



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

**Date:** 4/2/10

**To:** Council member Glidden, Chair of Regulatory Services, Energy & Environment Committee

**Subject:** Ordinance Amending Title 3, Chapter 48 to allow for permitting of temporary well installation.

**Recommendation:**

- Amend City of Minneapolis Code of Ordinance Title 3 Chapter 48 to include temporary well permitting.
- Amend the Director's fee schedule to include a temporary well permit with a fee of \$138.50

**Previous Directives:**

**Department Information**

|  |       |
|--|-------|
| Prepared by: Patrick Hanlon, Supervisor of Environmental Services 612-673-2319                 |       |
| Approved by: Lori Olson, Deputy Director of Env. Mgmt  | _____ |
| Burt Osborne, Director of Licenses   | _____ |
| Rocco Forte, Assistant City Coordinator  | _____ |
| Presenters in Committee: Lori Olson, Deputy Director, Patrick Hanlon, Supervisor Env. Services |       |
|  |       |

**Reviews** *NA*

**Financial Impact** *X No financial impact*

**Community Impact**

**City Goals-**This ordinance contributes to The City of Minneapolis's *Goals of an Enriched Environment and A Safe Place to Call Home*

**Supporting Information-**

**Attached**

# CHAPTER 48.

## *Temporary Well Permitting*

### **Why changes are recommended?**

Environmental Services (ES) is required to oversee all well installation and well sealing in Minneapolis as part of our delegated well program through the Minnesota Department of Health (MDH). ES issues permits for well installation and well sealing so we can monitor, inspect and keep records of these sites. In addition, to our own permitting record keeping we are required to report well records to the MDH and follow up with contractors on well log requirements at the end of the year. Permitting of temporary well activity will stream line our record keeping in a manner that is consistent with our other well permits. The proposed fee of 138.50 is based on the cost recovery model of regulatory services.

*Note: Temporary wells are used to monitor ground water quality during environmental site investigations typically done prior to a site development.*

2010-Or-\_\_\_

**AN ORDINANCE**

**of the**

**CITY OF**

**MINNEAPOLIS**

**By: Glidden**

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**Amending Title 3, Chapter 48 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Management: 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" 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 or the 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, mercury, 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, stabilize, cap, isolate 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 72-hour ~~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 48.260 of the above-entitled ordinance be amended to read as follows:

**48.260. Wells.** (a) Where not previously defined, terminology used in this section shall have the meanings given in Minnesota Statutes, Section 103I.05 and Minnesota Rules, Chapter 4725.

- (b) No person shall construct, modify or reconstruct any well without first having filed a well construction application and receiving written approval from a licensed well inspector for the City of Minneapolis. Interim verbal approval may be given, provided the permit application is submitted ~~has been processed, and is received~~ by the applicant within five (5) days of verbal approval. The permit must note that verbal approval was given and the date of such approval. For each type of well to be constructed, modified or reconstructed including, but not limited to: monitoring wells; recovery/remediation wells; domestic drinking water wells; nontransient, noncommunity public water supply wells; air cooling wells; industrial wells; noncommunity public supply well, or irrigation wells, the applicant shall pay the permit fee(s) required by section 48.310 to the authority. This fee is in addition to the state core function fee as established in Minnesota Statutes, Section 103I.208, Subd. 1a.
- (c) Any person that owns a monitoring well, a recovery well/remedial well, or an out of service well within the city shall register each well with the authority and pay the authority the annual registration fee(s) required by section 48.310.
- (d) No person shall seal any well without first filing a well sealing application, receiving written approval from a licensed well inspector for the City of Minneapolis and paying the authority all permit fee(s) required by section 48.310 for all wells including, but not limited to monitoring wells; recovery/remediation wells; domestic drinking water wells; nontransient, noncommunity public water supply wells; air cooling wells; industrial wells; noncommunity public supply well, or irrigation wells. ~~Temporary monitoring wells are exempt from the fee(s).~~ The fee is in addition to the state core function fee as established in Minnesota Statutes, Section 103I.208, Subd. 1a. Interim verbal approval may be given, provided the permit application is submitted ~~has been processed, and is received~~ by the applicant within five (5) days of verbal approval. The permit must note that verbal approval was given and the date of such approval.
- (e) ~~Persons constructing temporary monitoring well(s) shall provide notification to the authority by filing a well sealing application with the authority.~~ No person shall construct and seal a temporary monitoring well without notification to the authority by filing a well sealing application, receiving written approval from a licensed well inspector for the City of Minneapolis and paying the authority all permit fees required pursuant to section 48.310. The permit fee shall be in addition to the state core function fee as established in Minnesota Statutes, Section 103I.208, Subd. 1a. Interim verbal approval may be given, provided the permit application is submitted by the applicant within five (5) days of verbal approval. The permit must note that verbal approval was given and the date of such approval.

- (f) No person shall damage, tamper, or take any action that compromises the functionality or integrity of a wellhead protection device. Any earthwork, construction, demolition, or other activity conducted within a wellhead protection area that has the potential to damage wellhead protection devices or disturb wellhead protection areas and thereby open a portal of entry and cause contamination or create a risk of contamination shall constitute a violation of this chapter.
  
- (g) A request for a variance from specific requirements of the standards contained in Minnesota Rules, Chapter 4725 must be reviewed by the State Commissioner of Health pursuant to Minnesota Rules, Chapter 4717.7000. If the request for variance is approved by the Commissioner of Health, the city shall allow construction, reconstruction or sealing of the well pursuant to the conditions of the Commissioner's approval.
  
- (h) For wells for which no owner information can be located by the authority, the owner of the property on which the well is located shall become responsible for the well. Such responsibility shall include, but not be limited to, registration and proper sealing.

Section 3. 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, License Fees Schedule.

TABLE INSET:

| Equipment/Condition                         | Permit/Filing Fee<br>(see director's fee schedule<br>pursuant to section<br>91.70) | Annual Fee<br>(see Appendix J) |
|---|--|--------------------------------|
| Aboveground storage tank                    |  |                                |
| Install/remove (48.120)                     |  |                                |
| Abandonment (48.120)                        |  |                                |
| Storage of regulated substances<br>(48.125) |  |                                |
| Underground storage tank                    |  |                                |

|   |  |  |
|---|--|--|
| Out of service (48.150)                             |  |  |
| Install/remove (48.130 and 48.145)                  |  |  |
| Abandon in place (48.130 and 48.145)                |  |  |
| Annual chemical inventory registration (48.160)     |  |  |
| Contaminated site (48.230)                          |  |  |
| Open leak site                                      |  |  |
| CERCLIS/MERLA site                                  |  |  |
| On-site remediation, except wells (48.240)          |  |  |
| Wells (48.260)                                      |  |  |
| Construction, modification, reconstruction, sealing |  |  |
| <u>Temporary well</u>                               |  |  |
| Water supply well maintenance                       |  |  |
| Monitoring and recovery well maintenance            |  |  |
| Oil/water separator (48.270)                        |  |  |
| Sediment trap (48.270)                              |  |  |
| Industrial waste generator (48.280)                 |  |  |
| Contaminated soil storage (48.300)                  |  |  |

- (b) The annual fee shall be due and payable on January 31st of each year. If registration is not received or postmarked on or before January 31st of each year, the applicant shall pay late fees provided for such registration. Each day of failure to maintain or obtain registration may constitute a separate violation of this Code.
- (c) Failure to obtain the appropriate permit prior to beginning work will result in a double permit fee.