

**CHAPTER 5**

**LICENSES, PERMITS AND FEES**

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**5.001 – TITLE**

**FLAMMABLE LIQUIDS**

**A. ANY TERM USED HEREIN SHALL HAVE THE MEANING SET FORTH IN WISCONSIN ADMINISTRATIVE CODE ILHR SECTION 10 (OCT. 1994).**

**B. PERMIT FEES FOR INSTALLATION OR REMOVAL OF UNDERGROUND AND ABOVE GROUND STORAGE TANKS SHALL BE AS FOLLOWS:**

0 - 1000 gallons = \$45.00 per tank

1001 - 3000 gallons = \$60.00 per tank

3001 - 5000 gallons = \$75.00 per tank

5001 - up gallons = \$90.00 per tank

**C. PENALTY**

Failure to obtain a proper permit prior to installation of a flammable liquid tank can result in a forfeiture of not less than \$75.00 nor more than \$1,000.00 for each day of noncompliance.

**Rev 0707**

## **5.201 – TITLE**

### **CULVERTS**

#### **A. REGULATIONS**

1. Whenever it appears that a culvert must be installed, replaced, or repaired, the responsible party shall first apply to the Town Board for a permit.
2. The Town Board may place such restrictions on a permit as it deems necessary for the safety of its residents, for the prevention of water damage, and for the prevention of drainage problems.
3. In the event a culvert is repaired or replaced, the applicant shall be responsible for restoring the area to its previous condition.
4. In the event a culvert is newly installed, the applicant shall be responsible for restoring the area to the proper grade, for the condition of any ditch which may be affected, and for compliance with any other applicable law, ordinance, regulation or condition of the permit.
5. Only metal culverts shall be used in the Town.

#### **B. SIZE REQUIREMENTS**

Minimum culvert size must be 18” x 24’, with end walls.

#### **C. PENALTIES.**

If any culvert is installed, replaced, or repaired in violation of the provisions of this ordinance, the Town may restore the area to a condition which complies with this ordinance, and recover the cost from the responsible party.

The penalty for violation of any provision of this Ordinance shall be a forfeiture of not less than \$75.00, nor more than \$200.00 together with the actual costs of prosecution, including attorney fees. Each day of continuing violation shall constitute a separate offense.

## **5.301 – SEE BROWN COUNTY NON-METALLIC MINING ORDINANCE Rev08/01**

## **5.401 - TITLE**

### **EXPLOSIVES AND BLASTING ORDINANCE**

## **5.402 – PURPOSE OF CHAPTER**

The purpose of this Chapter is to regulate the use of explosive materials, and to establish uniform limits on permissible levels of blasting resultants to reasonably assure that blasting resultants do not cause injury, damage, or become a nuisance to persons or property.

## **5.403 - DEFINITIONS**

The following definitions shall apply in this Chapter. Terms not herein defined shall be understood to have their usual and ordinary dictionary meaning.

1. Airblast. An airborne shock wave resulting from the detonation of explosives.
2. Approved. Approval granted by the Town of Pittsfield.
3. Blaster. Any individual holding a valid blaster's license issued by the Wis. Dept. of Industry, Labor, and Human Relations.
4. Blasting Business. Any individual, corporation, company, association, firm, partnership, society, or joint stock company engaged in a blasting operation.
5. Blasting. Any method of loosening, moving or shattering masses of solid matter by use of an explosive.
6. Blasting Operation. Any operation, enterprise or activity involving the use of blasting.
7. Blasting Resultants. The physical manifestations of forces released by blasting, including, but not limited to, projectile matter, vibration and concussion, which might cause injury, damage or unreasonable annoyance to persons or property located outside the controlled blasting site area.
8. Community. A built-up inhabited area.

9. Permitted Explosives Use Area. The area that surrounds a blasting site and:
  - a. Is owned by the operator; or
  - b. With respect to which, because of property ownership, employment relationship or agreement with the property owner, the operator can take reasonable adequate measures to exclude or to assure the safety of persons and property.
  
10. Detonator. Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with a safety fuse, detonating cord delay connectors, and non-electric instantaneous and delay blasting caps.
  
11. Department. The Wisconsin Department of Industry, Labor and Human Relations.
  
12. Electric Blasting Cap. A blasting cap designed for, and capable of, initiation by means of an electric current.
  
13. Explosion. The substantially instantaneous release of both gas and heat.
  
14. Explosive. Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion unless the compound, mixture or device is otherwise classified by the Department rule.
  
15. Explosive Materials. Explosives, blasting agents and detonators. The term includes, but is not limited to, dynamite and other high explosives, slurries, emulsions, water gels, blasting agents, black powder, pellet powder, initiating explosives detonators, safety fuses, squibs, detonating cord, igniter cord and igniters.
  
