

Town of Nederland

45 W. 1st Street, PO Box 396, Nederland CO 80466
cynthiab@nederlandco.org, 303-258-3266 x22



RIGHT-OF-WAY/EXCAVATION/BLASTING PERMIT APPLICATION

Permits are required to conduct work within the Town's Right-of-Way and for relocation of more than fifty (50) cubic yards of earth. Earth shall include natural or man-made materials not limited to dirt, rocks, boulders, concrete, asphalt and sand. Public Works or Excavator must determine the size. Call Town Hall at 303-258-3266 to schedule an appointment with Public Works, if needed. Complete permit applications are to be submitted one week before the proposed excavation. Right-of-Work is not scheduled upon weekends, unless an emergency.

FEES: Excavation -- \$150, Right-of-Way Permit Fee -- \$100 Blasting Fee -- \$65

*Security Deposit \$1000 (for Right-of-Way work) *Security Deposit will be held to warranty work depending on road type: 6 months – dirt; 1 year – concrete or asphalt*

Excavation Permit Right-of-Way Permit Blasting Permit

(Please check each box that applies to the nature of work required)

Is this excavation part of new construction? Has a site plan review meeting been scheduled?

Date of Application: _____ Applicant same as property owner? Yes No

Applicant Name/Address/Phone: _____

Property Owner: _____

Property Owner Mailing Address: _____

Property Owner Phone: _____ Email: _____

Location of Work: _____

Contractor Name/Address/Phone: _____

Contractor License No. _____ Expires: _____

Purpose: Sewer _____ Water _____ Gas _____ Electric _____ Phone _____

Cable TV _____ Driveway _____ Sidewalk _____ Alley _____ Other _____

Street Address of property for the Excavation(s): _____

Excavator Name: _____

Excavator Mailing Address: _____

Excavator Phone # _____ Email: _____

Emergency Contact Person: _____ Phone: _____

Tentative Schedule: Excavation _____ Initial Backfill _____

Completion of Work/Removal of all materials, equipment and debris from site _____

It is the responsibility of the applicant/owner/excavator to notify neighbors of work that will affect their property by disruption of utility services and/or pertaining to road closures.

Provide a site plan showing in detail the following:

- Location and description (width, length, & depth in feet and total area in square feet) of the proposed excavation and construction to be performed in relation to the boundaries and other improvements on the property.
- Location of any street, public utility and any adjacent properties to be affected by the excavation. If the excavation affects a street, utility or an adjacent property, a copy of an agreement between the Town, or the utility company, or the property owner and the applicant which authorizes the applicant to undertake the excavation.
- Location of structures or natural site features, such as stream channels, trees, rock outcroppings or wetlands on the site of the excavation and within fifty (50) feet of the excavation site boundary.
- Elevations, dimensions, location, extent and the slope of all proposed grading, including building and driveway grades.
- Grading/Drainage Assurance plans for restoration of the excavation site to its natural condition which shall include, but not limited to, a re-vegetation plan to deter noxious weeds.
- Traffic Control plan should warrant for safety and flow of traffic.
- Such further information as may be required to efficiently administer and enforce the provisions of Article III, Section 11-41 through 11-54.

The Applicant hereby agrees to:

- Call for ground utility locates before commencement of work: Utility Notification Center of Colorado at 1-800-922-1987 or “Call before you dig” number 811.
- Provide Environmental and Geotechnical Investigation Reports prepared by a licensed geologist or engineer, if required, due to unstable geological conditions or slopes greater than six percent (6%).
- Provide proof of current Certificate of Liability Insurance: \$200,000 for personal injury and \$500,000 for property damage and/or be provided for under excavator insurance policy.
- Preserve and protect from injury any adjoining property by providing proper foundations and by taking other measures suitable for the purpose of preventing damage to any adjoining property at applicant’s own expense.
- Perform, or pay for, any corrective measures required by the Town upon discovery of any defect in the work or for the permittee failing to complete the work.
- Notify the Town after the completion of excavation to request a final inspection by the Town. Right of Way (ROW) work requires restoration to proper condition for which the security deposit will be held depending upon road type in order to warranty the work: 6 months for dirt roads; 1 year for concrete / asphalt.
- Take full responsibility for all work performed under their permit, regardless of whom performs the work and comply with all applicable Town, federal, state and local laws, rules and regulations.

