

VILLAGE OF LARCHMONT
PROPOSED LOCAL LAW _____-2017

A local law to repeal and replace the explosives and blasting law of the Village of Larchmont

Be it enacted by the Board of Trustees of the Village of Larchmont as follows:

Section One. The provisions of chapter 107 of the Code of the Village of Larchmont, "Explosives and Blasting," are hereby repealed in their entirety and replaced with the following new provisions:

Chapter 107
Explosives and Blasting

§ 107-1. Purpose.

The purpose of this chapter is to establish minimum safeguards to life, health, and property through reasonable and effective restrictions relating to the possession and use of explosive materials.

§ 107-2. Statutory and controlling authority; construal of provisions.

A. This chapter is adopted pursuant to § 10 of the New York State Municipal Home Rule Law and Article 16 of the New York State Labor Law, as such laws are amended from time to time. To the extent that those state laws and the rules and regulations adopted pursuant thereto, as amended from time to time, set more restrictive minimum standards, such minimum standards shall supersede any inconsistent provisions contained in this chapter.

B. The issuance of any permit hereunder shall in no matter be construed as an approval of, waiver of, or compliance with any additional federal, state, or local requirements.

§ 107-3. Applicability; exceptions.

A. This chapter shall apply to every person engaged in the manufacture, ownership, possession, storage, use, handling, transportation, purchase, sale, or gift of explosives within the Village of Larchmont.

B. This chapter shall not apply to the following:

(1) The armed forces of the United States, the national guard, the state guard, and to duly constituted police and firefighting forces of the state and its civil and political subdivisions, provided that the same is acting in its official capacity and in the performance of its public duties.

(2) The transportation of explosives in interstate or intrastate commerce in compliance with federal law or regulations.

(3) The authorized use (public display) of pyrotechnics, commonly known as fireworks, including but not limited to, ground displays, aerial displays, aerial bombs, and other signaling devices such as flares.

C. For all purposes of this chapter, explosives in the possession of an employee within the scope of his or her duties shall be considered to be in the possession of the employer.

§ 107-4. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

BLAST ZONE

The area surrounding a blast site subject to the influence of flying debris generated by the detonation of an explosive.

BLASTER

A natural person selected and directed by an employer or the employer's authorized agent to be in charge of blast operations who is at least 21 years of age; who has training, knowledge and experience in the transportation, storage, handling, use, detonation, and destruction of explosives; who is adequate physical condition to perform the work of blasting; who is not addicted to the use of narcotics, intoxicants, or similar types of drugs; who is able to understand and give written and verbal orders in the English language; and to whom a license and/or certificate of competence has been issued as required by New York State law and regulations.

BLASTING

The fracture of any mass by detonation of explosive materials.

BLASTING OPERATIONS

Includes pre-blasting preparatory work on property on which blasting is to occur, and all times explosives are located on such property, including blasting and pre- and post-blasting activity.

BLASTING PERMIT

A permitted issued under this chapter.

BUILDING INSPECTOR

The person appointed to be the village's Building Inspector and his/her/designee.

EXPLOSIVE

Gunpowder, powders used for blasting, high explosives, blasting materials, detonating fuses, detonators, pyrotechnics, and other detonating agents, fireworks and dangerous fireworks as defined in the New York State Penal Law, smokeless powder, and any chemical compound or any mechanical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion, or detonation of any part thereof may cause and is intended to cause an explosion, but shall not include gasoline, kerosene, naphtha, turpentine, benzene, acetone, ethyl ether, benzol, or quantities of black powder not exceeding five pounds for use in firing of antique firearms or artifacts or replicas thereof. Fixed ammunition and primers for small arms, pyrotechnic devices that are designed for and being used for legitimate wildlife management or controls, safety fuses, and matches shall not be deemed to be explosives when, as provided by regulations, the individual units contain any of the above-mentioned articles or substances in such limited quantity, or of such nature and so packed, that is impossible to produce an explosion of such units to the injury of life, limb, or property.

MAGAZINE

Any building, structure, or other enclosure or container, other than an explosive manufacturing building, used to store explosives, including portable containers.

