

AN ORDINANCE CREATING CHAPTER 8A OF THE CODE OF ORDINANCES RELATING TO NOTICE REQUIREMENTS FOR CONSTRUCTION OR DEMOLITION BLASTING OPERATIONS; CREATING SECTION 8A-1 OF THE CODE TO DEFINE TERMS; CREATING SECTION 8A-2 OF THE CODE TO REQUIRE BLASTERS TO PROVIDE NOTIFICATION TO THE DIRECTOR OF THE DIVISION OF ENGINEERING BEFORE COMMENCING BLASTING OPERATIONS; CREATING SECTION 8A-3 OF THE CODE REGARDING PREEMPTION; CREATING SECTION 8A-4 OF THE CODE TO SET PENALTIES FOR VIOLATION OF CHAPTER 8A OF THE CODE; TO AMEND SECTION 14-10 OF THE CODE TO INCLUDE EMPLOYEES WITHIN THE DIVISION OF ENGINEERING AS CITATION OFFICERS FOR THE ENFORCEMENT OF CHAPTER 8A OF THE CODE; AND DIRECTING THE COUNCIL CLERK, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO PROVIDE A CERTIFIED COPY OF THIS ORDINANCE TO THE KENTUCKY DEPARTMENT FOR NATURAL RESOURCES FOR ITS APPROVAL; WITH SECTION 8 OF THIS ORDINANCE EFFECTIVE UPON PASSAGE OF COUNCIL AND THE REMAINING PROVISIONS EFFECTIVE UPON RECEIPT OF APPROVAL THEREOF FROM THE KENTUCKY DEPARTMENT FOR NATURAL RESOURCES PURSUANT TO KRS 351.335.

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BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Chapter 8A, Notification Requirements for Construction or Demolition Blasting Operations, of the Lexington-Fayette Urban County Code of Ordinances be and hereby is created.

Section 2 – That Section 8A-1 of the Lexington-Fayette Urban County Code of Ordinances be and hereby is created to read as follows:

**Sec. 8A-1. - Definitions:**

As used in this Chapter, unless the context clearly indicates otherwise:

- (1) "Blaster" means a person licensed by the Kentucky Department for Natural Resources to fire or detonate explosives in blasting operations;
- (2) "Blasting operation" or "blasting" means the use of explosives in any construction or demolition work, but shall not include its use in mining/quarrying subject to the requirements of Section 8 of the Code of Ordinances, in the mining/quarrying of coal, or in agricultural operations;
- (3) "Director" means the Director of the Division of Engineering;
- (4) "Division" means the Division of Engineering; and
- (5) "Explosives" mean any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportions or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property.

Section 3 – That Section 8A-2 of the Lexington-Fayette Urban County Code of Ordinances be and hereby is created to read as follows:

**Sec. 8A-2. - Blasting; Notification**

- (1) The use and storage of explosives for blasting operations shall be conducted in accordance with all applicable rules and regulations of the Kentucky Department for Natural Resources, as well as all applicable federal, state, and local laws and regulations.
- (2) (a) *Notice required.* In addition to any notice required by state or federal law, the blaster shall, at least five (5) days before commencing blasting operations, provide electronic notice thereof to the Director on the form promulgated by the Division.  
  
(b) *Changes to dates and times of detonation.* Upon any significant change to any date or time of detonation contained in the notice required in subsection 2(a), the blaster shall provide electronic notice thereof to the Director at least five (5) days before implementing the change in blasting operations.

Section 4 – That Section 8A-3 of the Lexington-Fayette Urban County Code of Ordinances be and hereby is created to read as follows:

**Sec. 8A-3. - Preemption.**

Nothing contained in this Chapter is intended to conflict with existing laws at either the federal or state levels but shall be an additional requirement on blasters. All provisions of this Chapter not specifically preempted or changed shall remain applicable. This Chapter is enacted to protect the natural environment of the county and, consequently, the health and welfare of the general public within.

Section 5 – That Section 8A-4 of the Lexington-Fayette Urban County Government Code of Ordinances be and hereby is created to read as follows:

**Sec. 8A-4. - Penalties**

- (1) *Notice of Violation:* Any blaster found to be in violation of this Chapter shall be subject to the issuance of a notice of violation. The notice of violation shall state the specific violation and the remedial actions required. The notice of violation is not appealable.
- (2) *Fines.* After the issuance of a notice of violation, any blaster failing to comply with any of the provisions, regulations or conditions of this Chapter shall be fined, through the issuance of a civil citation, for every offense, in an amount based upon the number of citations issued within a twelve (12) month period, as follows:

Number of Citations	1	2	3	4	5+
Fine	\$100.00	\$750.00	\$1,500.00	\$2,500.00	\$5,000.00

Each day’s continuance of any such violation shall be a separate offense. All civil penalties may be appealed to the Infrastructure Hearing Board as provided in Chapter 2B of the Code.

- (3) Any fines may be recovered by the urban county government in a civil action in the nature of the debt if the violator fails to pay the penalty within a prescribed period of time.

Section 6 – That Section 14-10(f)(3) of the Lexington-Fayette Urban County Code of Ordinances be and hereby is amended to read as follows:

(3)	Municipal engineer senior; municipal engineer, associate municipal engineer, engineering technician principal, employed in the division of engineering.	Code of Ordinances chapter 8A, sections 14-60, 16-34.1, and 17-21, zoning ordinance articles 19-7(a)(1), 19-7(g), 19-8, and 20 and subdivision regulations article 6-7, and 6-11.
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Section 7 – If any one or more of the provisions of this Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed to be severable from all remaining provisions and shall not affect the validity of such other provisions.

Section 8 – That the Lexington-Fayette Urban County Clerk shall provide a certified copy of this Ordinance to the Department for Natural Resources for its approval.

Section 9 – That Sections 1 through 7 of this Ordinance shall take effect upon approval thereof by the Kentucky Department for Natural Resources pursuant to KRS 351.335.

Section 10 – That Section 8 of this Ordinance shall become effective on the date of this Ordinance’s passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL  
PUBLISHED:

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