Signature of Applicant

Date

Please note:

The Town shall deny any application for a permit for any of the conditions listed in NMC Section 11-44(c) attached. **Incomplete applications will be held until all information is provided.**

Penalties may be assessed for each day of R.O.W. occupancy beyond time estimated to complete work to ensure traffic is not obstructed beyond reasonable time.

An Excavation Permit shall expire one (1) month after the estimated date of completion as indicated by the applicant on the permit, or within one hundred eighty (180) days of issuance of the permit, whichever is earlier. The Town may, for good cause shown, grant an extension of up to ninety (90) days. An additional permit and fees shall be required in the event the permit has expired and the work is not substantially completed as determined by the Town.

Town Approvals BEFORE Excavation/Right-of-Way or Blasting Operations:

Public Works: _____ Date: _____

Comments: _____

Staff: _____ *Date permit issued:* _____

Town Notifications BEFORE Excavation/Right-of-Way or Blasting Operations:

Police Department Notification Date: _____

Fire Department Notification Date: _____

Public Works Water Dept. Notification Date: _____

Town Approvals AFTER excavation:

Work Order # to inspect: _____

Public Works Water Dept. Sign-off: _____ Date: _____

Comments:

Public Works Road Dept. Sign-off: _____ Date: _____

Comments:

ROW Deposit Refunded:

