

ORDINANCE NO. EBA-3320

AN ORDINANCE REGULATING EXPLOSIVES AND BLASTING AGENTS WITHIN THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTION(S) 5.36.030, 5.36.050, 5.36.080, 5.36.090, 5.36.120, 5.36.140, 5.36.160, 5.36.165, and 5.36.190.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS, AS FOLLOWS:

Section 1. Overland Park Municipal Code Section 5.36.030 is hereby amended to read as follows:

5.36.030 Authority Having Jurisdiction.

The City Fire Marshal, or their 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 Fire Marshal shall be notified immediately of any enforcement action taken.

Section 2. Overland Park Municipal Code Section 5.36.050 is hereby amended to read as follows:

5.36.050 Permit Defined.

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

Section 3. Overland Park Municipal Code Section 5.36.080 is hereby amended to read as follows:

5.36.080 Operations Requiring Permits.

A permit issued pursuant to this chapter shall be obtained from the City Fire Marshal 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.

Section 4. Overland Park Municipal Code Section 5.36.090 is hereby amended to read as follows:

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 13.10. Before a permit shall be issued, the applicant shall furnish to the City Fire Marshal 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 Fire Marshal shall have authority to establish additional written standards for the submission of scaled drawings or other portions of the application process.

Section 5. Overland Park Municipal Code Section 5.36.120 is hereby amended to read as follows:

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 a technical institute, college, university, or similar institution, except that permits may be issued for school buildings used for research or for laboratories.

Section 6. Overland Park Municipal Code Section 5.36.140 is hereby amended to read as follows:

5.36.140 Validity Period of Permit - Revocation.

Each permit granted by the City Fire Marshal 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.

Section 7. Overland Park Municipal Code Section 5.36.160 is hereby amended to read as follows:

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 Fire Marshal. The City Fire Marshal 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 Fire Marshal shall thereupon issue a permit as applied for. The City Fire Marshal, or their 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, the City Fire Marshal, or their agent, 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 Fire Marshal shall suspend the permit issued for such facility.

Section 8. Overland Park Municipal Code Section 5.36.165 is hereby amended to read as follows:

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 Fire Marshal. 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 Fire Marshal.

Section 9. Overland Park Municipal Code Section 5.36.190 is hereby amended to read as follows:

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 Fire Marshal 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.

Section 10. Existing Overland Park Municipal Code Section(s) **5.36.030, 5.36.050, 5.36.080, 5.36.090, 5.36.120, 5.36.140, 5.36.160, 5.36.165, and 5.36.190** are hereby repealed.

Section 11. This ordinance shall take effect and be in force from and after its publication in an official City newspaper.

PASSED by the City Council this 15th day of March, 2021.

APPROVED by the Mayor this 15th day of March, 2021.

CITY OF OVERLAND PARK, KANSAS

(s) Carl Gerlach

Carl Gerlach

Mayor

(SEAL)

ATTEST:

(s) Elizabeth Kelley

Elizabeth Kelley

City Clerk

APPROVED AS TO FORM:

(s) Eric Blevins

Eric Blevins

Senior Assistant City Attorney