



# Request for City Council Committee Action from the Department of Regulatory Services

**Date:** January 20, 2011

**To:** Council Member Elizabeth Glidden, Chair – Regulatory, Energy & Environment Committee

**Referral to:** Council Member Sandy Colvin Roy, Chair – Transportation & Public Works Committee

**Subject:** Ordinance amending Title 3, Chapter 52 to include drainage standards

**Recommendation:** Amend City of Minneapolis Code of Ordinance Title 3, Chapter 52 to include drainage standards and consistent enforcement language.

**Previous Directives:** None

## Department Information

Prepared by: Patrick Hanlon, Supervisor of Environmental Services - (612) 673-2319

Approved by:

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Rocco Forté, Director of Emergency Preparedness & Regulatory Services

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Burt Osborne, Director of Construction Services & Development Review

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Lori Olson, Deputy Director of Environmental Management & Safety

Presenters in Committee: Lori Olson, Patrick Hanlon

## Reviews

- Permanent Review Committee (PRC): Approval \_\_\_ Date \_\_\_\_\_
- Civil Rights Approval Approval \_\_\_ Date \_\_\_\_\_
- Policy Review Group (PRG): Approval \_\_\_ Date \_\_\_\_\_

## Financial Impact

- No financial impact

## **Community Impact**

- City Goals
- Other

## **Supporting Information**

Poor drainage on one property can sometimes result in problems for adjacent property owners, including unsafe conditions (ice, flooding), property damage, and poor water quality. The current complaint response is scattered across department lines with no clear delineation of authority resulting in inconsistent or inadequate enforcement.

To address this issue, Environmental Services proposes the following amendments to Chapter 52, Erosion and Sediment Control:

Establishing clear drainage standards for construction activity and grading, snow melt from snow storage, sump pumps and downspouts

Creating violation penalties consistent with Regulatory Services processes and procedures including administrative citations, assessments, license revocation and stop work orders

Exempts public utilities or agencies that have alternative regulations they must follow.

The proposed amendments will address the adverse impacts of drainage and centralize accountability for enforcement within Regulatory Services.

## **Scope of Issue**

The Environmental Services department handles complaint driven issues related to drainage. We receive approximately 15 enforceable complaints a year related to drainage. A majority of these cases can be resolved by redirecting downspouts. Only 2 cases we had in 2010 would require any significant grading work or storm water management to address the drainage issue.

2010-Or-\_\_\_\_

## AN ORDINANCE

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By: Schiff

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**Amending Title 3, Chapter 52 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Erosion and Sediment Control for Land Disturbance Activities.**

**The City Council of the City of Minneapolis do ordain as follows:**

Section 1. That the title of Chapter 52 of the Minneapolis Code of Ordinances be amended to read as follows:

### **CHAPTER 52. EROSION AND SEDIMENT CONTROL AND DRAINAGE FOR LAND DISTURBANCE ACTIVITIES**

Section 2, That Section 52.10 of the above-entitled ordinance be amended to read as follows:

**52.10. Purpose.** The purpose of Chapter 52 is to control or eliminate soil erosion, ~~and sedimentation~~ and reduce the problems associated with drainage within the City of Minneapolis. It establishes standards and specifications for conservation practices and planning activities which minimize drainage problems, soil erosion and prevent sediment from entering curb and gutter systems and storm sewer inlets where it is transported to lakes, creeks and the Mississippi River.

Section 3, That Section 52.20 of the above-entitled ordinance be amended to read as follows:

**52.20. Scope.** Chapter 52 controls land disturbances, soil storage, ~~and erosion and sedimentation,~~ and drainage not meeting standards established in 52.275, resulting from such activities and establishes procedures for issuance, approval, and administration, including, but not limited to, the ~~and~~ enforcement of an erosion and sediment control permit.

Section 4, That Chapter 52 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 52.275 to read as follows:

**52.50. Exemptions.** The following activities are exempt from obtaining an erosion and sediment control permit and from following the erosion and sediment control procedures

required in Chapter 52:

(1) Cemetery graves.

(2) Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.

(3) Any activity by a utility or public entity subject to an alternative regulatory process, including but not limited to projects by the University of Minnesota on its campus or work in the right-of-way carried out by public or private utilities or road authorities.

(4) Any activity where the total volume of material disturbed, stored, disposed of or used as fill does not exceed five (5) cubic yards or the area disturbed does not exceed five hundred (500) square feet provided it does not obstruct a watercourse, and is not located in a floodplain. (96-Or-042, § 1, 5-10-96)

**52.275. Drainage Standards.** All stormwater, including snow melt, shall be conveyed and managed in the following circumstances so as not to cause unreasonable damage or unreasonable environmental, health or safety conditions on adjacent properties:

(1) Construction or site alterations, including grade and elevation changes, shall not be made that cause unreasonable concentrations of stormwater, including snow melt, to be directed to adjacent properties.

