. Revocation and Suspension**

1. The Town Board, on its own motion or following due review and investigation of a written complaint, may suspend or revoke the blasting permit for any violation of provisions or requirements of this ordinance or of other applicable State and Federal law. The following persons may file a written complaint and request suspension or revocation:
  - a. A resident, lessee or owner of an affected building, structure or well.
  - b. A building inspector.
  - c. The Town Chairperson.
  - d. A Town Supervisor.
  - e. The Town Clerk.
2. Where warranted, as determined in the reasonable discretion of the Town Board, a blasting permit may be temporarily suspended without notice or hearing to the permittee. Written or verbal notice of a temporary suspension, and of conditions that must be met to reinstate the permit, shall be promptly given to the permittee at the address contained in the application.
3. In general, the Town Clerk shall provide the permittee with no less than 24 hours notice of a meeting where action to suspend the blasting permit is on the agenda. Permittee's failure to appear at such meeting shall be deemed a waiver of the opportunity to be heard prior to final action of the Town Board. Written or verbal notice of the suspension, and of conditions that must be met to reinstate the

permit, shall be promptly given to the permittee at the address contained in the application.

4. Prior to revocation of a blasting permit, the Town Board shall give the permittee no less than 72 hours notice of a meeting where action to revoke is on the agenda. The permittee shall be given a reasonable opportunity to be heard prior to final action by the Town Board. Permittee's failure to appear at such meeting shall be deemed a waiver of the opportunity to be heard prior to final action of the Town Board. Written or verbal notice of the revocation shall be promptly given to the permittee at the address contained in the application.

#### **19. Penalties**

In addition to the denial, suspension or revocation of a permit issued under this ordinance, any person who violates any provision of this ordinance shall be subject to forfeiture in an amount not less than \$100 nor more than \$2,500 for each day of continued violation, plus costs of prosecution.

#### **20. Severability and Interpretation**

1. Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, including all applicable appeals, the remainder of this ordinance shall remain in full force and effect.
2. The provisions of this ordinance shall be liberally construed in favor of the Town of New Haven and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town of New Haven.

#### **21. No Liability for Damages**

This ordinance shall not be construed as an assumption of liability by the Town of New Haven for damages because of injuries sustained or property destroyed by any person's failure to comply with the requirements set forth herein.

#### **22. Effective Date**

Following passage by the Town Board, this ordinance shall take effect the day after the date of publication or posting as provided by law.

### **23. Blasting Agreement**

Any of the provisions of this ordinance, including the license term, may be modified by agreement between the Town and the blaster if the Town Board determines that the agreement provides protections for the public at least equal to those of this ordinance.

ADOPTED this 10th day of July, 2012.

### **TOWN OF NEW HAVEN**

/s/ Roger Hanson  
Roger Hanson, Town Board Chairperson

abstained  
Marv Prestrud, Supervisor

/s/ Donald Siniff  
Donald Siniff, Supervisor

Attested to this 10<sup>th</sup> day of July, 2012.

/s/ Diane Duerst  
Diane Duerst, Town Clerk