

Chapter 5.36 EXPLOSIVES & BLASTING AGENTS¹

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5.36.010 Application and relation to the City's adopted edition of the International Fire Code.

The provisions of the City's adopted edition of the International Fire Code, as found in O.P.M.C. 16.120.100, K.A.R. 22-4-1 through 22-4-3, and applicable federal regulations to include Title 27 of the Code of Federal Regulations, shall be complied with in all matters concerning the manufacture, storage, possession, transportation, sale and use of explosives or blasting agents within the City; provided, that the provisions of this Chapter shall, when not addressed by the City's adopted edition of the International Fire Code, be complied with. Copies of this ordinance shall be on file with the City Clerk and be open to inspection and available to the public during normal business hours.

(History: Ord. EBA-2461 §1, 2004; EBA-2248 §1, 2001; EBA-948,B §1, 89; EBA-948 §1, 77; EBA-410-A; EBA-410)

¹ For the statutory provisions defining as a crime, the selling or buying of explosives without a permit, and prohibiting certain sales outright, see K.S.A. 21-4207 – 21-4209; for the statutory provisions that require the State Fire Marshal to make rules and regulations for keeping, storing, use, manufacture, sale ... of highly inflammable materials ... including explosives, see K.S.A. 31-207. For the administrative provisions implementing that directive, see Kansas Admin. Regs. 22-1 to 22-8.

5.36.020 Short title.

This chapter shall be known as "An Ordinance Regulating the Manufacture, Storage, Possession, Transportation, Sale, and Use of Explosive Materials and Blasting Agents in the City of Overland Park, Kansas," and may be referred to as "The Explosive Materials and Blasting Agents Ordinance."

(History: Ord. EBA-948,B §2, 89; EBA-948 §2, 77; EBA-410 §2)

5.36.030 Authority having jurisdiction.

The City Engineer, or his agent, is designated to administer this ordinance as provided herein. In addition, the Fire and Police Departments shall have authority to enforce the regulatory provisions set forth herein; provided further, the City Engineer shall be notified immediately of any enforcement action taken.

(History: Ord. EBA-948,B §3, 89; EBA-948 §3, 77; EBA-410 §3)

5.36.040 Jurisdiction defined.

Repealed.

(History: Ord. EBA-948 §4, 77; EBA-410 §4)

5.36.050 Permit defined.

"Permit," whenever used in this chapter, means the written authority of the City Engineer, Fire Department or Police Department issued pursuant to this chapter, to manufacture, possess, store, sell, transport, or use an explosive or blasting agent.

(History: Ord. EBA-948,B §4, 89; EBA-410 §5, 67)

5.36.060 Application of chapter.

This chapter shall apply to all persons, firms, corporations, copartnerships, governmental agencies and associations storing, handling, or using explosives or blasting agents, and to the owner or lessee of any building, premises, or equipment in or on which explosives or blasting agents, and to the owner or lessee of any building, premises, or equipment in or on which explosives or blasting agents are stored, handled, or used.

(History: Ord. EBA-948,B §5, 89; EBA-948 §5, 77; EBA-410 §6)

5.36.062 Application to private property.

The provisions of this chapter shall be applicable to private as well as public property.

(History: Ord. EBA-948,B §6, 89)

5.36.070 Retroactivity of permit.

Repealed.

(History: Ord. EBA-948 §6, 77; EBA-410 §7)

5.36.080 Operations requiring permits.

A permit issued pursuant to this chapter shall be obtained from the City Engineer for any of the operations listed below in order to achieve greater fire safety and protection of the public; provided, all permits shall be acknowledged and endorsed in writing by the City Fire Department and Police Department:

- A. To manufacture, possess, store, keep, sell or otherwise dispose of any explosives, special industrial explosive materials, or blasting agents;
- B. To maintain any facility for loading, unloading, reloading, or transshipment of explosives or blasting agents, or the temporary retention of explosives or blasting agents in connection therewith;
- C. To use any explosives or blasting agents;
- D. To keep on hand any quantity of explosives or blasting agents in industrial research laboratories and laboratories of technical institutes, colleges, universities, and similar institutions.

(History: Ord. EBA-948,B §7, 89; EBA-948 §7, 77; EBA-410 §8(1))

5.36.090 Insurance and scale drawings required prior to permit issuance.

Before a permit as required under Section 5.36.080 shall be issued, the applicant for such permit shall secure and maintain insurance coverage in accordance with the provisions of the Design and Construction Standards Manual as defined and incorporated by reference in Chapter 13.10. Before a permit shall be issued, the applicant shall furnish to the City Engineer a scaled drawing accurately showing the surrounding land, indicating improvements thereupon, and all dimensions and distances relative thereto. The scale drawing shall show distances to all houses, buildings, or other facilities within 500 feet of the blasting or demolition work. The drawing accompanying an application for a permit to store explosives or blasting agents must show distances to buildings and other features in accordance with the American Table of Distances for Storage of Explosives. All permit applications which are not accompanied by the scale drawing shall be refused and will not be considered until such scale drawing accompanies the application for permit. In addition, the City Engineer shall have authority to establish additional written standards for the submission of scaled drawings or other portions of the application process.