16. Flyrock. Rock that is propelled through the air from a blast.
  
17. Ground Vibration. A shaking of the ground caused by the seismic wave emanating from a blast.
  
18. Highway. Any public street, public alley or public road.

19. Inhabited Building. A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosive materials.
20. Particle Velocity. Any measure of ground vibration describing the velocity at which a particle of ground vibrates when excited by a seismic wave.
21. Person. Any individual, corporation, company, association, firm, partnership, society or joint stock company.
22. Powder Factor. Any ratio between the amount of powder loaded and the amount of rock broken.
23. Primer. A capped fuse, electric detonator or any other detonating device inserted in or attached to a cartridge of detonator sensitive explosive.
24. Stemming. The inert material, such as drill cutting, used in the collar portion or elsewhere of a blast hole to confine the gaseous products of detonation.
25. Nuisance. An excessive, repeated noise, action or other disturbance that would cause an unreasonable annoyance.

#### **5.404 – REGULATION OF EXPLOSIVE MATERIALS AND BLASTING**

##### **A. GENERAL**

No person shall handle or use explosive materials in the Town of Pittsfield, unless he:

1. Possesses a valid State of Wisconsin blaster's license with the proper classification or is supervised by a holder of a valid State of Wisconsin blaster's license with the proper classification.
2. Possesses all necessary state permits and complies with all applicable local, state, and federal regulations, including, but not limited to, the requirements of this Chapter and Chapter ILHR 7, Explosive Materials, Wisconsin Administrative Code.

##### **B. PERMIT**

No person or blasting business shall handle, use or cause explosives to be detonated within the Town of Pittsfield without an explosives use permit issued by the Town of Pittsfield as hereafter set forth, to such person, his supervisor or employer.

1. Application. Applications for an explosives use permit shall be in writing upon forms provided by the Town Clerk. Applications shall be accompanied by a Three Hundred Dollar (\$300.00) permit fee. Permits shall be issued on an annual basis commencing January 1 and ending on December 31. All explosives use permits applied for after January 1 shall be prorated from the date of the issuance of the permit through the end of the year. Applications may be made by and permits issued to the blasting business, provided that the person doing the blasting or responsible for such blasting shall hold a valid Wisconsin blaster's license with proper classification. The applicant will identify the licensed blasters operating under the permit and the blasting locations within the Town of Pittsfield. In the discretion of the Board, the permit fee may be waived upon showing of acceptable hardship by the applicant. All applications for reissuance and renewal for an explosives use permit shall be filed by the permittee with the Town Clerk of the Town of Pittsfield within sixty (60) days before the expiration date of the previous permit along with the annual Three Hundred Dollars (\$300.00) permit fee.
2. Certificate 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 One Million (\$1,000,000.00) Dollars in the aggregate and Five Hundred Thousand (\$500,000.00) Dollars per occurrence and the Town shall be named as an additional insured on applicant's Policy of Liability Insurance.
3. Explosives Use Plan. Each application for an explosives use permit or a renewal thereof shall include a written description of the total area within which explosives are proposed to be used, blasting procedures to be employed, including types of explosives, initiating systems, and an aerial photograph or drawing acceptable to the Town Board with a scale of no less than one inch equals four hundred (400) feet and which accurately includes all areas and inhabited buildings within one thousand (1,000) feet of all property lines of the owner of the property.
4. Blasting Notification. Before any blasting operation may be conducted within the Town of Pittsfield, the blaster shall give notice thereof by the conspicuous display of a fluorescent flag and legible sign giving notice of the blasting operation. The flag and sign shall be displayed at least 24 hours prior to and during all blasting operations. In addition, verbal or written notice of the blasting operation shall be given to the Town Clerk of the Town of Pittsfield at least 24 hours prior to commencement of blasting operations, if required by the Town Board.

5. Hours of Operation. Blasting shall only be conducted between 8:00 a.m. and 4:00 p.m. on Monday through Friday provided, however, that in the event an emergency has delayed a blast beyond 4:00 p.m., loaded holes may be blasted within a reasonable time thereafter. Blasting shall not be conducted at other times or on Sundays, or legal holidays without written permission from the Town Board, which shall only be granted upon a showing of extreme need.
  
