



## State Confirms City Authority to Regulate Well Drilling

**Cities have the ability to restrict or prohibit the drilling of wells in city boundaries through a specific ordinance or the city zoning code.**

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After several months of communication and discussion with the League and other parties about the legal basis for city authority, the Minnesota Department of Health (MDH) has agreed that no more letters will go out from the department challenging city authority to regulate wells by ordinance or through city zoning code. This is a dramatic change from previous practice.

Over the past 20 years, cities, well drillers, and MDH have often disagreed about city statutory authority to prohibit or restrict well drilling by ordinance. The League has long argued that cities have specific and long-standing statutory authority to regulate wells and water supplies in city boundaries. (***Minnesota Statutes, section 412.221, subdivision 11***) (*Link to: <https://www.revisor.mn.gov/statutes/?id=412.221#stat.412.221.11>*)

Cities may also regulate where wells are located in a city, if at all, through zoning as established in both statute and case law. (***Minnesota Statutes, section 465.357, subdivision 1***) (*Link to:*

*<https://www.revisor.mn.gov/statutes/?id=462.357#stat.462.357.1>*) However, MDH is given specific powers over technical aspects of constructing wells, the licensing of well drillers, and sealing wells.

This issue became more controversial over the past year as cities began receiving letters from the state demanding that they cease enforcement of ordinances restricting well drilling. Many property owners within city boundaries have wanted to drill their own irrigation wells within municipal water utility service areas to avoid paying city utility rates, especially once water conservation rate structures and summer water use requirements were applied, as required by the state Legislature.

This recognition of city authority by MDH means that cities may continue to adopt and enforce ordinances restricting or prohibiting well drilling within their jurisdiction. Cities do not, however, have the authority to regulate the construction, maintenance, or sealing of wells. There are also wells used for monitoring, dewatering for pollution cleanup, and other purposes that likely will still be allowed in appropriate circumstances. The League will work with MDH to provide guidance to cities on how best to craft ordinances related to wells.

**Read the current issue of the Cities Bulletin** (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

### Your LMC Resource

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