(History: Ord. EBA-2850 §1, 2010; EBA-948,B §8, 89; EBA-948,A §1, 84; EBA-948 §8, 77; EBA-410 §8(2))

5.36.100 Reissuance of permits.

All permits issued in accordance with the provisions of this chapter shall, when reissued, be subject to any amendments hereafter made to this chapter.

(History: Ord. EBA-410 §8(3), 67)

5.36.110 Permits not issued for places of public assembly or artificially lighted places.

Repealed.

(History: Ord. EBA-2248 §2, 2001; EBA-948 §9, 77; EBA-410 §8(4))

5.36.120 Permits not issued for technical institute or college unless used for research or laboratory.

Permits as required in 5.36.080 shall not be issued for any building or structure that is occupied as technical institute, college, university, or similar institution, except that permits may be issued for school buildings used for research or for laboratories.

(History: Ord. EBA-410 §8(5), 67)

5.36.130 Permits nontransferable.

Permits shall not be transferable.

(History: Ord. EBA-410 §8(6), 67)

5.36.140 Validity period of permit - revocation.

Each permit granted by the City Engineer shall be valid for such period as may be specified but not to exceed one year, and shall be a revocable license, and shall expire when revoked.

(History: Ord. EBA-410 §8(7), 67)

5.36.150 Separate permits required for each operation.

Separate and distinct permits shall be required for each operation listed under 5.36.080.

(History: Ord. EBA-410 §8(8), 67)

5.36.160 Inspection and approval.

Application for a permit to construct or erect facilities for the storage, handling or use of explosives or blasting agents as required in this chapter shall be made in writing to the City Engineer. The City Engineer shall insure the applicant has a valid user's permit issued by the State Fire Marshal and then cause to be made an inspection of the premises and equipment proposed to be used. If they are found to be in compliance with this chapter, a statement to that effect shall be noted on the application and the application signed by the person making the inspection. The City Engineer shall thereupon issue a permit as applied for.

The City Engineer, or his agent, may inspect premises, buildings, installations, or equipment in conformance with applicable law for the storage, handling, or use of explosives or blasting agents. If a violation of this chapter is found to exist, he shall file with the owner, occupant, or operator a notice citing the violation and ordering its correction within a specified time period. If such order is not complied with, the City Engineer shall suspend the permit issued for such facility.

(History: Ord. EBA-948B §9, 89; EBA-948 §11, 77; EBA-410 §9, 67)

5.36.165 Blasting operations.

All blasting operations shall be carried out only by skilled and experienced personnel who are currently licensed by the state of Kansas to conduct blasting operations. When blasting is to take place within 500 feet of a house, building, or other facility, the application for the permit must be accompanied by a statement of procedure for the blasting operation approved by the applicant's insurance carrier. This statement of procedure shall include specific information on the blasting operation, such as charge weights, delays, depths, patterns, protective mats or coverings required, seismographic monitoring, pre-blast surveys, and notification of nearby property or utility owners.

Regardless of the distance to nearby facilities the blasting operations shall be carried out in such manner that they will not cause fly rock or damage from air blast overpressure or ground vibration. Seismic recordings may be required by the City Engineer. The maximum peak particle velocity at any such recording site must not exceed one inch per second in any one of three mutually perpendicular directions.

A daily blasting log, and storage log if applicable, must be kept for all blasting operations and made available for inspection by the City Engineer.

(History: Ord. EBA-948,B §10, 89; EBA-948 §11, 77)

5.36.170 Modification.

Repealed.

(History: Ord. EBA-948,B §13, 89; EBA-410 §10, 67)

5.36.180 Appeals.

As owner, lessee, agent, operator, or occupant aggrieved by any order or permit issued pursuant to this ordinance may file an appeal to the Code Board of Appeals, constituted by 16.04.120 of the Overland Park Municipal Code, and such appeal shall be heard by the Code Board of Appeals upon notice of the chairman and within 10 days of such appeal. Such appeal shall not stay the execution of such order until it has been heard and reviewed, vacated or confirmed. The Code Board of Appeals shall at such hearing affirm, modify, revoke, or vacate such order. Unless revoked or vacated, such order shall then be complied with.

Nothing contained in this section shall be deemed to deny the right of any person, firm, corporation, copartnership, or voluntary association to appeal from an order or decision of the Code Board of Appeals to a court of competent jurisdiction. Such appeal shall not stay the execution of such order until it has been heard and reviewed, vacated or confirmed.

(History: Ord. EBA-948,B §11, 89; EBA-948 §12, 77; EBA-410 §11, 67)

5.36.190 Failure to comply with chapter - Penalties.

Any person who fails to comply with the provisions of this chapter or with an order of the City Engineer issued pursuant thereto and from which no appeal has been taken, or with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction within the time fixed therein, shall be fined not less than \$100 nor more than \$1000. The imposition of one penalty for the violation of such order shall not excuse the violation or permit it to continue. Each day that a violation continues shall be considered a separate violation and shall be subject to additional fines and penalties.

(History: Ord. EBA-948,B §12, 89; EBA-410 §12, 67)

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