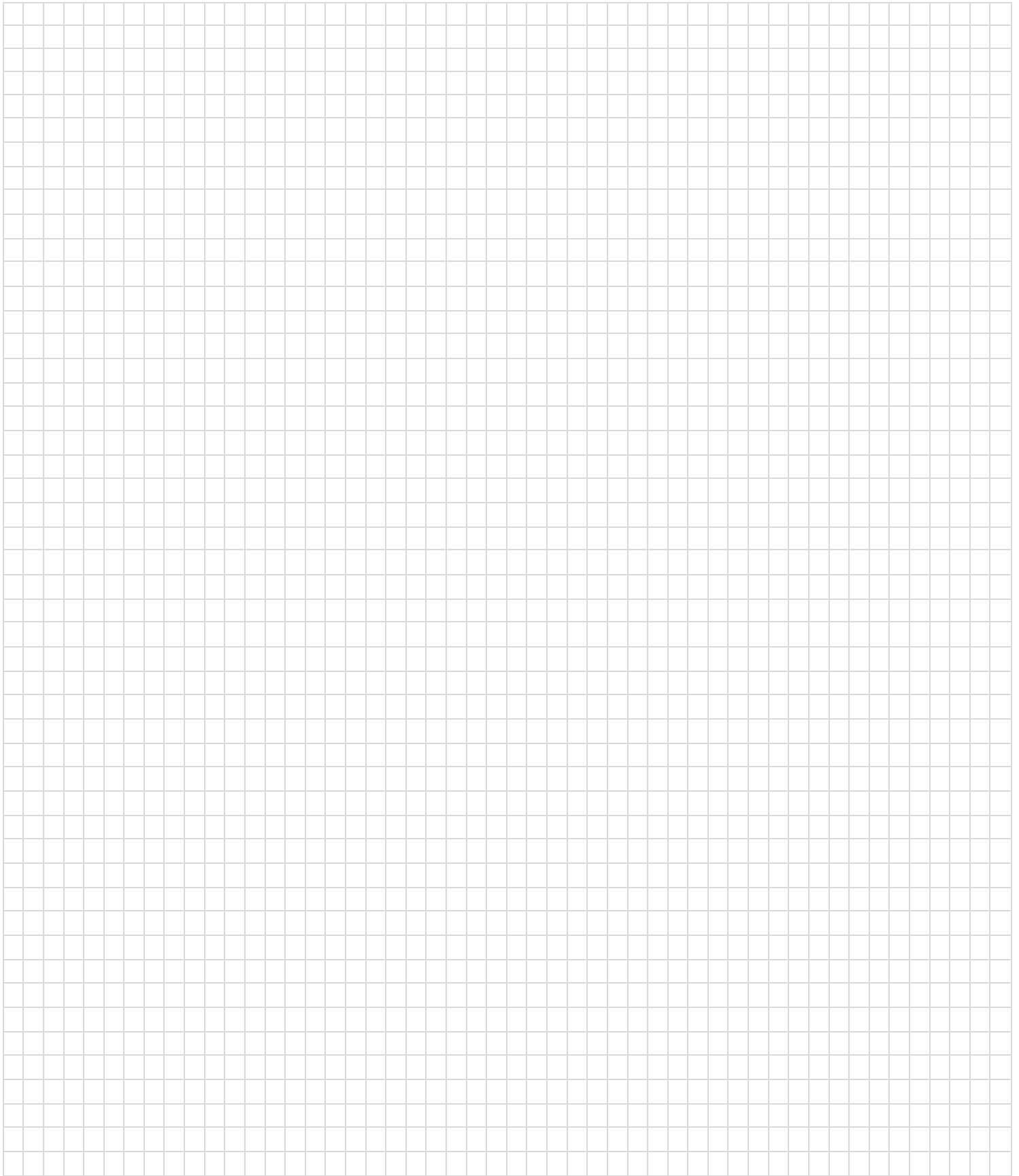
Yes

Amount Refunded: \$ _____ Date of Refund: _____

No If no, explain reason:

Scaled Drawing of Work

Include Traffic Control Plan, if Necessary



Nederland Municipal Code (NMC)
Chapter 11, Section 11-21, 11-23
ARTICLE II Street Construction

Sec. 11-21. New driveways.

Culverts are required under all new driveways with access to public streets, roads or right-of-ways. The property owner will bear all expenses for materials and labor to install said culverts on new driveways. The type of construction shall be approved by the Public Works Department, as part of the building permit application process. All materials shall meet the minimum standards as prescribed herein. (Ord. 201 §1, 1981)

Sec. 11-23. Culvert standards.

All culverts installed in the Town shall at minimum meet the following specifications:

- (1) Size: minimum eighteen (18) inches diameter; twenty-foot length or length sufficient to go under complete driveway with a minimum of six (6) inches showing at each end.
- (2) Type: CMP culvert, aluminum culvert or concrete drain pipe.
- (3) Grade: culverts being installed must have at least one-quarter (¼) inch of fall per ten (10) feet. (Ord. 201 §3, 1981)

Chapter 11, Section 11-41 through 11-54
ARTICLE III Excavations

Sec. 11-41. Excavation defined.

Excavation shall mean any operation in which earth is moved or removed by means of any tools, equipment or explosives and includes auguring, backfilling, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling. Earth shall include natural or man-made materials not limited to dirt, rocks, boulders, concrete, asphalt and sand. Excavation shall not include planting of trees or gardens that requires relocation of less than fifty (50) cubic yards of earth. (Ord. 465 §1, 1997)

Sec. 11-42. Excavation permit.

It shall be unlawful for any person, firm or corporation to commence excavation without first having obtained an excavation permit; provided, however, that in a residential zoning district of the Town (HDR, MDR, MR, LDR), no excavation permit shall be required for an excavation that (1) is on private property and does not affect directly or indirectly the right-of-way for adjoining property; (2) is of a quantity of earth of less than fifty (50) cubic yards; and (3) is not in the floodplain or wetlands. (Ord. 465 §1, 1997)

Sec. 11-43. Fees required.

At the time of filing an application for an excavation permit, a nonrefundable filing fee as set forth in the Town's fee schedule shall be paid to the Town. (Ord. 465 §1, 1997; Ord. 665 §2, 2008)

Sec. 11-44. Application for and issuance of permit.

