

## CHAPTER 21

### ROCK CRUSHING, BLASTING AND QUARRYING

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## CHAPTER 21

### ROCK CRUSHING, BLASTING AND QUARRYING

#### 21.01 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter:

- (a) Blasting. The term "blasting" shall denote a method of loosening, moving or shattering masses of solid matter by use of explosive compounds to prepare stone for crushing, building stone or other purposes.
- (b) Person. The word "person" shall mean any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.
- (c) Rock Crusher. A rock crusher shall mean any device, machine, apparatus or equipment used either individually or in conjunction with any other device, machine, apparatus or equipment for the purpose of crushing, grinding, breaking or pulverizing rock or stone to a size of 1/4 inch or larger. Not included are secondary operations which produce pulverized stone or products such as agricultural lime.
- (d) Rock Crushing. Operation of a rock crusher.
- (e) Asphalt Batch Plant. The term "asphalt batch plant" shall mean any operation or activity involving the production of asphalt in any quantity.
- (f) Concrete Batch Plant. The term "concrete batch plant" shall mean any operation or activity involving the production of concrete in any quantity.
- (g) Quarry. The term "quarry" shall mean activity or enterprise, the purpose of which is to remove rock material from the earth by blasting and/or excavating including topsoil and overburden removal.
- (h) Gravel Pit. The term "gravel pit" shall mean any activity or enterprise, the purpose of which is to remove naturally occurring deposits of sand and gravel from the earth by excavating including topsoil and overburden removal.
- (i) Construction. The term "construction" shall mean any activity involving the construction of buildings, structures or underground utilities both public and private.
- (j) Site. The term "site" shall mean any separately described parcel of land with an individual tax key number or a separately identified project in a public road right-of-way.
- (k) Company. The term "company" shall mean a sole proprietor, a partnership or a corporation doing business under the laws of the State of Wisconsin.

#### 21.02 OPERATION.

- (a) Scope. No person or company shall operate a quarry, a gravel pit, a rock crusher, an asphalt batch plant, a concrete batch plant, or perform any blasting at any site within the Village except in compliance with this Chapter, and all other applicable Village of Sussex, Waukesha County, State of Wisconsin, or federal ordinances, statutes, codes, regulations, and lawful orders.

(b) Waiver. Upon receipt of a written request, the Village of Sussex Plan Commission may waive compliance with Chapter 21 in the following limited circumstances:

1. A waiver may be granted only for blasting activities, and only if the blasting is being conducted solely for the purpose of constructing improvements for a subdivision or development within the Village of Sussex, and only if all necessary approvals have been granted for such subdivision or development; and

2. In order to grant the waiver, the Plan Commission must find that the Petitioner has demonstrated that there are sufficient protections in place, absent compliance with this Chapter 21, to protect the health, safety and welfare of persons and property, along with appropriate mechanisms to address complaints that may arise regarding the activities; and

3. The Petitioner, property owner, subdivider and developer shall jointly and severally have full responsibility regarding their performance of the blasting activity, including for the protection of health, safety and welfare of persons and property, and for all liability and damages that may arise related to the activity, even if such waiver is granted. By requesting the waiver, the Petitioner, property owner, subdivider and developer thereby agree, jointly and severally, to indemnify, hold harmless and defend the Village as to any such liability and/or damages that may arise from the Village's grant of the requested waiver.

### **21.03 MAP AND DESCRIPTION.**

Each person or company operating a quarry or gravel pit shall file within sixty (60) days of the effective date of this ordinance a map which shows the physical extent of the quarry or gravel pit operation, as to area and depth, along with a written description of the current activities being conducted on the property and the locations where the current activities are taking place.

### **21.04 ANNUAL REPORT.**

An annual report shall be filed in writing with the Village Engineer on or before February 1<sup>st</sup> of each year for each quarry and gravel pit site that is located in whole or in part in the Village. Said annual report shall include, as a minimum, a summary of the quarry and gravel pit operations for the preceding calendar year, a listing of all materials removed from the quarry or gravel pit in the preceding calendar year, the maximum depth of the quarry or gravel pit floor reached in the preceding calendar year, a copy of any written complaints received during the preceding calendar year, and any other information as required by the Village Engineer.

