

Land Application of Petroleum Contaminated Soil Ordinance

An ordinance providing procedures for and restrictions upon the practice of land application of petroleum contaminated soil within the Town of Duluth.

THE BOARD OF SUPERVISORS OF THE TOWN OF DULUTH ORDAINS:

Section 1. Definitions.

A. "Contaminated Soil" means soil in excess of one cubic yard containing petroleum hydrocarbons, including but not limited to gasoline, aviation gasoline, diesel fuel, fuel oil, waster oils, jet fuel and kerosene.

B. "Person" means any human being, partnership, corporation, governmental body or agency, firm, association, cooperative or other legal entity.

C. "Owner of Land" means any person who owns land situated wholly or partially within the Town of Duluth.

D. "Import" means to bring contaminated soil into the Town of Duluth from outside the Town of Duluth, and to deposit or leave the contaminates oil on property wholly or partially located in the Town of Duluth for more than 24 hours.

Section 2. Restrictions.

A. No person shall knowingly import or cause to be imported into the Town of Duluth any contaminated soil without first following the procedures set forth in Section 3.

B. No owner of land within the Town of Duluth shall knowingly allow or permit the depositing of contaminated soil upon the owner's land without first following the procedures set forth in Section 3.

C. No person shall knowingly move contaminated soil from one point within the Town of Duluth to another point within the Town of Duluth for the purpose of depositing it upon land in the Town of Duluth without first following the procedures set forth in Section 3.

Section 3. Procedures.

A. Written Request and Application Fee. Any person desiring to import contaminates oil into the Town of Duluth, to move contaminates oil from one point in the Town of Duluth to another point in the Town of Duluth, or allow contaminated soil to be deposited on land within the Town of Duluth shall follow the procedures set out herein. Such a person shall, prior to importing, moving, or depositing contaminated soil, submit a written request to the Town Clerk, identifying the amount of the contaminated soil, the place where the contaminates soil currently is, the means by which the soil became contaminated, the contaminants contained in the soil, and if known the amount of the contaminants. The written request shall also specify the proposal for deposit of the contaminates soil, including a description of where the contaminated soil is to be deposited, what measures will be taken with regard to the contaminated soil after its deposit, and who will be responsible for those measures. The written request shall be accompanied with an application fee of \$100.00 to defray costs of the notice and hearing process.

The Town Clerk, upon receipt of the written request and application fee, shall present the written request to the Board of Supervisors at the next regularly scheduled Board meeting. The Board shall review the written request for completeness, and may demand further preliminary information from the requesting party before proceeding. If the written request is deemed sufficiently complete by a majority of the Board, a public hearing will be scheduled for the next regular Board meeting.

B. Notice. At least 10 days prior to the public hearing, the Board shall cause posted and published notice of the hearing to be given, and shall cause written notice of the hearing to be given to all landowners adjacent to the property proposed to be used as the location for the deposit of the contaminates soil.

C. Hearing. At the public hearing, the Board shall hear all interested parties upon the issue of whether it is in the public interest to allow the proposed importation, movement, or depositing of the contaminated soil. The Board may accept or solicit such other information as it finds useful to its determination. The Board may require the person bringing the request to provide any additional information, data, or plans a may be needed to determine its course of action on the request. The hearing may be continued from time to time to allow the provision of needed information. When the Board deems that sufficient information has been collected, and after all persons at the hearing have been heard, the Board shall declare the hearing closed.

D. Decision. At the next regular Board meeting following the closing of the hearing, the Board shall discuss the request and information, and issue the decision of the board, or of the majority of the Board. The Board may either approve the request, deny the request, or approve the request subject to conditions. These conditions may include by are not limited to:

1. That only a given amount of contaminated soil is approved;
2. That only soil containing certain enumerated contaminants is approved;
3. That the soil shall be deposited only within certain measurable boundaries upon a piece of land and to a certain depth or height;
4. That the requesting party secure the approval of the Minnesota Pollution Control Agency for the proposed soil treatment and final soil disposition and comply with all rules, regulations, and conditions imposed by the MPCA, and submit to the Board all documents that have been submitted to or received from the MPCA; or
5. Any other conditions that the Board deems appropriate. The Board may require the requesting party to procure a bond in an amount deemed sufficient to pay for removal and relocation of the contaminated soil and in an additional amount deemed sufficient to pay for full performance of any conditions in the approval, to protect against the requesting party's failure to comply with the conditions of the approval.

The board shall, within 30 days after reaching its decision at the meeting, mail to the requesting party its written decision which, in the case of an approval, shall set out any conditions upon the approval. No approval of any request is effective until the written decision is mailed to the requesting party. Copies of the written decision shall be sent to all landowners abutting the land upon which deposit of the contaminates soil was requested.

Section 4. Violations and Penalties.

A. A violation of the provisions of Section 2 shall be a misdemeanor, punishable by a fine of \$500.00, plus costs of prosecution.

B. Any person who fails to obey the conditions of any approval decision under Section 3 shall be guilty of a misdemeanor, punishable by a fine of \$500.00 plus costs of prosecution.

Section 5. Effective Date.

This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE BOARD OF THE TOWN OF DULUTH THIS 10TH DAY OF DECEMBER 1992.

Richard A. Bakke
Chairman, Town of Duluth

ATTEST:
Dorothy Blomquist
Town Clerk

