

2006-Or-____

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By Samuels

**Amending Title 3, Chapter 48 of the Minneapolis Code of Ordinances
relating to Air Pollution and Environmental Protection; Minneapolis Watershed
Management Authority.**

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

Section 1. That Section 48.10 of the above-entitled ordinance be amended to read as follows:

48.10. Definitions. (a) The words used in this chapter shall have the meanings given in Minnesota Statutes and Minnesota Rules, except where the context clearly shows otherwise. Wherever the word "agency" or "Minnesota Pollution Control Agency" is used in Minnesota Rules as incorporated into this chapter by section 48.20, it shall be held to mean the City of Minneapolis. Wherever the word "commissioner" "~~director~~" is used in Minnesota Rules, as incorporated into this chapter by section 48.20, it shall be held to mean the assistant city coordinator of regulatory services ~~director of operations and regulatory services~~ or the ~~director's~~ assistant city coordinator's authorized agent. State definitions shall include, but shall not be limited to the following:

Abate means to lower, depreciate, reduce, or eliminate contaminants or lower, depreciate, reduce, or eliminate actions that may lead to pollution.

Aboveground storage tank system means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is used to contain or dispense regulated substances, and that is not an underground storage tank. An aboveground tank includes rail cars, and trucks.

Boring means a hole or excavation that is not used to extract water and includes exploratory borings, environmental bore holes, vertical heat exchangers, and elevator shafts.

Contaminated soil means any soil contaminated with petroleum, hazardous waste, or one or more pollutants in concentrations that exceed natural background levels as determined through an environmental assessment and laboratory analysis.

Dilution means any act of thinning down or weakening a concentration of a substance by mixing or adding a liquid, solid, semisolid, or gas.

Discharge means the addition of any pollutant to the waters of the state or to any disposal system.

Disposal system means a system for disposing of sewage, industrial waste and other wastes, and includes sewer systems and treatment works.

Flammable liquid shall have the meaning given by the U.S. Occupational Health and Safety Administration (OSHA) which defines a flammable liquid as "any liquid having a flash point below one hundred (100) deg. F. (37.8 deg. C.), except any mixture having components with flash points of one hundred (100) deg. F. (37.8 deg. C.) or higher, the total of which make up ninety-nine (99) percent or more of the total volume of the mixture. Flammable liquids shall be known as Class I liquids."

Hazard means anything capable of causing, or contributing to an adverse effect or event. The hazard associated with a suspected toxic substance is contingent on both its level of toxicity and degree of exposure to the substance.

Hazardous material means:

(1) a substance listed in Code of Federal Regulations, title 40, part 302, including petroleum under subpart 36, item C, but not including:

a. a hazardous waste listed or identified under Code of Federal Regulations, title 40, part 261;

b. petroleum under subpart 36, item A, B, or D; or

c. a substance that is not liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; or

(2) any mixture of substances identified in item (1) and petroleum, unless the amount of the substance identified in item a) is de minimus.

Substances identified in items (1) and (2) which also meet the definition of petroleum are considered hazardous materials.

Hazardous waste means any refuse, sludge, or other waste material or combinations of refuse, sludge or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

(1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Industrial waste means any solid, liquid, or other wastes, resulting from any industrial, manufacturing, or business process, or from the development, recovery, or processing of a natural resource, which requires special handling or processing prior to disposal.

Leak means the uncontrolled passage or escape of liquid or gaseous substances through a break or flaw in a container or system.

Monitoring well means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed to extract groundwater for physical, chemical, or biological testing. This includes a groundwater quality sampling well.

Other wastes mean garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, oil, tar, chemicals, dredged spoil, solid waste, incinerator residue, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, cellar dirt or municipal or agricultural waste, and all other substances not included within the definitions of sewage and industrial waste set forth in this chapter which may pollute or tend to pollute the waters of the state.

Out of service well is any well, excluding monitoring and recovery/remedial wells, that is no longer being used to extract groundwater and shall include, but shall not be limited to: domestic drinking water wells; nontransient, noncommunity public water supply wells; air cooling wells; industrial wells; or irrigation wells.

Pollutant means any "pollutant" defined in section 502(6) of the Clean Water Act. Pollutants may include, but are not limited to the following:

- (1) Residential, commercial and industrial waste (such as fuels, solvents, detergents, plastic pellets, hazardous substances, fertilizers, pesticides, slag, ash and sludge).
- 2) Metals such as cadmium, lead, zinc, silver, nickel, chromium, copper and non-metals such as phosphorous and arsenic.
- (3) Petroleum hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease).