PERSON

Includes any natural person, partnership, association, corporation, or other business entity.

VILLAGE ENGINEER

The person appointed to be the Village Engineer or any consultant retained by the Village to perform engineering services for the Village, and his/her/their designees.

§ 107-5. License and permit required; qualifications; fee.

A. No person shall use or detonate explosives within the Village of Larchmont unless that person is licensed or has received a certificate of competence required by New York State law and regulations and unless a permit has been issued pursuant to this chapter.

B. Permit to use or detonate. An application for a permit to use or detonate explosives shall require at a minimum the following information:

(1) The name of the owner of the property upon which the detonation of explosives is intended to occur.

(2) The applicant’s full name and address. If the applicant is a business entity, the name of each officer shall be separately stated. If the applicant is an out-of-state business entity, the applicant must submit proof of filing with the State of New York Secretary of State to do business within New York. No permit may be issued unless the applicant is authorized to do business in New York.

(3) The name, address, and telephone number of the blaster(s), and evidence that such blaster(s) is/are duly licensed pursuant to the New York State Labor Law and corresponding rules and regulations.

(4) The precise location of the intended detonation of explosives, the size of charges intended to be detonated, the proposed schedule for detonation of explosives, the proposed method(s) of covering the material to be blasted before firing the blast, a description of the pre-blast warning / all-clear signals, and a description of dust control measures. Where more than one blast is anticipated, the applicant shall state how many separate blasts are expected and the approximate duration blasting activity will occur.

(5) The name of the applicant’s designated, on-site representative(s) who will be present at the location during all blasting and authorized to act on behalf of the applicant for all administrative purposes.

(6) Proof of insurance and bonds required as set forth in this chapter.

(7) An emergency contact list to be kept on-site during all blasting operations.

(8) List of properties and the owners and managing agents of such properties within the radius of the property designated in §§ 107-7 and -10 herein.

C. Based on the application, the Building Inspector shall estimate the cost of monitoring compliance with this chapter, including any consultant fees, and furnish such estimate, together with a basis for his calculation, to the applicant. Before any permit is issued, the estimated cost of inspection services shall be deposited with the Village, held in escrow, and applied to reimburse the Village for costs and expenses actually incurred in connection with administering compliance with this chapter. Where the estimated amount deposited is insufficient to cover the Village's costs, the property owner shall be responsible for any balance due. Where the estimated amount deposited with the Village exceeds the costs incurred, the balance shall be refunded.

D. The application for a permit to use explosives shall be signed by the applicant and all blasters, who shall acknowledge under the penalties of perjury that all information provided in the application or in support of the application is true and correct. Each blaster shall also sign an acknowledgment under the penalties of perjury that he/she has read the entire application, that in his/her opinion the blasting at the particular location can be conducted safely, without unreasonable risk, and that the person's state license is valid, that he/she is fully authorized to conduct the type of activity set forth in the application, and that he/she agrees to abide by all federal, state, and local safety standards.

E. During consideration of the permit application, the Building Inspector may require any additional information deemed necessary to protect the health, safety, and welfare of the community or to prevent property damage. The failure of an applicant to provide such information shall be grounds to deny an application.

F. The Building Inspector may add to any permit issued under this chapter additional terms and conditions deemed necessary to protect public health, safety, and welfare.

G. Each applicant shall pay a blasting permit application fee to the village, such fee to be fixed by the Village Board from time to time.

H. A blasting permit shall be effective for a specific project and specific period of time. The Building Inspector shall have sole discretion to set the term of any blasting permit unless otherwise approved or limited by a village board or commission.

I. Expiration, revocation, or cancellation of the state license or certificate of competency of the permit holder or any blaster identified in the permit application shall automatically void any permit issued under this chapter.

J. Blasting permits may not be transferred or assigned.

K. All blasting permit applications must be submitted no later than four (4) weeks in advance of any blasting.

§ 107-6. Insurance; statement of indemnification.