  6. Blasting Log. An accurate blasting log shall be prepared and maintained for each blast fired, and a true and complete copy of said log shall be supplied to the Town Clerk within three (3) working days of a request for a copy of said log by the Town Board. The Town may require that the permittee furnish to the Town an analysis of any particular blasting log to be prepared by the permittee. In the event the permittee cannot or will not prepare a reliable analysis, the Town may obtain such analysis from an independent expert. The permittee shall be liable for the reasonable cost of such analysis if it is determined after an opportunity to be heard that this ordinance was violated by the permittee. Each blasting log shall include, but not be restricted to, the following information:
    - a. Name and license number of blaster in charge of blast.
    - b. Blast location references to the supplied aerial photograph.
    - c. Date and time of blast.
    - d. Weather conditions at time of blast.
    - e. Diagram and cross-section of blast hole layout.
    - f. Number of blast holes.
    - g. Blast hole depth and diameter.
    - h. Spacing and burden of blast holes.
    - i. Maximum holes per delay.
    - j. Maximum pounds of explosives per delay.
    - k. Depth and type of stemming used.
    - l. Total pounds of explosives used, including primers and initiating cord.
    - m. Distance to nearest inhabited building not owned by permittee.
    - n. Type of initiation system used.
    - o. Seismographic and airblast information, which shall include:
      1. Type of instrument and last calibration date;
      2. Exact location of instrument and date, time and distance from the blast;
      3. Name and company affiliation of person taking reading;
      4. Name of the person and firm analyzing the seismographic and airblast data when required; and
      5. Vibrations and airblast levels recorded;
      6. Copy of the seismograph printout.
- C. No permittee shall be required to obtain more than one (1) permit annually for its operations within the Town of Pittsfield.

## **5.405 – TEMPORARY PERMITS**

The Town Clerk, upon receipt of a properly completed temporary permit application form, may issue a temporary permit to allow for special construction or demolition activities requiring the use of explosives. Temporary permits shall be issued for a duration of fourteen (14) consecutive working days. The temporary permit fee shall be One Hundred Dollars (\$100.00) and shall be submitted with the completed temporary permit application form. Only one (1) temporary permit can be issued for any given site within the year of permit issuance. Except as provided herein, all of the requirements of this ordinance apply to temporary permits.

## **5.406 – REGULATION OF BLASTING RESULTANTS**

### **A. PURPOSE OF SECTIONS**

It is the purpose of this Section to provide for the establishment of uniform limits on permissible levels of blasting resultants to reasonably assure that blasting within the Town of Pittsfield does not cause injury, damage or a nuisance to persons or property outside and beyond the permitted explosives use area.

### **B. INSTRUMENTATION**

All blast-monitoring instruments used to produce data to support compliance with this Subsection shall meet the following minimum specifications:

1. Seismic frequency range. 2 to 200 Hz (3 Hz).
2. Acoustic frequency range. 2 to 200 Hz (1dB).
3. Velocity range. 0.02 to 4.0 inches per second.
4. Sound range. 100 to 140dB linear.
5. Transducers. Three (3) mutually perpendicular axes.
6. Recording. Provide time-history of wave form.
7. Printout. Direct printout showing time, date, peak air pressure, peak particle velocity and frequency in three (3) measured air blast and particle velocity in the three (3) directions.
8. Calibration. At least once every twelve (12) months according to manufacturer's recommendations.

### **C. CONTROL OF ADVERSE EFFECTS**

1. General Requirements. Blasting shall be conducted so as to prevent injury or a nuisance to persons and damage to public or private property outside the permitted explosives use area.

2. Airblast.

a. Limits. Airblast shall not exceed the following limits:

<u>Lower Frequency Limit of Measuring System in Hz</u>	<u>Maximum level in db</u>
2 Hz or lower – Flat Response	133 peak
6 Hz or lower – Flat Response	129 peak

at the location of the dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permitted explosives use area.

**D. GROUND VIBRATION**

1. The maximum ground vibration at the location of any dwelling, public building, place of employment, school, church, or community or institutional building outside the controlled blasting site area shall be established in accordance with either the maximum peak-particle-velocity limit, the scaled-distance of par. (g), the blasting-level chart of par. (h).
2. All structures in the vicinity of the blasting area, not listed in sub. 1, such as watertowers, pipelines and other utilities, tunnels, dams, impoundments and underground mines shall be protected from damage by establishment by the operator of maximum allowable limit on the ground vibration. The operator shall establish the limit after consulting with the owner of the structure. Maximum peak particle velocity.
3. An operator may use the maximum ground vibration limits listed in Table 7.64-2.

Table 7.64-2  
Peak Particle Velocity Limits.

Type of Structure	Maximum in allowable peak particle Velocity for ground vibration, in/sec	
	At frequencies below 40 Hz*	At frequencies 40 Hz And greater
Modern homes and Structures with drywall Interiors	0.75	2.0
Older homes and structures With plaster on wood lath Construction for interior walls.	0.50	2.0

\*All spectral peaks within 6 dB (50pct) amplitude of the predominant frequency must be analyzed.