(2) Snow shall not be deposited by plowing, stockpiling or other artificial means that creates significant concentrations of stormwater which cause damage to or creates unreasonable environmental, health or safety conditions on adjacent properties.

(3) Downspout and sump pump discharge shall be placed so that drainage is not directed within 80 compass degrees of the closest adjacent property unless drainage within 80 compass degrees of the closest adjacent property has no unreasonable impact on the adjacent property because of the distance of the discharge point from the neighboring property or the effect of landscaping or other facilities in place at the at the point of discharge. Concentrated discharge from downspouts and sump pumps shall be directed to pervious surfaces and shall not be directed to the public sidewalk.

(4) Stormwater shall be managed, to the extent reasonably possible, as not to cause erosion or sedimentation to reach adjacent properties, right-of-ways, any public storm drainage system, or public waters.

(5) The City's stormwater management system as defined in Section 510.10 in this Code, streets, roads and other public right of way are not subject to this section.

Section 5, That Chapter 52 of the Minneapolis Code of Ordinances be amended to read as follows:

**52.290 Enforcement.** ~~The issuing authority shall be responsible for the enforcement of Chapter 52.~~

~~(1) The issuing authority may post a stop work order for the entire project or any specified part thereof if any of the following conditions exist:~~

~~a. Any land disturbance activity regulated under Chapter 52 is being undertaken without a permit.~~

- b. ~~The erosion and sediment control plan is not being fully implemented.~~
- c. ~~Any of the conditions of the permit are not being met.~~
- (2) ~~For the purposes of this section, a stop-work order is validly posted by posting a copy of the stop-work order on the site of the land disturbing activity in reasonable proximity to a location where the land disturbing activity is taking place. Additionally, a copy of the order, in the case of work for which there is a permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the permittee on the permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the person listed as owner of the property by the city assessor on the homestead record, or if none, to the taxpayer shown by the records of the city assessor.~~
- (3) ~~If the permittee does not cease the activity or comply with the erosion and sediment control plan or permit conditions within one (1) day, the issuing authority may revoke the permit.~~
- (4) ~~If the owner or land user where no permit has been issued does not cease the land disturbance activity, the issuing authority may request the city attorney to obtain injunctive relief.~~
- (5) ~~The issuing authority may retract the stop-work order or the revocation.~~
- (6) ~~Ten (10) days after posting a stop-work order, the issuing authority may issue a notice of intent to the permittee, owner, or land user of the issuing authority's intent to perform work necessary to comply with Chapter 52. The issuing authority may go on the land and commence work after fourteen (14) days from issuing the notice of intent. The costs incurred by the issuing authority to perform this work shall be paid by the owner or permittee out of the bond referred to in section 52.280 of Chapter 52, to the extent that the amount is covered thereby, with the remainder being directly due and owing by the owner or permittee. In the event no permit was issued or no bond was posted, the cost, plus interest at the rate authorized by the issuing authority, plus a reasonable administrative fee shall be billed to the owner. If in any event the amount due is not paid, the city clerk shall enter the amount due on the tax roll and collect as a special assessment against the property using the procedures for collecting the assessment, providing for the notice of assessment, hearing thereon, and appeal as provided by section 227.100 of the Minneapolis Code of Ordinances.~~
- (7) ~~Compliance with the provisions of Chapter 52 may also be enforced by injunction.~~
- (8) ~~A notice of intent to perform work necessary to comply with Chapter 52 pursuant to subsection (6) of this section may be served in the manner specified for a stop-work order in subsection (2). (96-Or-042, § 1, 5-10-96) \_~~

The responsibility for the administration and enforcement of this Chapter and Minnesota Rules referenced in this Chapter shall reside with the issuing authority as defined in this Chapter.. This chapter does not create any rights of enforcement in others and does not change the rights of property owners or occupiers or other third parties in regard to each other.

Section 6, That Chapter 52 of the Minneapolis Code of Ordinances be amended to read as follows:

**52.300. Penalties.** Any person, firm, corporation or agency acting as principal, agent, employee or otherwise, who fails to comply with the provisions of Chapter 52 shall be guilty

of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than seven hundred dollars (\$700.00), or by imprisonment for not more than ninety (90) days, or both, for each separate offense. Each day there is a violation of any part of Chapter 52 shall constitute a separate offense. (96-Or-042, § 1, 5-10-96) Violations of this Code.

**Violation.** (a) Any person who violates any provision of this chapter shall be guilty of an ordinance violation and subject to the punishment and penalties of Chapter 1 and Chapter 2 of this Code.

(b) License revocation. Any owner or operator of land, buildings, or structures who possesses a city license to conduct business, in addition to the fine, may have his or her license revoked for failure to comply with this chapter.

(c) Stop Work Order. If any work regulated by the code is being performed in a manner contrary to the provisions of the code or in a dangerous or unsafe manner the enforcement authority may issue a stop work order.

(d) Continuing Violations. Each day of failure to comply with federal, state, or municipal laws or rules shall constitute a separate violation of this Code.