4) Excessive eroded soil, sediment, and particulate materials in amounts that may adversely affect the beneficial use of the receiving waters, flora or fauna of the state.

Pollution of water, water pollution, pollute the water means:

(1) the discharge of any pollutant into any waters of the state or the contamination of any waters of the state so as to create a nuisance or render such waters unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or

(2) the alteration made or induced by human activity of the chemical, physical, biological, or radiological integrity of waters of the state.

Regulated substance means a hazardous material or hazardous waste.

Remediation means cleanup or any other set of actions, methods, or controls, such as biological, chemical, thermal or physical, used to treat, remove, contain or substantially reduce the amounts of toxic materials in water, air, soil, or other media.

Risk means the predicted probability or actual frequency of an occurrence of an adverse effect or event.

Sewage means the water-carried waste products from residences, public buildings, institutions or other buildings, or any mobile source, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

Sewer system means pipelines or conduits, pumping stations, and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Site means any tract or parcel of land, and including all buildings or structures on such lands.

Spill means the accidental or intentional spilling, leaking, pumping, pouring, emitting, or dumping into or on any land or water of hazardous wastes or materials which, when spilled, become hazardous wastes.

Standards means effluent standards, effluent limitations, standards of performance for new sources, water quality standards, pretreatment standards, and prohibitions.

Tank is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials, such as concrete, steel, and plastic, that provides structural support. Tank includes bladders, rail cars, and trucks.

Temporary monitoring well is a monitoring well which is constructed and sealed within a 48-hour time frame.

Underground storage tank system means any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected to them, is ten (10) percent or more beneath the surface of the ground.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Water refers to "waters of the state," as defined in this chapter.

Watershed means all lands enclosed by a continuous hydrologic drainage divide and lying upslope from a specified water body or point.

Well means an excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed if the excavation is intended for the location, diversion, artificial recharge, or acquisition of groundwater. This includes monitoring wells, drive point wells, and dewatering wells. "Well" does not include:

- (1) an excavation by backhoe, or otherwise for temporary dewatering of groundwater for nonpotable use during construction, if the depth of the excavation is twenty-five (25) feet or less;
- (2) an excavation made to obtain or prospect for oil, natural gas, minerals, or products of mining or quarrying;
- (3) an excavation to insert media to repressure oil or natural gas bearing formations or to store petroleum, natural gas, or other products;
- (4) an excavation for nonpotable use for wildfire suppression activities; or five
- (5) borings.

Wellhead refers to a man-made physical structure or device at the land surface from or through which groundwater flows or is pumped from subsurface water-bearing formations.

Wellhead protection device is a man-made device attached to a wellhead that is intended to protect and preserve the quality of groundwater by preventing the entry of hazardous contaminants from the land surface.

(b) Other words and abbreviations used herein which are not specifically defined in applicable federal, state or city law shall be construed in conformance with the context, in relation to the applicable section of the statutes pertaining to the matter at hand, in conformance with the principles set forth in Chapter 3 of this Code, and in conformance with professional usage.

Section 2. That Section 48.20 of the above-entitled ordinance be amended to read as follows:

48.20. State rules and statutes. (a) Minnesota Rules (2001), Chapters 4715, 4725, 7035, 7037, 7041, 7042, 7044, 7045, 7048, 7050, 7056, 7060, 7080, 7100, 7105, 7150, and 7151, and subsequent updates, are made part of this chapter as if fully set forth herein. Minnesota Statute 115.061 (2003), and subsequent updates, are made part of this chapter as if fully set forth herein.

(b) Three (3) copies of the adopted state standards and regulations marked "Official Copy" shall be filed in the Office of the City Clerk and Office of the Minneapolis Watershed Management Authority in the Environmental Services Management Section of the Department of ~~Operations and Regulatory Services~~, and remain on file for use and examination by the public. The clerk shall furnish copies of these adopted state standards and regulations at cost to any person upon request.

Section 3. That Section 48.60 of the above-entitled ordinance be amended to read as follows:

48.60. Minneapolis watershed management authority. The authority to administer and enforce the provisions of this chapter of the Minneapolis Code of Ordinances on behalf of the city is vested in the Minneapolis Watershed Management Authority located in the Environmental Services Management Section of the Department of ~~Operations and Regulatory Services~~. The Minneapolis Watershed Management Authority is hereafter referred to as the "authority." The authority shall have full jurisdiction to regulate and control watershed pollution as now or hereafter provided in this Code. The authority shall be under the supervision of the assistant city coordinator of ~~director of operations and regulatory services~~. The assistant city coordinator of ~~director of operations and regulatory services~~ shall designate the technical, professional, and support staff that shall constitute the Minneapolis Watershed Management Authority.