A. Before any blasting permit may be issued, the applicant shall submit adequate proof of insurance that the applicant maintains policies of insurance with types of coverage and policy limits specified herein written by companies authorized to issue insurance within the State of New York and that have an A.M. Best Company rating of (A-) or better. Policies shall be written so as to require that the policy will not be cancelled, materially changed, or permitted to expire or lapse for any reason except upon thirty (30) days prior written notice to the Village by certified mail, return receipt requested and the Village agrees to such change.

B. Additional insureds. All insurance policies required by this chapter, except workers' compensation, shall be endorsed to provide coverage to the Village of Larchmont, its officers, employees, agents, and volunteers, and any consultants consulting with the Village on the blasting operations and their officers, employees, and agents with respect to any claim arising from the blasting operations or as a result of the applicants' activities.

C. Insurance requirements. The applicant shall maintain the following types of insurance and minimum policy limits:

(1) New York State Workers' Compensation Insurance with statutory limits and Employers' Liability (coverage B) limits of \$2,000,000 per occurrence.

(2) New York State Disability Insurance with statutory limits..

(3) Commercial General Liability Insurance. The applicant shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from premises (including loss of use thereof), personal injury or death, or property damage in any way related to the blasting operations, including liability arising from handling or using explosives and conducting blasting activity. Such coverage shall be in an amount of not less than \$10,000,000 per occurrence and not less than \$20,000,000 aggregate. The policy shall include Explosion, Collapse, and Underground Hazards coverage (XCU), premises operations, products liability/completed operations, and independent contractor coverages. In addition, the policy shall include a Contractual Liability Endorsement covering the risks and indemnities the applicant has assumed by applying for the blasting permit and pursuant to this chapter. The Commercial General Liability insurance shall not contain any of the following exclusions: (a) subcontractor's exclusion; (b) construction defect exclusion; (c) leased worker exclusion; and (d) cross liability exclusion.

(4) Commercial Automobile Insurance including liability and required coverage for New York insuring against liability for bodily injury, death, or damage to property and other mandatory coverages, relating to the use, operation, loading, or unloading of any of the applicant's automobiles (including owned, hired, and non-owned vehicles). Coverage shall be in an amount of not less than \$10,000,000 each accident.

(5) Umbrella or Excess Liability Insurance. The applicant shall maintain an occurrence form umbrella liability policy or policies insuring against liability arising from premises (including loss of use thereof), operations, independent contractors, products-completed operations, liability under an insured contract (including the tort liability of another assumed in a business contract)

and personal injury or death occurring on or in any way related to the premises or occasioned by reason of the operations of the permit holder or arising from automobile liability as described above. In the event that umbrella coverage is unavailable, equivalent excess coverage may be submitted. The minimum required limits for the umbrella/excess coverage shall be sufficient to provide a total of not less than \$10,000,000 per occurrence/aggregate.

D. In the event that any of the blasting operations are to be performed by a subcontractor, the insurance requirements herein shall be incorporated into the subcontractor agreement. Subcontractor insurance requirements shall include the requirements for Workers' Compensation, Commercial General Liability, and, if applicable, Commercial Automobile. Excess or umbrella insurance is not required for subcontractors. The applicant shall require that certificates of insurance are provided to the Village documenting the insurance coverage for each and every subcontractor employed by them to perform blasting activities.

E. The applicant shall furnish a notarized statement agreeing to defend and indemnify the Village, its officers, employees, agents, and volunteers, and any consultants consulting with the Village on the blasting operations, and hold them harmless from any and all claims, actions, and proceedings brought by any person or entity for any injury to any persons or property resulting, directly or indirectly, from the applicant using, storing, handling, transporting, or manufacturing explosives or explosive material or conducting blasting activity, and stating that the applicant will defend and indemnify the same against any claim, action, and proceedings brought by any third parties as a result of operating under a blasting permit. No blasting permit shall be issued unless such statement is furnished.