(a) Application for an excavation permit shall be made to the Town on forms provided by the Town. Such application shall require the following information:

- (1) The name, address and telephone number of the landowner, developer and permittee.
- (2) A plan showing the location and description of the proposed excavation and construction to be performed in relation to the boundaries and other improvements on the property.
- (3) The approximate size of any excavation to be made and the purpose for such excavation.
- (4) The location of any street, public utility and any adjacent properties that will be affected by the excavation. If the excavation affects a street, utility or an adjacent property, a copy of an agreement between the Town, or the utility company, or the property owner and the applicant which authorizes the applicant to undertake the excavation.
- (5) Location of any structure or natural feature on the site, such as stream channels, trees, rock outcroppings or wetlands on the site of the excavation and within fifty (50) feet of the excavation site boundary.
- (6) Elevations, dimensions, location, extent and the slope of all proposed grading, including building and driveway grades.
- (7) The approximate time which will be required to complete all work, including backfilling any excavation and removal of all materials, equipment and debris from the site, and removal of all obstructions from the property.
- (8) A schedule of the duration of the proposed excavation.
- (9) The plan for, and estimated total cost of, backfilling, compaction and resurfacing of any excavation and removal of all materials, equipment and debris from the site, and removal of all obstructions from the property.

- (10) A copy of the site plan approved by a certified engineer.
- (11) Environmental and geotechnical investigation reports prepared by a licensed geologist or engineer, if requested by the Town due to unstable geological conditions or slopes greater than six percent (6%).
- (12) Erosion and revegetation plans for restoration of the excavation site to its natural condition which shall include, but not be limited to, a landscape plan consistent with the provisions set forth in the design standards.
- (13) Transportation plan should warrant for safety and flow of traffic.
- (14) Such further information as may be required by the Town to efficiently administer and enforce the provisions of this Article.
 - (b) The excavation permit shall consist of the site plan and any other information or conditions that may be attached thereto and made part of the permit by the Town. The conditions stated in both the site plan and the excavation permit shall be conditions of the excavation permit. The conditions of the excavation permit shall include all of the plans and information submitted with the application.
 - (c) The Town shall deny any application for a permit for any of the following reasons:
 - (1) The application is incomplete and the deficiencies therein are not remedied after reasonable notice to the applicant.
 - (2) The work, for which the application for the permit is to be issued, is improper or in violation of Town ordinances, rules or regulations.
 - (3) The applicant is in default, without good cause of the provisions or conditions of any previous permit or plan approved by the Town.
 - (4) The applicant has failed to obtain insurance or has failed to post the required letter of credit.
 - (5) The applicant has failed to pay the required permit fees.
 - (6) The applicant's contractor and/or engineer is operating without a current valid license or permit.
 - (7) The permittee has failed to obtain approval of a site plan.
 - (8) The environmental and geotechnical investigation reveals that environmental action levels on heavy metals are exceeded, or other environmental, geotechnical or inactive mine hazards are indicated; provided, however, that if the applicant takes action to remedy the hazards, and submits a report establishing that such hazards have been remedied to the satisfaction of the Town, a permit may be issued.
 - (9) There is not adequate assurance that the applicant has provided protection to adjacent properties or rights-of-way for the effects of the proposed excavation on the adjacent properties. Such protection may include assurance of subjacent support and indemnification for any damages resulting from the excavation to adjacent properties. (Ord. 465 §1, 1997)

Sec. 11-45. Term of permit.

The excavation permit shall expire one (1) month after the estimated date of completion as indicated by the applicant on the permit, or within one hundred eighty days (180) days of issuance of the permit, whichever is earlier. The Town may, for good cause shown, grant an extension of up to ninety (90) days. An additional permit and fees shall be required in the event the permit has expired and the work is not substantially completed as determined by the Town. (Ord. 465 §1, 1997)

Sec. 11-46. Security required.

(a) To ensure rehabilitation of the site and repair of any damages caused on- or off-site by the excavating, there shall be required, at the time the original permit is issued for any work within or affecting public property or the right-of-way, a letter of credit acceptable to the Town naming the Town as the protected party. Such security shall be at least ten percent (10%) of the total cost of the excavation or one thousand dollars (\$1,000.00), whichever is greater. Such security shall not be released until two (2) years after final inspection and approval has been completed by the appropriate officer.