Section 4. That Section 48.125 of the above-entitled ordinance be amended to read as follows:

48.125. Registration of regulated substance storage. (a) No person(s) shall allow or maintain any storage of regulated substances in excess of two hundred fifty (250) gallons without first having registered such storage with the authority and paying the annual registration fee(s) required by section 48.310. A separate registration shall be required for each container of 250 gallons or more. For a site containing multiple smaller containers a registration shall be required for each multiple of 250 gallons rounded downward to the nearest whole number.All storage taking place at residential buildings or properties with three (3) or less dwelling units are exempt from registration fees.

(b) Liquid propane tanks used or stored at a single location for less than six (6) months shall be exempt from registration fees.

Section 5. That Section 48.240 of the above-entitled ordinance be amended to read as follows:

48.240. On-site remediation. (a) No person shall conduct or perform any on-site remediation of any soil, concrete, asphalt, rock, brick, cement, dirt, compost, water, or air without having obtained an on-site remediation permit from the authority. On-site remediation may include, but is not limited to: crushing, as defined by city ordinance section 389.90, grinding, pulverizing, excavation, removal, grading, outdoor storage, thermal evaporation treatment, closed chamber burning, microbial treatments, thin spreading, soil venting, soil capping, soil burning, or substance recovery systems.

To apply for an on-site remediation permit from the authority, person(s) shall pay the authority all permit fee(s) required by 48.310, and submit a plan that details the proposed action for the on-site remediation. For sites considered contaminated by the Minnesota Pollution Control Agency, or sites suspected of being contaminated, a copy of the state-approved remediation plan must be submitted. If the remediation system will be discharging to the sanitary sewer a copy of the Metropolitan Council discharge permit must be provided. In addition, any information deemed necessary by the authority must be provided. For those sites participating in the Minnesota Pollution Control Agency administered Voluntary Investigation and Cleanup Program, the fee is not required, if the participating party did not cause any of the contamination.

The authority shall review the plan and may require the applicant to perform modifications to the on-site treatment remediation system to assure conformity to city ordinance, in so far as such modifications are not in conflict with state or federal requirements. On-site remediation permits shall be issued by the authority pursuant to a review of the following information, as appropriate to the site, contained in the plan:

- (1) The objectives of the remediation.

(2) Descriptions of the contaminated site, including topographic and geologic characteristics, the presence of utilities and structures on the site, and relative location of human populations at risk.

(3) The types, amounts, and extent of the contamination and its potential for mobility from the site.

(4) Descriptions of how the remediation will be implemented, its compatibility with the contaminants including the potential to generate hazardous secondary chemical species such as flammable or explosive vapors, and estimates of contaminant amounts that will be emitted to the air, discharged to the waters of the state, or excavated, treated on-site and/or transported off-site for treatment and/or disposal.

(5) The measures being implemented that will protect the exposed treatment area or contaminated storage areas from weather conditions that may cause hazardous substances to migrate or be released.

(6) Designs for run-off collection systems.

(7) The adequacy of the emergency response plan to address accidental discharges, leaks, or spills of extracted toxins or other toxic materials to the environment.

(8) Capacity limitations for all equipment, machinery, storage vessels, or any other materials involved in the remediation operations to prevent injury to workers and accidental releases of toxins to the environment.

(9) Time requirements for the remediation to be completed.

(10) Projected public concerns and how they will be addressed.

(11) Actions taken to ensure that the remediation-site and all its equipment and structures will remain physically secure from intruders to prevent exposure to harmful contaminants, accidental releases of toxic substances, or unauthorized acts of third persons.

(12) Names and contact information for all persons conducting the remediation activities, including contact information for an individual or company available to respond on a twenty-four (24) hour basis.

(b) Emergency contact information shall be posted on-site in an area clearly visible from the public right of way. The sign should be outside of any locked buildings or other structures. The listed contact shall be an individual or company available to respond on a twenty-four (24) hour basis.

(c) Issuance of an on-site treatment permit does not eliminate the need for additional permits required by this Code or other governmental agencies. These additional permits may include, but are not limited to: fire, electrical, erosion control, work, demolition, new construction, well installation, and discharge permits.