- E.** Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in 3 mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the 3 measurements.
- F.** A seismographic record shall be provided for each blast.
- G.** Scaled-distance equation.
  1. An operator may use the scaled-distance equation,  $W = (D/D_s)^2$ , to determine the allowable charge-weight of explosives to be detonated in any 8-millisecond period, without seismic monitoring; where  $W$  = the maximum weight per delay of explosives, in pounds;  $D$  = the distance, in feet, from the blasting site to the nearest structure listed in par. A, 1; and  $D_s$  = the scaled-distance factor listed in Table 7.64-3.
  2. The development of a modified scaled-distance factor may be authorized by the Town on receipt of a written request by the operator, supported by seismographic records of blasting at the site. The modified scaled-distance factor shall be determined such that the particle velocity of the predicted ground vibration will not exceed the prescribed maximum allowable peak particle velocity of par. (B) at 95-percent confidence level.

Table 7.64-3  
Scaled-Distance Factor Limits

Distance (d) from the blasting	Scaled-distance factor (Ds) to be Applied without seismic monitoring
0-300 . . . . .	50
301 to 5,000 . . . . .	55
5,001 and beyond . . . . .	65

**H. BLASTING LEVEL CHART**

1. An operator may use the ground vibration limits found in Figure 7.64 to determine the maximum allowable ground vibration. (See page 5-12 )
2. If the Figure 7.64 limits are used, a seismographic record including both particle-velocity and vibration frequency levels shall be provided for each blast. The method of analysis shall be subject to reasonable discretionary review by the Town.

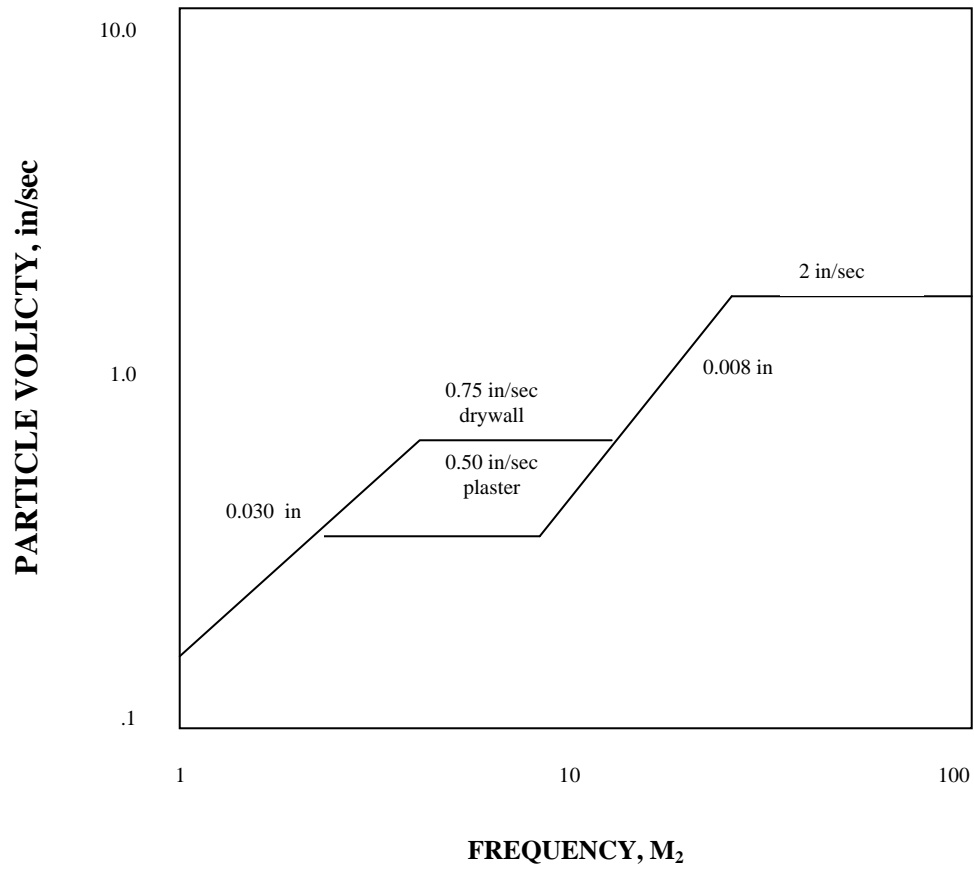
**5.407 - MONITORING**

**A. MONITORING**

1. The permittee shall monitor all blasts at the closest location to the blast of any dwelling, public building, place of employment, school, church or community or institutional building outside and beyond the permittee explosives use area, provided, however, that the permittee, may monitor at another location, approximately the same distance from the blast site, if the permittee is unable to obtain permission to conduct the monitoring from the owner of the preferred location. The Town Board or its designee may, at its discretion, require the relocation of monitoring equipment to a more suitable site.
2. The measuring equipment used shall have an upper end flat frequency response of at least two hundred (200) Hz.
3. All measuring equipment during monitoring shall be spiked to the ground or sandbagged.

**B. FLYROCK**

Flyrock produced as a result of explosives use shall be totally contained within the permitted explosives use area.