### **21.05 PERMIT.**

It shall be unlawful for any person to operate a quarry, a gravel pit, a rock crusher, an asphalt batch plant, a concrete batch plant, or to perform blasting at any site within the Village unless a permit has first been issued by the Village as described herein.

(a) Application. All applications for permits hereunder shall be made in writing upon the written form provided by the Village and distributed by the Village Clerk, and shall be signed by the applicant and shall be filed with the Village Clerk. All permits shall be issued on an annual basis commencing on June 1<sup>st</sup> and ending on May 31<sup>st</sup> of the succeeding year. Applications for renewal of annual permits shall be filed with the Village Clerk no later than April 1<sup>st</sup>.

(b) Administrative Fee. The operator of each site shall pay an annual administrative permit fee for each site in the sum of \$500.00. Such administrative permit fee shall be paid

on or before February 1<sup>st</sup> of each year. This administrative permit fee shall represent pre-payment for anticipated expenses incurred by the Village for monitoring the operation, legal fees, engineering charges, inspection charges and other administrative expenses. This fee may be increased from time to time by a separate resolution of the Village Board in the event the expenses exceed the administrative fee established for the preceding year, and the increased amount shall be required for each year thereafter, unless further modified by separate resolution of the Village Board.

(c) Exception. This Section 21.05 shall not apply to any person or company operating a quarry, a gravel pit, a rock crusher, an asphalt batch plant, a concrete batch plant, or performing blasting at any site within the Village, if the person or company is operating under a current plan of operation on file in the office of the Village Clerk for the Village of Sussex, which has been approved by the Village of Sussex Village Board, provided the operation is being operated in full compliance with the approved plan of operation. The annual fee requirement contained within the approved plan of operation shall control for such operations.

## **21.06 BLASTING PROCEDURES AND CONTROLS.**

Blasting shall be subject to the requirements of this section, in addition to all other applicable Village of Sussex, Waukesha County, State of Wisconsin, and federal ordinances, statutes, codes, regulations and lawful orders.

(a) Verification. The operator of a quarry operation shall, upon the request of the Village Engineer, submit data to substantiate compliance with the formula set forth below at subsection 21.06(d). This verification shall be performed by a seismological engineering firm, explosive distributor, or blaster, or employee of any such firm, acceptable to the Village Engineer. Instrumentation shall be seismograph similar to VME Seismology Model "E" or an approved equivalent. All expense for these tests shall be paid by the quarry operator.

(b) Notification.

1. The quarry operator shall notify the Village Engineer at least two (2) hours before any blast whether for building stone or crushed stone and whether such blast occurs in the Village of Sussex or neighboring municipality in which a portion of the same quarry operation may be conducted.
2. A resident call list shall be established by the quarry operator for the purpose of notifying neighbors at home in the vicinity of the quarry site of imminent blasting activity. This call list shall be maintained and utilized by the quarry operator on a "request basis only" for all residents in the vicinity of the quarry site who as to be notified prior to any blast. The quarry operator's responsibility to provide such pre-blast notification shall be satisfied by a single telephone call whether or not the resident requesting notice is actually reached. A telephone directory of neighbors requesting notification shall be kept at the on-site quarry office and at the Village Hall. A pre-blast contact diary shall be maintained by the quarry operator on-site at the quarry office, including the date of blast, neighbors contacted or attempted to be contacted, and any pertinent remarks. The quarry operator shall promptly submit a copy of such diary entries to the Village upon written request.
3. The quarry operator shall give a warning signal of sufficient volume to be heard by all residents in the area adjacent to the quarry of any

blast which shall occur. Such notice shall be given at least fifteen (15) seconds before any blast occurs. The type and volume of such warning signal shall be approved by the Village Engineer before it is used.