(d) The city or authorized personnel may inspect remediation-sites prior to, during, and at the close of all remediation activities. If at any time over the course of the remediation the city or authorized personnel identifies problems with the remediation activities including, but not limited to, potential environmental impacts or public health and safety concerns, the city shall have the power to require additional permits and/or remediation at the site. Notification of city required changes shall be submitted in writing to the person(s) indicated as responsible for remediation activities on the permit application.

(e) If upon inspection by city authorized personnel, remediation activities are found to pose an immediate and substantial threat to the environment and/or public health and safety, the authority shall have the power to immediately suspend operations until the Minnesota Pollution Control Agency can be consulted and the threat has been addressed.

(f) Applicant(s) must pay to the authority the annual registration fee(s) required by section 48.310.

(g) Any alterations or additions required by the city shall not conflict or detrimentally effect the operation of any remediation activity required by the Minnesota Pollution Control Agency or the United States Environmental Protection Agency.

Section 6. That Section 48.270 of the above-entitled ordinance be amended to read as follows:

48.270. Oil/water separators and sediment trap permit and registration fees. (a) No person(s) shall install, remove or maintain an oil/water separating device or sediment trap without notifying the authority and paying the permit and annual registration fee(s) as required by section 48.310.

(b) Each oil/water separator and sediment trap shall be cleaned by applicant(s) once a year or as required to maintain the integrity of the system, or as required by the authority. Records of this and other maintenance activities performed on the separator shall be kept on-site for not less than three (3) years. These records shall be made available to the authority upon written or verbal request.

Section 7. That Section 48.300 of the above-entitled ordinance be amended to read as follows:

48.300. Contaminated material storage. (a) Any and all manufactured materials that have been in contact with pollutants, including but not limited to lubricating oils, cutting fluids, and marking dyes, must be stored inside a building or structure in such a manner as to prevent deposition of pollutants to the land and discharge to the storm drains.

(b) No person(s) shall stockpile contaminated soil in excess of five (5) cubic yards without submitting an application and receiving a permit from the authority. To apply for an on-site contaminated soil storage permit from the authority, all such person(s) shall pay to the authority all permit fee(s) required by 48.310, and submit a plan and details of the proposed action. The soil must be placed on an impervious surface and covered with plastic and shall not be stored for more than ninety (90) days. Stockpiling is to be considered a temporary condition and at time of application plans must be submitted for final treatment or disposal of contaminated soil. Failure to obtain a permit or maintain the condition of the stockpile is a violation of this chapter.

Section 8. That Section 48.310 of the above-entitled ordinance be amended to read as follows:

48.310. Permitting and Annual Fees. (a) For the equipment specified below applicant(s) shall pay the permitting fee as established in the director's fee schedule pursuant to section 91.70 upon application and an annual fee as established in Appendix J each year the equipment/condition exists.

TABLE INSET:

Equipment/Condition	Permit/Filing Fee (<u>see director's fee schedule pursuant to section 91.70</u>)	Annual Fee (<u>see Appendix J</u>)
Aboveground storage tank		
Install/remove (48.120)	\$100.00	-
Abandonment (48.120)	\$250.00	-
Storage of regulated substances (48.125)	-	\$45.00 per 250 gallon increment/ or tank
Underground storage tank		
Out of service (48.150)	-	\$500.00
Install/remove (48.130 and 48.145)	\$100.00	-
Abandon in place (48.130 and 48.145)	\$250.00	-
Annual chemical inventory	-	\$500.00

registration (48.160)		
Contaminated site (48.230)		
Open leak site	-	\$300.00—
CERCLIS/MERLA site	-	\$1,000.00—
On-site remediation system, except wells (48.240)	\$500.00—	\$500.00—
Wells (48.260)	-	\$100.00—
Construction, modification, reconstruction, sealing	\$100.00—	-
Water supply well maintenance	-	\$125.00—
Monitoring and recovery well maintenance	-	\$125.00—
Oil/water separator (48.270)	-	\$45.00—
<u>Sediment trap (48.270)</u>		
Industrial waste generator (48.280)	-	\$45.00—
<u>Contaminated soil storage (48.300)</u>		

(b) The annual fee shall be due and payable on December 31st of each year. If registration is not postmarked on or before December 31st of each year, the applicant must pay double the fees provided for such registration. If registration is not postmarked or received on or before the expiration of the current registration, the applicant must pay double the specified fee and any applicable court costs.

(c) Failure to obtain the appropriate permit prior to beginning work will result in a double permit fee.

(d) Each day of failure to register shall constitute a separate violation of this Code.