F. The applicant shall be accompanied by a good and sufficient bond in the amount of \$5,000,000, approved by the Village Attorney, conditioned for holding the Village harmless from any and all injuries or damages arising or occurring directly or indirectly by reason of storage, transportation, manufacturing, handling, or use of explosives. Notwithstanding the foregoing, the amount of such bond may be reduced per approval of the Village Engineer and Village Attorney. The Village reserves the right to require the applicant to submit a restoration bond intended for the protection of Village-owned infrastructure located within the blast zone or within an area beyond the blast zone as determined by the Village Engineer. The amount of such bond shall be based upon a cost estimate prepared by the applicant and accepted by the Village Engineer for the restoration or reconstruction of identified infrastructure.

§ 107-7. Property inspections and monitoring by contractor; liability.

A. Before any blasting operations may begin and even if a blasting permit has been issued, the permit holder shall cause to be made an in-depth inspection of all homes, structures, and facilities within a minimum distance of three hundred (300) feet of the center line of the site (e.g., gravity sewers) to note and record the interior and exterior condition, including foundation walls, sidewalks, pools, and the like. The Village Engineer may increase such distance if reasonably required on case-by-case basis. The inspection shall be conducted by an independent firm experienced in this type of work, and such independent firm shall prepare a report of such conditions, and such report shall be submitted to the Building Inspector before any blasting may begin.

B. Should it be determined by the Building Inspector or Village Engineer that an inspection and report on the condition of any structure in any location beyond the area specified in § 107-7.A. but within the proximity of the blast site is required, the Building Inspector or Village Engineer shall advise the

permit holder of this requirement and the permit holder shall have such inspection conducted, and a report shall be submitted to the Building Inspector before any blasting may begin.

C. The permit holder shall provide continuous blast monitoring during blast operations. Blast monitoring shall be performed by a qualified independent firm at the permit holder's expense.

§ 107-8. Storage of explosives.

In addition to storage requirements set forth by federal, state, and local laws and regulations, the following provisions shall apply to the storage of explosives for blasting within the village:

A. Explosives for blasting shall be kept in a magazine that complies with all federal and state laws and regulations, is painted red, and is marked, "DANGER."

B. Explosives shall not be placed or stored in a magazine containing blasting caps, detonators, or electric fuses. These shall be kept in a separate magazine that is painted red and is marked, "DANGER."

C. Magazines shall be secured with tamper-proof locks. Non-portable magazines shall be completely fenced in, including the top, and warning signs shall be affixed to such fence.

D. Explosives shall be stored on-site only for the minimum duration necessary to allow for pre-blast preparation, detonation, and clean up. In no case shall explosives remain stored on-site for longer than forty eight (48) hours before or following the completion of blasting operations.

§ 107-9. Blasting operations.

A. Blasting operations may not commence at any location within the village unless a written permit has first been obtained from the Building Inspector authorizing blasting at the specific location and the Building Inspector has issued written permission to proceed following compliance with all pre-blast requirements set forth herein.

B. Blasting operations must comply with the terms of the permit and all applicable federal, state, and local laws and regulations.

C. At least five business days prior to the commencement of blasting operations, the permit holder shall request a pre-blast meeting with the Building Inspector and Village Engineer to review and finalize the proposed blasting plan, which must address the requirements set forth in this chapter. No blasting operations shall be conducted unless such pre-blast meeting has been held and the Building Inspector and Village Engineer have reviewed the proposed blasting plan and are satisfied that such plan is reasonable. The blasting plan shall include the anticipated route through the village for the delivery of any explosives. In the event of any proposed change in the satisfactory blasting plan, the permit holder shall request in writing a review of such proposed change, and blasting operations may not commence or continue unless and until such review occurs and the change is confirmed as reasonable.

D. The Building Inspector and Village Engineer shall be permitted access to observe all aspects of the blasting operations, including but not limited to observation of all pre-blast preparatory site work, the explosion/detonation, and access to the post-blast site.

E. Each blasting permit holder shall establish and delineate a blast zone prior to detonating a blast. The blast zone must be clearly marked and adequate precautions implemented to prevent unauthorized entry into the area.

F. Notwithstanding any other regulations, no blasting operations shall be performed in such manner or under such circumstances as to eject debris into the air so as to constitute a hazard or danger or do harm or damage to persons or property. Immediately after loading and tamping the hole or open cut, but before firing the blast, the material to be blasted shall, using good practices, be properly covered or screened by a buffer of sufficient mass to prevent, with a margin of safety, the ejection of any material capable of causing any injury or damage. After the material has thus been covered, the blast shall be fired without unnecessary delay.