(c) Blasting Log. A log in duplicate shall be kept of each blast. The original copy of this blasting log shall be filed with the Village Engineer within forty-eight (48) hours after the blast, and a copy shall be kept on file at the quarry's office.

(d) Limits on Blasting Resultants.

1. Ground Vibration. Ground vibration shall not exceed the State limitation on blasting resultants (State limitations).
2. Air blast. Air blast resulting from at least 85% of the quarry operator's blasts within any single calendar year shall not exceed 123dB; air blast resulting from the remaining 15% of the blasts within any single calendar year shall not exceed the State limitation (currently 133dB). All blasts shall comply with the State air blast limitation.
3. Flyrock. Flyrock traveling in the air or along the ground shall remain in the controlled blasting site area (the area surrounding the blasting site which is owned by the quarry operator or controlled by the quarry operator in such a way that the quarry operator can take reasonably adequate measures to exclude or assure the safety of persons and property). Additionally, such flyrock shall not be cast from the site of the blasting more than one-half of the distance to the nearest inhabited building.
4. Monitoring. The quarry operator shall monitor and record levels of ground vibration and air blast for each blast, measured at or near the dwelling, public building, place of employment, school, church, or community or institutional building located closest to the site of the blast which is not owned or controlled by the quarry operator.

(e) Limits on Depth and Number of Charges. Quarry operator agrees not to charge any drill hole closer than 6 feet to the surface, to lower the intensity of noise and shock. No drill hole shall be greater than 3.5 inches in diameter and no more than 60 holes are to be included in a blast. The maximum number of holes included in the blast may be decreased as ordered by the Village Engineer (but not below 40) if particle velocities and/or air blasts using 60 holes are considered to be too great by the Village Engineer.

(f) Resolution of Difficulties. In the event that any problems or difficulties are encountered that relate to vibration, air blasts, noise, dust, etc., then the quarry operator shall meet with the Village Engineer on request to attempt to revise blasting procedures in a mutually agreeable manner.

(g) Licensed Blaster. All blasting is to be done by a state-licensed blaster.

(h) Time for Blasting. No blasting shall take place on weekends. Blasts for crushed stone and building stone may be detonated only between the hours of 11:00 a.m. and 3:00 p.m. on weekdays.

(i) Method of Blasting.

1. All blasting shall be done so that the charges are detonated in sequence rather than simultaneously to lessen the effect of the shock and noise.
2. The blasting shall be so regulated as to absolutely safeguard all adjoining property owners from ever being subject to flying stone or rock.

**21.07 CONDITIONS OF OPERATION.**

(a) Hours of Operation. The hours of operation shall be from 6:00 a.m. to 8:00 p.m., Monday through Friday, and 6:00 a.m. to 4:00 p.m. on Saturday. There shall be no operations on Sunday or legal holidays. There shall be no rock crushing prior to 6:00 a.m. If business conditions require additional hours of operation, the operator shall make application to the Plan Commission for the Village of Sussex for additional hours, which application shall be granted unless clear and substantial reasons exist which justify denial of such application.

(b) Water Protection. Operators of sites regulated by this Chapter shall be liable to pay all costs to correct any problems caused by the operations to water and/or sewer mains, or to the presence or quality of water in the area of their operations. Operators shall also pay all reasonable costs and expenses incurred by the Village of Sussex, including, but not limited to, engineering, inspection, and attorney fees, incident to investigating and correcting the problems, to the extent it is attributable to the operator.

**21.08 PENALTY.**

Any person or company who shall violate any provision of this Chapter shall be subject to a penalty of not less than \$100.00 nor more than \$10,000. In the event that convictions for the violation of provisions of this Chapter establish a pattern of intentional, flagrant or continued violation of this Chapter, the Village Board, after hearing, shall have the power to revoke any permit issued hereunder. Each violation and each day a violation continues or occurs shall constitute a separate offense.

The penalties described in this section shall be in addition to all other penalties or remedies that the Village may have with regard to violation of the matters described herein. Violations of this Chapter 21 are declared to be a public nuisance.