

COMMON COUNCIL



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I, Kari J. Van Diest, Deputy Clerk of the Common Council, hereby certify on this 16th day of September, 2013, that the following Ordinance is a true and exact copy of one and the same adopted by the Common Council of the City of Winchester, assembled in regular session on the 10th day of September 2013.

AN ORDINANCE TO AMEND AND RE-ADOPT SECTION 10-51 OF THE CITY CODE TO INCLUDE AN EXCEPTION FOR BLASTING OPERATIONS RELATED TO CEMETERY BURIAL OF DECEASED HUMAN REMAINS

WHEREAS, Section 27-97 of the Code of Virginia authorizes municipalities to adopt fire prevention regulations that are more extensive in scope than the Statewide Fire Prevention Code; and

WHEREAS, the City of Winchester has adopted the Statewide Fire Prevention Code with such amendments in Section 10-51 of the Winchester City Code; and,

WHEREAS, the Virginia Statewide Fire Prevention Code only requires a level of \$500,000.00 minimum insurance for blasting operations; and

WHEREAS, Common Council had previously, at the request of the Fire Marshal, approved an Ordinance to increase the insurance requirements of Section 3301.2.4 of the Virginia Statewide Fire Prevention Code to require a level of \$5,000,000.00 as minimum required blasting insurance; and

WHEREAS, Mount Hebron Cemetery has requested an exception to this amount for blasting operations associated with cemetery burial of deceased human remains as such blasting operations have been represented to utilize a minimum of explosive charge, are conducted under relatively controlled conditions, and are believed to be less likely to cause significant damage to life or property; and

WHEREAS, such blasting operations by Mount Hebron Cemetery have been conducted in the City of Winchester for a considerable period of time with no known instances of claims against the City arising from such operation; and

WHEREAS, the City has confirmed with its insurance company (VML) that Mount Hebron's request for an exception for blasting related to cemetery burial of deceased human remains is not unreasonable and unlikely to result in excessive exposure upon the City of Winchester; and

WHEREAS, it is the belief of Common Council that the adoption of said exception is in the best interests of the City.

NOW, THEREFORE BE IT ORDAINED that Section 10-51 of the Winchester City Code is hereby amended and readopted to include the following exception:

SECTION 10-51. AMENDMENTS, ADDITIONS AND DELETIONS TO THE VIRGINIA STATEWIDE FIRE PREVENTION CODE.

Pursuant to Code of Virginia, §27-97, the City is empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Statewide Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code. The City hereby adopts the Statewide Fire Prevention Code with the following amendments:

[. . remaining portions of ordinance remain unaltered. . .]

Change Section 3301.2.4 to read:

3301.2.4 Financial responsibility. Before a permit is issued as required by Section 3301.2, the applicant shall file with the city a certificate of insurance which shows that the applicant has general liability insurance in the amount of at least \$5,000,000 combined single limit for bodily injury and property damage provided by an insurance company authorized to sell insurance in Virginia by the Virginia State Corporation Commission, Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Winchester must be named by endorsement to the policy as additional insured and provided a copy prior to the event. Certificate holder: City of Winchester, 15 N. Cameron Street, Winchester, VA 22601. This insurance policy shall become available for the payment of any damage arising from the acts or omissions of the applicant, his agents, or his employees in connection with the permitted activity. The applicant shall ensure that the insurance policy is in effect at the time of the commencement of the activities authorized by the permit, and remains continuously in effect until such activities are completed.

Exception: An applicant for blasting operations related to cemetery burial of deceased human remains may be permitted to obtain a permit with insurance in the amount of \$2,000,000 rather than \$5,000,000 provided its operations are conducted on its privately owned property and further provided that the blasting operations shall be inspected and approved by the Fire Code Official not less often than once a year.

Ordinance No. 2013-22

ADOPTED by the Common Council of the City of Winchester on the 10th of September, 2013.

Witness my hand and the seal of the City of Winchester, Virginia.

*Kari J. Van Diest, CMC
Deputy Clerk of the Common Council*