**Figure 7.64**  
**BLASTING LEVEL CHART**

## **C. SEISMIC MONITORING**

The Town Board, in its discretion, may conduct independent seismic blast monitoring or air blast monitoring to spot-check data supplied by the permit holder. If the independent monitoring discloses after hearing that the ordinance was violated by the permittee, then in that event, the permittee shall pay the reasonable costs incurred by the Town for independent monitoring.

## **5.408 – PREBLAST SURVEY AND NOTIFICATION**

- A.** Each explosives use permit application and all reapplications shall include the names and addresses of all residents or owners of dwellings or other structures located within one thousand (1,000) feet of the boundaries of the blasting site, as described in the Explosives Use Plan.
- B.** At the time of permit application, the applicant shall have notified, in writing, all residents or owners of dwellings or other structures located within the previously defined area (1,000) feet, who may request a preblast survey and a water quality test for existing wells. This request shall be in writing. The applicant shall cause a preblast survey to be conducted as to such dwelling or structures, and water quality testing for existing wells, provided, however, that the applicant shall not be required to conduct a preblast survey or well water quality testing more than once every six (6) years as to any dwelling, structure, or well.
- C.** The owner of a dwelling or structure that is within one thousand (1,000) feet of the blasting site, which, subsequent to the conducting of a preblast survey has been substantially modified or improved by more than fifty percent (50%) of the property's fair market value may request a preblast survey. If it is found that a preblast survey for such improved or modified structure is appropriate, the applicant/permittee may conduct such surveys within a reasonable period of time, but in no case exceeding twice a year for all such requests by all owners.
- D.** The preblast survey and water quality testing shall be promptly conducted in a manner and form and by an independent survey company, a laboratory approved by the State of Wisconsin or organization selected by the applicant and acceptable to the owner or resident and the Town Board. The survey shall determine the condition of the dwelling or structure, and shall document any preblasting damage or other physical factors that could reasonably be expected to be affected by the use of explosives. The testing of wells shall determine the condition of the water as to be safe for human use. The Board may consider accepting a blasting survey or well water test that was prepared prior to the effective date of this ordinance if the blasting survey and well water test meets the requirements outlined herein.

- E.** The survey shall include a written report signed by the person who conducted the survey. Copies of the survey report shall be promptly provided to the Town of Pittsfield, the owner or resident, and the applicant/permittee. The owner, resident, or applicant/permittee shall promptly submit in writing to the Town of Pittsfield any objections to the survey report, setting forth in detail such objections.
- F.** The water quality test for existing wells shall include a written report signed by the person who conducted the test. Copies of the test shall be promptly provided to the Town of Pittsfield, the owner or resident, and the applicant/permittee. The owner, resident or applicant/permittee shall promptly submit in writing to the Town of Pittsfield objections to the test, setting forth in detail such objections.

## **5.409 – ENFORCEMENT AND PENALTY PROVISIONS**

### **A. ENFORCEMENT**

The following are criteria that the Town Board may consider for issuance, re-issuance, suspension or revocation of a blasting permit.

1. Compliance with the blasting standards established by the Town of Pittsfield as noted herein by this ordinance.
2. Development and submittal to the Town Board of the Town of Pittsfield of the explosives use plan.
3. Development and submittal to the Town Board of the Town of Pittsfield the blasting log, when requested, and compliance with the operation plan with the information called for by the blasting log.
4. Maintaining the insurance required by this ordinance.
5. Compliance with the operational hours for blasting as noted herein by this ordinance.
6. Compliance with airblast and ground vibration standards established by the Town of Pittsfield as noted herein by this ordinance.
7. Compliance with the pre-blasting notification requirements to residents and the Town Board as noted herein by this ordinance.
8. Attempts made by the permittee interest to comply with the provisions of this ordinance.
9. Consideration of atmospheric, unknown conditions including geophysical conditions, and other matters beyond the control of the permittee.

## **B. SUSPENSION/REVOCAION**

Unless expressly provided herein or by other Town of Pittsfield Ordinance provisions, the explosive use permit may be suspended or revoked for cause for substantial noncompliance with the ordinance after the proper Town of Pittsfield hearing noted below, unless in an emergency condition determined by the Town Board, wherein the license, registration or permit can be suspended temporarily for a set time period. Prior to any action for suspension or revocation, the Town Board of the Town of Pittsfield must, by the Town Clerk of the Town of Pittsfield, receive a verified complaint concerning the licensee, registrant or permittee. The following persons may file a verified complaint with the Town Board of the Town of Pittsfield:

1. The Town Chair
2. The Town Clerk
3. The Town Supervisors
4. The Town Zoning Administrator/Building Inspector
5. Any Town of Pittsfield Resident
6. A Landowner within one thousand (1,000) feet of the blasting site.