(b) A contractor performing more than one (1) excavation project in the Town for which security is required by this Section may consolidate the security posted pursuant to this Article so that the total posted equals the highest amount required to be posted for all of the projects requiring security if all of the following conditions are met by the contractor:

- (1) The contractor has not had a permit revoked or security drawn upon by the Town in the past five (5) years;
- (2) The security posted is amended to provide that it may be drawn upon for any of the projects for which the contractor is then responsible; and
- (3) The contractor agrees that within five (5) days of the Town drawing on all or any part of the security posted pursuant to this Article, the contractor will post additional security equal to the amount due for each of the projects for which the contractor is then responsible. (Ord. 465 §1, 1997; Ord. 473 §1, 1998; Ord. 484 §1, 1998)

Sec. 11-47. Revocation of permit.

(a) The Town may revoke the permit granted by this Article if the applicant is found to have violated any of the provisions listed in Section 11-44(c) above, or in any of the following circumstances:

- (1) The permittee violates any of the provisions of the ordinances of the Town or any other applicable federal, state or local laws governing the activities permitted by the permit;
- (2) The permittee obtains a permit by fraud or misrepresentation;
- (3) Revocation is necessary to maintain the public health, safety and welfare; or
- (4) The permittee fails to maintain the required insurance, bond, letter of credit or other guarantees of performance during the course of the construction and of the warranty period specified by the Town.

(b) The Town shall advise the permittee in writing of the grounds for revocation of the permit, and the permittee may be allowed to appeal such revocation to the Board of Trustees. (Ord. 465 §1, 1997)

Sec. 11-48. Permittee responsibility.

- (a) The applicant for the permit provided herein shall be responsible for all work performed under the permit whether or not the applicant, the applicant's employees or subcontractor performs the work.
- (b) The Town shall be notified five (5) working days prior to the initiation of any excavation.
- (c) The Town shall be notified within forty-eight (48) hours after the completion of excavation.
- (d) Upon completion of excavation, the applicant will request final inspection.
- (e) The Town shall have, at any time, the right of access to the construction site to inspect all materials and workmanship and to inspect the installation to determine compliance with the permit, the general conditions of this Article, specifications adopted by the Town and all other ordinances or resolutions adopted by the Town. The Town shall have the right to stop work if items or situations are unacceptable or in the event access to the site for inspection is denied.
- (f) No person shall excavate an area larger or at a location different than that specified in the application or on the permit. However, if it becomes necessary to excavate a larger area than originally requested, the permittee shall notify the Town immediately and within twenty-four (24) hours shall file a supplementary application for the additional excavation.
- (g) The permittee shall comply with all applicable Town, federal, state and local laws, rules and regulations. (Ord. 465 §1, 1997)

Sec. 11-49. Corrective measures.

The Town, upon discovery of any defect in the work or for the permittee failing to complete the excavation including backfilling and removal of debris for which an excavation permit is issued may:

- (1) In the event of an emergency, order a private contractor to do everything necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the permittee to restore or maintain the site in accordance with the provisions and conditions of this permit.
- (2) In the event of a nonemergency, give notice to the permittee and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than twenty-one (21) calendar days, within which such defects are to be repaired. Such period of time may be extended by the Town upon application, for cause shown.
- (3) In the event of failure of the permittee to perform the required work within the period provided by such notice, a private contractor on order of the Town shall make such repairs as may be necessary.
- (4) The Town shall recover any and all costs of work performed by its personnel or by a private contractor, including the cost of labor, equipment, materials and administrative costs at the expense of the permittee by applying any deposit, bond, letter of credit or other security in its possession to payment thereof, and shall recover any remaining unpaid balance of such costs from the permittee. (Ord. 465 §1, 1997)

Sec. 11-50. Protection of adjoining property.