G. No person shall use a quantity of explosives greater than necessary to break or move the target material or use an amount of explosives that poses a risk of injury to persons or damage to property.

H. Unless otherwise permitted by the Building Inspector or Village Engineer, all holes drilled or otherwise excavated for holding an explosive shall be at least six feet deep. If, however, the permit holder or blaster can demonstrate a need to use a hole less than six feet deep and that such cavity will not endanger public safety, the Building Inspector or Village Engineer may, in his/her discretion, authorize the use of blast holes less than six feet deep.

I. The permit holder and blaster shall plan each blast and take every precaution in loading, delaying, initiation, confinement, and stemming to control the throw of rock fragments and debris and limit ground vibrations and the effect of air concussions to the greatest extent possible. When blasting operations are to be conducted within 50 feet of a property line and the adjacent property owner is not a party to the blasting operations, the permit holder and blaster shall take all precautions practicable, using any combination of recognized methods, to control blasting effects to the greatest degree possible.

J. Ground blast and air standards. Peak particle velocity and overpressure produced by any blast at a distance measured by the distance from the blast to the closest structure or building not owned or used by the entity conducting the blast shall not exceed 0.75 inch per second for frequencies less than 40 hertz (Hz) or 2.0 inches per second for frequencies of 40 hertz (Hz) or more. In addition, air pressure emanating from such blast shall not exceed 131 decibels (dB) for high-pass filter of 0.1 hertz (Hz), or 128 decibels (dB) for a high-pass filter of 2 hertz (hZ), or 125 decibels (dB) for a high-pass filter of 6 hertz (Hz).

(1) Notwithstanding the foregoing, the Building Inspector or Village Engineer must reduce the maximum allowable ground blast and air standards specified in this section if determined necessary to provide damage protection

K. Blasting located within twenty-five (25) feet of pipelines or adjoining structures shall require the express written approval from the Building Inspector or Village Engineer.

L. All pipelines and structures exposed during excavation shall be adequately protected from damage before proceeding with blasting.

M. The permit holder's representative identified in the permit application shall be on-site during all blasting operations.

N. Dust control. The permit holder shall implement measures to limit the emission and migration of dust generated by the blasting operations, including the drilling of holes and immediately following detonation of explosives. All dust control measures, including but not limited to water hoses intended for wetting the blasting site, shall be staged and ready for deployment prior to detonation.

O. Traffic control. The permit holder shall implement measures for the maintenance and protection of traffic during blasting operations, especially detonation. The permit holder shall work with the Village's Police Department to close temporarily public roads, including sidewalks, both abutting the property on which the blasting is to occur and within the blast zone, and any other public property as designated by the Building Inspector or Village Engineer, immediately prior to, during, and following the completion of explosives detonation. Public roads, including sidewalks, and any public property so designated shall not be reopened until confirmation that they are safe for vehicular and pedestrian traffic and travel. The permit holder shall notify the Village's Police Department of such temporary closures no sooner than twenty-four (24) hours prior to the planned blasting detonation.

P. Personal protective equipment. All natural persons shall possess and wear appropriate personal protective equipment recommended or required by federal, state, or local law or regulation during all blasting operations.

Q. Day and time restrictions. Detonation of explosives shall be only be permitted to occur on days and during the times during which mechanical rock excavation is permitted to occur as specified within the Village's Zoning Law, specifically § 381-44 of Village Code.

R. The permit holder shall comply with all soil moving operations requirements set forth in § 381-42.A.(2)(c) even where a soil moving permit is not required, unless waived in whole or in part in writing by the Building Inspector or Village Engineer.

§ 107-10. Notices; warning of blast.