The Town Board will make a determination if the allegations of the complaint are of sufficient magnitude, importance, or otherwise of such a nature as to require a formal evidentiary hearing.

The person subject to charges for violation of any Town of Pittsfield Ordinance, or any violation of a condition of the explosives use permit, shall be provided a copy of the verified complaint and notice of hearing before the Town Board of the Town of Pittsfield. The hearing shall be required to be not less than ten (10) days nor more than thirty (30) days after receipt of notice, unless stipulated in writing by the Town Board of the Town of Pittsfield, and the person subject to charges.

The person subject to charges for violation of any Town of Pittsfield Ordinance, or any violation of a condition of the explosive use permit shall be entitled to the following.

1. Representation by legal counsel.
2. Right to present and cross-examine witnesses.
3. Right to subpoena witnesses by the Town Chair, issuing subpoenas to compel attendance of witnesses.

The Town Board may, after the hearing for any person previously issued an explosive use permit by the Town Board, act as follows:

1. Revoke the permit as a final decision.
2. Suspend the permit for a date certain as a final decision.
3. Request additional information as an interim decision prior to taking future action.
4. Take no action on the permit as a final decision.

The final decision of the Town Board of the Town of Pittsfield to revoke or suspend the blasting permit shall be subject to appeal to the Circuit Court, which appeal must be filed with the Circuit Court not later than 45 days from the mailing of the Town Board's decision to the permit holder.

### **C. PENALTY**

In addition to the denial, suspension or revocation of a permit issued under this chapter, any person who shall violate any provision of this chapter or who shall fail to obtain a permit as required hereunder shall upon conviction of such violation, be subject to a penalty of a civil forfeiture of not less than \$150.00 Dollars, nor more than \$1,000.00 Dollars, together with the costs of prosecution. Any default of such forfeiture determined by a Court of competent jurisdiction shall be subject to any penalties as provided by Section 66.115, 66.117, 66.119, and 66.12, Wis. Statutes, and as may be amended. **Rev 0707**

Each violation and each day a violation continues or occurs, shall constitute a separate offense. Nothing in this chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter.

### **5.410 - SEPARABILITY**

If any section, subsection, sentence, clause or phrase of the chapter is for any reason held to be invalid or unconstitutional by reason of any decision of any court or competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. The Board hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, phrase, or portion thereof respective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

## 5.501 – CONTINUING BUSINESS LICENSE ORDINANCE

### A. REGULATIONS

1. As a condition of maintaining and keeping a license in this town, any licensee must continue in business. Issuance or retention of a license by a party not doing business is hereby declared to be against public policy and lacking in usefulness.
2. “Business continuation” is hereby defined to be: Business to be conducted at a place of business with the public for a period of 150 or more days in each calendar year.  
  
“Open” means conducting business publicly at least 6 hours per calendar day.
3. In the event any licensed party violates this ordinance the town board may take disciplinary action, including reprimand, license suspension for a specified number of days (up to 90 days), or revocation. Any license that has been revoked shall not be reinstated within the following 12 months. Any disciplinary action taken shall follow notice to the licensee prior to a hearing. The hearing notice, which will include the reason for the hearing, and later the hearing decision of the board, will be sent by first class mail to the licensee’s last known address, or personally served at the town chairperson’s option.
4. In the event disciplinary action is taken against an alcohol licensee, the procedure mandated under present Wisconsin Statute 125.12, or its successor, will be followed. At present, said procedure requires personal service of the hearing notice (summons) and complaint, and a hearing within 3-10 days thereafter. In the event the licensee cannot be found, the summons may be published once in a newspaper of general circulation deemed most likely to provide notice to the license holder.
5. There shall be no refund of any license fee paid to a party whose license is revoked.
6. In lieu of a hearing, the town board may accept surrender of the license, and the board shall then determine the time period before another application for the same type of license will be accepted from the former licensee.

7. Evidence and testimony at the hearing shall be done in open session. Pursuant to 19.85(1)(a), the board may go into closed session to deliberate with regard to its decision, where that possibility has been listed on the hearing notice posted or published. The Clerk shall see that the hearing notice is posted or published, in format acceptable to the chairperson.
8. RENTER. When a tenant has not done business in the licensed premises for at least 30 consecutive days, voluntarily vacated the premises more than 30 days before the board decision, or was court ordered out of the premises with vacation to be at least 30 days before the board's decision, grounds for suspension or revocation exist. Testimony of any party, eviction notice, court documentation or other valid evidence of such actions may be presented. The board may issue a summons and set up the hearing date prior to the expiration of the 30 day period, and may make its decision effective on a later date, in its discretion.
9. SEVERABILITY. In the event any portion of this ordinance is or becomes invalid or illegal, the remaining portions shall remain in full force and effect.
10. EFFECT. This ordinance shall take effect following passage and posting in three public places by the Clerk.
11. COSTS. Unless no disciplinary action, including reprimand or probation, is ordered by the board, the license holder shall reimburse the town for costs of personal service mailing, fax costs, copies and any per diem paid for a town officer to attend the hearing or other meeting due to a license violation. Payment of the fees shall earn 5% interest if unpaid within 30 days. Payment shall be required before any future license is issued or reinstated to the license holder.
12. TEMPORARY. Temporary licenses for isolated events are exempt from this ordinance.