- (a) The permittee shall at all times, and at his or her own expense, preserve and protect from injury any adjoining property by providing proper foundations and by taking other measures suitable for the purpose of preventing damage to any adjoining property.
- (b) When for the protection of adjacent property it is necessary to enter upon such property for the purpose of taking appropriate protective measures, the permittee shall obtain written permission from the owner of such property to enter thereupon.
- (c) The permittee shall, at his or her own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of his or her excavation work, and the permittee shall be responsible for all damage to public or private property or highways resulting from his or her failure to properly protect and carry out the work.
- (d) Whenever it may be necessary for the permittee to trench through any lawn area, such area shall be reseeded or the sod shall be carefully cut, rolled and replaced after the excavation has been backfilled as required in this Article.
- (e) All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. (Ord. 465 §1, 1997)

Sec. 11-51. Certificate of insurance.

Every permittee, before commencing operations, shall be insured to the extent of two hundred thousand dollars (\$200,000.00) per person, five hundred thousand dollars (\$500,000.00) per occurrence, against liability arising from production, activities or operations incidental thereto conducted or carried under or by virtue of any law, resolution or condition imposed by this Chapter; and such insurance shall be kept in full force and effect during the period of such operation, including site rehabilitation. A certificate indicating protection by such insurance shall be filed with the application for the permit. Such insurance shall not be released until final inspection and approval has been completed by the Town. The insurance policy shall contain a clause that if the policy is changed or canceled, the Town is entitled to written notice ten (10) days prior to any change or cancellation. (Ord. 465 §1, 1997)

Sec. 11-52. Inspections.

- (a) The Town shall make such inspections as are necessary for the enforcement of this Article.
- (b) The Town shall have the authority to enforce such regulations as may be reasonably necessary to enforce and carry out the intent of this Article. (Ord. 465 §1, 1997)

Sec. 11-53. Burying of construction and organic materials.

Regardless of whether an excavation permit is required for work being done, no person shall bury or allow to be buried construction materials or organic materials resulting from the excavation or the clearing of land or similar activities within the Town limits. All such materials shall be removed from the site and properly disposed of by the person performing such work. (Ord. 532 §1, 2000)

Sec. 11-54. Violation and penalties.

- (a) Any person violating any provision of this Article shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed three hundred dollars (\$300.00). Each day during which a violation exists shall constitute, and shall be punishable as, a separate offense.
- (b) In addition, the Town is authorized to enforce this Article by injunction, including both the enjoining of contemplated actions or inactions in violation of this Article, including excavation or fill activities undertaken without or in violation of the terms of a permit; and mandatory injunction to require the removal of excavation or fill accomplished without or in violation of the terms of such a permit. In any such injunction action, the municipality shall be awarded its costs of suit, and any costs incurred in the removal of fill and/or restoration of areas where fill or excavation activities have been undertaken in violation of the provisions of this Article. In addition, the Town shall be entitled to recover its attorney fees incurred in bringing any action to compel compliance with the provisions of this Article or to compel compliance with any plan approved hereunder. (Ord. 465 §1, 1997)

*Fees may increase for Excavation depending on need for Site Review

** Penalties may be assessed for each day of R.O.W. is occupied beyond time estimated to complete work

**Nederland Municipal Code (NMC)
CHAPTER 6, Section(s) 6-131 – 6-142
ARTICLE VII Explosives**

Sec. 6-131. Generally.

The manufacture, storage and use of explosives within the Town is to be governed by this Article, which shall be known as the Blasting Ordinance of the Town. It shall be unlawful to manufacture, store or use explosives except in compliance with this Article. (Ord. 380 §1, 1994)

Sec. 6-132. Definitions.

As used in this Article, the following words shall be construed to have the meanings defined below:

Blasting operations means the use of explosives within the Town.

Blasting permit means a permit issued by the Town in accordance with the provisions of this Article to allow blasting operations within the Town.

Blasting plan means the plan for conduct of any blasting operations, and any amendments thereto, which has been approved by the Town as provided in this Article.