A. Written notice of intent to blast; posting of notice by certain property owners.

(1) No less than ten (10) days nor more than fourteen (14) days prior to blasting, the permit holder shall give written notice of the intent to blast to all property owners, managing agents, and occupants of all structures on property that has a lot line lying within 300 feet of any lot line of the property on which the blast is to occur and any additional lots as required by the Building Inspector or Village Engineer. Said notice shall be approved by the Building Inspector and shall state the blasting permit holder's name, the blasting permit number, the location of the blast, the date(s) and time(s) during which blasting is to occur, emergency telephone numbers for the police, fire, and ambulance service, and the type of blast warning to be used, such as a whistle, siren, or horn. Such notice shall be given by certified or certificated mail, and an affidavit, executed by the permit holder attesting to such mailing, along with the actual notice and list of addressees and addresses, shall be filed with the Building Department before blasting operations may commence.

(2) Upon receipt of the notice specified in § 107-10.A.(1) above, all property owners and managing agents shall immediately distribute a copy of such notice to tenants and, except for one-family dwellings, post such notice in conspicuous place(s) where it is reasonable to believe that persons entering or leaving the premises will see such notice.

B. Posting of intent to blast on the subject property. No less than ten (10) days prior to blasting, the permit holder shall post a sign on the property where blasting is to occur, in the form prescribed by the Building Department, stating the date(s) and time(s) during which such operations will occur. Such sign shall be placed in a location plainly visible from the most commonly travelled street upon which the property fronts, but in no case more than twenty (20) feet back from the front lot line. Such sign shall be appropriately revised as necessary. An affidavit attesting to such posting shall be filed with the Building Department before blasting operations may commence.

C. Blast warnings.

(1) The blasting contractor shall notify all occupants of all houses within three hundred (300) feet of the blast zone on the morning of each day when blasting is to be done and shall notify the occupants of all houses within one hundred fifty (150) feet of the blast zone immediately before each blast is fired.

(2) The blasting permit holder shall notify the village's Building Inspector, Village Engineer, Police Department, and Fire Department of an impending blast by at least two hours, but not more than twelve hours, prior to the time each blast is scheduled.

(3) At least three (3) minutes before firing a blast, the blaster shall give warning thereof by causing a competent person carrying a red flag to be stationed a reasonable distance and not less than one hundred fifty (150) feet from the blast zone at each avenue of approach, by sounding a recognized and loud whistle, siren, or horn and by calling out the words "a blast" several times repeated and loud enough to be heard at a distance of three hundred (300) feet from blast zone. In addition, the whistle, siren, or horn shall be sounded again thirty (30) seconds prior to blasting.

§ 107-11. Recordkeeping.

A. A record of each blast shall be kept on a form approved by the Building Inspector. All such records shall be retained by the permit holder and blaster as prescribed by state law and made available for inspection as a matter of public record.

(1) The permit holder shall record the following information for each blast and submit a true copy of such record to the Building Inspector at the end of each day:

- (a) The name and license number of the blaster.
- (b) The location of the blast.
- (c) The date and time of each blast.
- (d) The number of blasts.
- (e) The number, diameter, and depth of each hole and distance between holes.
- (f) The burden depth.

- (g) The stemming length.
 - (h) The make and type of explosive.
 - (i) The delay make, number, and period.
 - (j) The weather conditions, including temperature, wind direction, and speed.
- (2) The permit holder shall record the following seismograph information for each blast and submit a true copy of such record to the Building Inspector at the end of each day:
- (a) The seismograph serial number.
 - (b) The range/gain setting.
 - (c) The date of last shake table calibration and microphone calibration.
 - (d) The air channel low frequency limit.
 - (e) The exact seismograph location and location in relation to the blast.
 - (f) The peak over pressure readout.
 - (g) The peak particle velocity readout.
 - (h) The name of the operator.

§ 107-12. Consent to presence of village representatives.

Every applicant seeking a permit under this chapter, as well as the owner of the property upon which such applicant intends to detonate explosives, is deemed to consent to the presence of the Building Inspector and the Village Engineer on the blasting site for the purpose of inspecting or monitoring the handling, storage, and detonation of explosives.

§ 107-13. Accidents; repair of damage; potential for damage; liability.