**5.601 - TITLE**

**ALCOHOLIC BEVERAGES**

**A. ADOPTION OF STATE LAWS**

The provisions of Ch. 125, WI Stats., enumerated below and as amended from time to time, exclusive of any provisions relating to any penalty to be imposed or the punishment for the violation of such statutes, unless otherwise indicated, are hereby adopted by reference and made a part of this chapter:

General Provisions

125.02	Definitions
125.04	General licensing requirements
125.07	Underage and intoxicated persons; presence on licensed Premises; possession; penalties
125.09	General restrictions
125.12(1), (2), and (3)	Revocations, suspensions, refusals to issue or renew
125.14	Enforcement provisions Fermented Malt Beverages
125.25	Class "A" licenses
125.26	Class "B" licenses
125.28	Wholesalers' licenses
125.31	Multiple licenses and permits
125.32	General restrictions and requirements Intoxicating Liquors
125.51	Retail licenses and permits
125.67	Evading provisions of law by giving away intoxicating Liquor; penalties
125.68	General restrictions and requirements

**B. BEER GARDEN LICENSE**

**a. LICENSE REQUIRED**

No class "B" licensee, under WI Stat. 125.26 hereof, shall permit the sale or consumption of intoxicating liquor or fermented malt beverages ("alcoholic beverages") outdoors on the property on which their licensed premises, under chapter 125.26, hereof, is located in the Town of Pittsfield, without first obtaining and maintaining a license under the provisions of this section.

b. LICENSING REQUIREMENTS

- i. Application: Every application for a license required by this section shall be made upon forms provided through the Town Clerk. The Town Clerk shall issue a license to the applicant upon the applicant's compliance with all provisions of the Town of Pittsfield ordinances, approval of the Town Board and upon payment of the proper fee.
- ii. Beer Garden Facilities:
  1. Annual License: The applicant for an annual license shall provide, under such permits as shall be required by the Zoning Administrator, an outdoor area that meets the following requirements:
    - a. The location of the beer garden must be entirely within the perimeter of the applicant's property on which the applicant's licensed premise is located.
    - b. The beer garden must be contiguous and connected to the applicant's licensed premises.
    - c. The beer garden must be enclosed with a fence not less than sixty (60) inches in height, whose individual strands or members are no more than four (4) inches apart and of sufficient construction so as to preclude passage through such fence and which fence shall contain only emergency exits. The only other exit or exits from the enclosed area shall be through the licensed premises.
    - d. The location of the fence on the property shall be subject to all applicable Town of Pittsfield fence setback requirements.
  2. Single Event License: The applicant for a single event license shall provide an outdoor area that meets the following requirements:
    - a. The location of the beer garden must be entirely within the perimeter of the applicant's property on which the applicant's licensed premises is located.
    - b. The beer garden must be enclosed with a temporary fence of not less than forty-eight (48) inches in height whose individual strands or members are no more than four (4) inches apart so as to preclude passage through such fence except at specifically designated gates or openings.
    - c. The location of the fence on the property shall be subject to all applicable Town fence setback requirements.

iii. Approval of Application:

1. In determining the suitability of an application for a license hereunder consideration shall be given to the business conduct and financial responsibility of the applicant, the appropriateness of the location or premises proposed and, generally, the applicant's fitness for the trust to be reposed.
2. No license shall be issued hereunder unless the applicant's licensed premises conform to sanitary, safety, and health regulation under the State building code.

iv. Conditions of the License

1. Single Event Time Limit. A Single Event license shall be valid for a time period no greater than seven (7) days.
2. Disorderly Conduct Prohibited. Each licensee hereunder shall, at all times, conduct his affairs in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on any premise licensed hereunder.
3. Noise Control. The licensee hereunder shall be responsible for noise control emanating from the beer garden area and shall maintain such area in compliance with the Town Nuisance Ordinance, sec. 3.401 hereof.
4. Regulatory Conditions. The Town Board reserves the right to impose, as conditions precedent to the approval, issuance and granting of any license hereunder, any such other and further condition, requirement or obligation as it, in its sole discretion, deems just and reasonably necessary under the circumstances to preserve and protect the public welfare of the community.

v. License Fees

1. Annual and Single Event Licenses. The fee for the license hereunder shall be outlined in the Town Fee Schedule.
2. Exemptions. The license fee requirements of this section shall not be applicable to the single events sponsored by non-profit organizations to which fifty (50) percent or more of the proceeds from the single event are to go to the sponsoring non-profit organization.