Explosives means any material or container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, but shall not mean the components for hand-loading rifle, pistol and shotgun ammunition or rifle, pistol and shotgun ammunition, or fireworks. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-133. Permit Required

A blasting permit issued by the Building Inspector shall be required for the use of any explosives within the Town. In

order to obtain a permit, the applicant must pay a nonrefundable permit fee, as set forth in Section 4-151 of this Code, upon application and must have met all of the requirements of this Article and any other applicable local, state or federal law, ordinance, rule and regulation. A blasting permit is personal to the individual to whom it is issued and may not be assigned. (Ord. 380 §1, 1994; Ord. 383 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-134. Qualifications for permit.

In order to obtain a blasting permit, the applicant must:

- (1) Have been issued a current explosives permit issued by the State Department of Employment and Training pursuant to Section 9-7-101, et seq., C.R.S.
- (2) Provide proof of workers' compensation insurance, and general liability and property damage insurance coverage in an amount of at least one million dollars (\$1,000,000.00).
- (3) Provide a corporate surety bond in the principal sum of one million dollars (\$1,000,000.00) or a public liability insurance policy for the same amount for the purpose of the payment of damages to persons or property which arise from, or are caused by, the blasting operations of a holder of a blasting permit.
- (4) Provide evidence that the permittee is qualified to safely use explosives, which may be shown by verification of attendance at an explosive safety class with the County Sheriff's Department. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-135. Blasting operations.

- (a) Blasting operations shall be conducted only between the hours of 8:00 a.m. and 5:00 p.m. Monday through Thursday, and 8:00 a.m. and 3:00 p.m. on Fridays unless the approved blasting plan provides for blasting at alternate times.
- (b) Explosives may only be handled by the permittee.
- (c) No person on the property for which a blasting permit is issued shall be under the influence of alcohol, intoxicants, narcotics or other DEA-controlled substances during blasting operations.
- (d) No person on the property for which a blasting permit is issued shall smoke tobacco or any other substance or have in his or her possession any matches, lighters or other spark-producing materials during blasting operations.
- (e) No open flames shall be allowed on the property for which a blasting permit is issued during blasting operations.
- (f) Only nonelectric initiation systems with a twenty-five (25) ms delay interval may be used. Electric detonators or blasting caps are allowed only for the initiation of the blast.
- (g) Prior to firing a blast, the permittee shall make certain that surplus explosive materials are in a safe place and that all persons and vehicles are at a safe distance or under sufficient cover.
- (h) The permittee shall remove all debris, blasting caps and other materials related to the blasting operations from the site prior to leaving the site each day of blasting operations. (Ord. 380 §1, 1994)

Sec. 6-136. Notification prior to blasting operations.

- (a) The Town Building Official, Town Marshal and Public Works Foreman shall be notified at least forty-eight (48) hours prior to any blasting operations. The Town Marshal shall again be notified thirty (30) minutes prior to any ignition of an explosive.
- (b) The permittee must comply with the requirements of Section 9-1.5-101, et seq., C.R.S., regarding location of underground facilities prior to any blasting operations.
- (c) The occupants of all property within two hundred (200) feet of the property for which a blasting permit is issued must be notified at least twenty-four (24) hours in advance, and again five (5) minutes in advance, of any blasting operations by placing a notice of such blasting operations on the doors of all buildings within such area. The permittee shall certify that such notice has been provided in writing to the Town. (Ord. 380 §1, 1994)

Sec. 6-137. Blasting plan.

The permittee must submit, as part of the permit application, a detailed plan of the proposed blasting operations. All blasting operations shall be conducted in strict accordance with the approved blasting plan. Any changes to the planned blasting operations must be submitted as an amendment to the blasting plan to the Town and approved by the Town prior to conducting any blasting operations. The plan shall include:

- (1) A map to twenty (20) scale with North indicated by arrow, depicting the property for which a blasting permit is sought; the work area relative to any structures or other underground or overhead improvements; the location and duration of storage of any explosive materials to be used in the blast before, during and after each blast; the spacing, depth and diameter of bore holes; the area to be cleared of vehicles and persons immediately prior to and during any blast; and anything else required by applicable law, rule or regulation, or which the Town determines is necessary to reasonably protect the public health, safety and welfare of the residents of the Town.
- (2) A description of the maximum amount of explosives per delay; the type of explosive product used; the method of ignition of the explosive; the loud warning signal that is to be sounded prior to each blast; the manner of locating and detonating any misfires; the manner in which qualified emergency and utility personnel are to be put on notice and called to respond in the event of an emergency; the manner of clearance of the site after blasting operations, including returning

the site to its original condition; and anything else required by applicable law, rule or regulation, or which the Town determines is necessary to reasonably protect the public health, safety and welfare of the residents of the Town. (Ord. 380 §1, 1994)

Sec. 6-138. Blasting specifications.