A. In the event of personal injury or property damage caused by the use of explosives within the village, the permit holder shall immediately notify the Building Inspector that an accident has occurred, and no further blasting shall be conducted until the Building Inspector has had an opportunity to review the accident report and the permit. Any injury, accident, or misfire involving explosives shall be recorded, and a full written report shall be attached to the blast report filed with the Building Inspector, including the names of all participants and witnesses and remedial action taken. The Building Inspector may require such additional, specific information from the blaster as he/she deems necessary and appropriate to ensure public health and safety.

B. Every incident of personal injury or property damage caused by the use of explosives within the village shall be regarded as presumptive evidence of negligence on the part of the blaster concerned with the use of such explosives, and the blasting permit shall be revoked, unless it shall appear at a subsequent

hearing that the accident occurred despite the observance of all proper precautions in the handling of such explosive, and pending such hearing, such permit shall be suspended.

C. Any damage to existing pipes, facilities, or structures shall be repaired or rebuilt at the blasting contractor's sole expense, and failure to do so may result in calling of the bonds required herein.

D. Whenever, in the opinion of the Village Engineer, blasting may damage adjacent rock, pipes, facilities, or structures, blasting shall be discontinued and the material removed by another method approved by the Village Engineer and in compliance with Village Code.

§ 107-14. Permit revocation; appeals.

A. The Building Inspector may, on his/her own initiative or at the request of any other official, revoke or modify a permit issued pursuant to this chapter where it appears the permit holder has violated any federal, state, or local law or regulation, including but not limited to a false statement or representation on the application for a blasting permit or violation of any applicable safety standard or where the Building Inspector or Village Engineer determines that public safety has been compromised. The Building Inspector may modify or revoke a permit by notifying in writing the permit holder or his/her/its representative that the permit has been modified or revoked. Where a permit has been revoked, the Building Inspector shall send a written notice of revocation to the permit holder by first class mail without unnecessary delay, but not later than five business days after revocation, setting forth the reasons the permit was revoked. The notice of revocation shall include a statement informing the permit holder of the right to appeal such revocation by filing a notice of appeal with the Village Clerk within twenty (20) business days. Where a permit is modified, the Building Inspector shall give the permit holder written notice of the modifications. In the event of an incident of personal injury or property damage leading to revocation, the blasting permit shall not be reissued or renewed except upon delivery to the Building Inspector a new and additional bond that meets the requisite terms herein, and the Building Inspector may amend the blasting permit by adding whatever additional restrictions are deemed necessary to ensure public health and safety is maintained and another similar accident does not reoccur.

B. Appeals. A permit holder who has had his permit revoked or modified may appeal and seek relief from the modifications or reinstatement of the permit. An appeal pursuant to this section shall be heard by the Chief of Police, the Village Engineer, and the Fire Chief, or any of their designees, sitting as a board of appeals. The Building Inspector shall appear and state his/her findings and the reasons for revoking or modifying the permit. The permit holder and/or the blaster shall be offered the opportunity to appeal and present evidence why the permit should not be modified or revoked. The appeal board may sustain the Building Inspector's decision, may reinstate a permit, or may amend any modifications imposed by the Building Inspector. Where the appeals board reinstates a permit, the board may modify the permit by adding whatever terms and conditions it deems necessary to protect public health, safety, welfare, and property. The decision of the appeal panel shall be final.

§ 107-15. Penalties for offenses; enforcement.

A. In addition to any penalty prescribed by federal or state law or regulation, any person who violates or fails to comply with any provision of this chapter shall, following conviction, be guilty of a misdemeanor.

B. The first violation of this chapter shall be punishable by a fine not to exceed \$2,500 and imprisonment for not more than ten (10) days.

C. The second and subsequent offenses shall be punishable by a fine not to exceed \$5,000 and imprisonment for not more than twenty (20) days.

D. Any person who supplies false information to the village in support of a blasting permit shall, upon conviction, be guilty of a misdemeanor and subject to a fine not to exceed \$5,000 and imprisonment for not more than twenty (20) days.

E. Each violation shall be a separate and distinct offence and, in the case of continuing violation, each day a violation continues shall constitute a separate violation and shall be punishable as such.

Section Two. Severability.

If any section, subsection, clause, phrase, or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Three. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.