**C. TEMPORARY RETAIL ALCOHOL LICENSE Rev 10/07**

- a. **PURPOSE.** This ordinance allows the town clerk to issue temporary Class "B" beer and temporary "Class B" wine licenses, also known as "picnic licenses", without prior town board approval.

- b. **ELIGIBILITY.** Each applicant must be a bona fide club, county or local fair association, agricultural society, church, lodge or society that has been in existence for at least 6 months before the date of application or a post of a veterans organization.
- i. Licenses may not be issued to individuals.
  - ii. Not more than 2 temporary “Class B” wine licenses may be issued to any applicant in any 12 month period. There is no limit on the number of Class “B” beer licenses that can be issued.
- c. **TERM.** The temporary retail license shall be effective for a single day or a series of consecutive days, as indicated on the license. Each event requires a separate license.
- d. **WAITING PERIOD**
- i. Applications for a temporary Class “B” beer license for an event lasting less than 4 days shall be submitted to the clerk 7 days prior to the granting of the license.
  - ii. Applications for a temporary Class “B” beer license for events lasting longer than 4 days shall be submitted at least 7 days prior to the granting of the license.
  - iii. All applications for a “Class B” wine license shall be filed with the clerk at least 7 days prior to the granting of the license.
- e. **ISSUANCE.** Upon receiving a completed application for a temporary retail license (AT-315) and the requisite license fee, the town clerk shall verify that the applicant meets the legal qualifications necessary to hold the license. Upon being satisfied that the applicant meets the qualifications for the license, the clerk shall issue the license following completion of the required waiting period.
- f. **FEES.** The fee shall be outlined in the Town’s Fee Schedule. The fee for a temporary retail license pursuant to s.125.51(10), Wis. Stat. shall not exceed \$10. If an organization is applying for both a temporary Class “B” beer license and a temporary “Class B” wine license for the same event, the maximum fee is still \$10. See s.125.51(10), Wis. Stat.

#### D. PROVISIONAL OPERATOR'S LICENSE

- a. **PURPOSE.** This ordinance allows for issuance of a provisional operator's license to those applying for a regular operator's license for the service or sale of alcoholic beverages. A provisional operator's license may only be issued to:
- i. Those persons that have not completed a responsible beverage service course. At the time of application, the applicant for a provisional operator's license must present proof that the applicant is enrolled in a training course under s.125.17(6), Wis. Stat.
  - ii. Those persons, who, at the time of application and payment for an operator's license, present a certified copy of a valid operator's license issued by another Wisconsin municipality.
  - iii. Those persons, who, at the time of application and payment for an operator's license, meet the requisite training requirement and wish to commence work as an operator before the board will be able to meet to decide their application.
- b. **ELIGIBILITY.** Each applicant must be at least 18 years of age, and have completed an application form supplied by the town clerk. All arrests and convictions of the applicant shall be disclosed on the application or an attached sheet.
- c. **TERM.** The provisional operator's license shall be effective for 60 days from the date of issue, or until a regular operator's license is issued, whichever is sooner.
- d. **ISSUANCE.** Upon written application for an operator's license, the clerk shall conduct a record check for past crimes or arrests. If the applicant has no past crimes or arrests, the clerk is authorized to issue a provisional operator's license to the applicant. The town board shall review the issuance of any such provisional operator's license at the next regularly scheduled town board meeting, reserving final approval authority. If the applicant does have an arrest or conviction record, the town board must determine whether the provisional operator's license will be issued.
- e. **FEES.** The fee for a provisional operator's license shall be set in the Town's Fee Schedule and as pursuant to s.125.17(5)©, Wis. Stat. shall not exceed \$15.

f. REVOCATION: The clerk may revoke a provisional operator's license if:

- i. He or she discovers that the holder of the license made a false statement on the application for the license;
- ii. He or she discovers that the operator license issued by the other Wisconsin municipality is not valid;
- iii. The town board denies the person's application for a regular operator's license.

Upon making the decision to revoke, the clerk shall mail or have a written notice delivered to the license holder, notifying the person of the action taken, the reason(s) for such action, and the right to have a license review hearing before the town board, upon the applicant's request. When a request for a hearing is made, the board shall follow the general procedures as set forth in s.125.12, Wis. Stat., although no complaint is required. The clerk shall notify the licensee of the board time scheduled for hearing the matter, by mail or hand delivery. Any mail notice in this ordinance is sufficient if mailed via first class mail to the last known address of the licensee, in an envelope containing the return address of the town clerk. No request for a license review hearing is valid when received past the final day the provisional operator's license would have been effective.