The Town may not approve a blasting plan unless it meets the following minimum specifications:

- (1) The maximum borehole diameter shall be two and one-half (2½) inches;
- (2) The minimum borehole depth shall be four (4) feet;
- (3) A seismograph must be used to monitor vibrations next to a structure when a structure is less than one hundred (100) feet from a borehole loaded with explosives.
- (4) The amount of explosives must be a scaled distance formula of a minimum of: $S.D. = D/W^{1/2}$ by the use of a seismograph using a peak particle velocity of 1.5 inches per second:

S.D. =	65
D =	Distance from the blast to the structure of concern in feet
W =	Maximum charge weight of explosives, in pounds, per delay of 25 ms or more or by the use of a seismograph using a peak particle velocity of 1.5 inches per second

(5) All boreholes containing explosives shall be adequately covered. Absent extenuating circumstances, adequate coverage may be blasting mats when the distance to the nearest structure is less than or equal to two hundred fifty (250) feet, and earth cover when the borehole is more than two hundred fifty (250) feet from the nearest structure.

(6) No blasting may occur within ten (10) feet of a structure. (Ord. 380 §1, 1994)

Sec. 6-139. Manufacture and storage of explosives.

Explosives may not be manufactured or stored anywhere within the Town; provided however, that explosives may be stored at the location of blasting operations in accordance with the terms of a blasting plan. (Ord. 380 §1, 1994)

Sec. 6-140. Corrective measures.

(a) The Town, upon discovery of any defect in the work or for the permittee failing to complete the blasting operations or removal of debris for which a blasting permit is issued, may:

- (1) In the event of an emergency, order a private contractor to do everything necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the permittee to restore or maintain the site in accordance with the provisions and conditions of his or her permit.
- (2) In the event of a nonemergency, give notice to the permittee and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than twenty-one (21) calendar days, within which such defects are to be repaired. Such period of time may be extended by the Town upon application, for good cause shown.

Sec. 6-141. Revocation of permit.

The Town may revoke the permit granted by this Article if the applicant is found, after notice and a hearing, to have violated any of the provisions listed in Section 6-135 above, or in any of the following circumstances:

- (1) The permittee violates any of the provisions of the ordinances of the Town governing the activities permitted by the permit;
- (2) The permittee obtains a permit by fraud or misrepresentation;
- (3) Revocation is necessary to maintain the public health, safety and welfare; or
- (4) The permittee fails to maintain the required insurance, bond, letter of credit or other guarantees of performance during the course of the construction and of the warranty period specified by the Town.

The Town shall advise the permittee in writing of the grounds for revocation of the permit, and the permittee shall be allowed to appeal such revocation to the Board of Trustees. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)

Sec. 6-142. Violation and penalties.

- (a) Any person violating any provision of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as set forth in Section 1-72 of this Code.
- (b) In addition, the Town is authorized to enforce this Article by injunction, including both the enjoining of contemplated actions or inactions in violation of this Article, including excavation or fill activities undertaken without or in violation of the terms of a permit; and mandatory injunction to require the removal of excavation or fill accomplished without or in violation of the terms of such a permit. In any such injunction action, the Town shall be awarded its costs of suit, and any costs incurred in the removal of fill and/or restoration of areas where fill or excavation activities have been undertaken in violation of the provisions of this Article. In addition, the Town shall be entitled to recover its attorneys' fees incurred in bringing any action to compel compliance with the provisions of this Article or to compel compliance with any plan approved hereunder. (Ord. 380 §1, 1994; Ord. 435 §1, 1996)