

## CITY COUNCIL ORDINANCE

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ESTABLISHING A TEMPORARY SUSPENSION UNTIL DECEMBER 4, 2018 (OR EARLIER AS MORE PARTICULARLY SET FORTH HEREIN) OF THE ACCEPTANCE, PROCESSING AND APPROVAL OF APPLICATIONS FOR WASTE DISPOSAL INJECTION WELLS DURING THE TERM OF SUCH MORATORIUM; AND DIRECTING THE CITY MANAGER, CITY ATTORNEY, AND STAFF TO CONDUCT SUCH STUDIES AS MAY BE ADVISABLE AND TO CONSULT WITH SUCH AGENCIES, COMMISSIONS, COMPANIES AND CONSULTANTS AS MAY BE PRUDENT, TO DETERMINE WHETHER AND TO WHAT EXTENT MEASURES RELATED TO THE REGULATION OF WASTE DISPOSAL INJECTION WELLS WITHIN AND IN CLOSE PROXIMITY TO THE CITY, SHOULD BE ADOPTED BY THE CITY COUNCIL TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITY OF BRIGHTON, AND TO MAKE RECOMMENDATIONS TO CITY COUNCIL AS TO SUCH MATTERS; DECLARING AN EMERGENCY; AND SETTING FORTH OTHER DETAILS RELATED THERETO.

**ORDINANCE NO.: 2283**

**INTRODUCED BY: Johnston**

**WHEREAS**, the development of underground waste disposal injection wells within the State of Colorado has increased in recent years, especially within certain areas in close proximity to the City of Brighton; and

**WHEREAS**, Brighton has not received any application for an underground waste disposal well on lands within the corporate boundaries of the City, although it has received notice of proposed well sites in close proximity to the City, and the City Council believes it likely that the City may receive a growing number of inquiries for such wells, including an application in the foreseeable future; and

**WHEREAS**, various municipalities throughout the State of Colorado have studied the potentially negative harmful impacts of waste disposal injection wells on the public health, safety and welfare of local citizens, and have enacted local legislation to protect such interests; and

**WHEREAS**, it is the City Council's intent to enact similar regulations to address any proposed development of any waste disposal injection well, within or in close proximity to the City of Brighton, including mitigating any potential impacts to the City's groundwater resources and potential conflicts with any planned or existing other land uses; and

**WHEREAS**, any regulations adopted will intentionally protect the public health, safety, and general welfare of the residents of the City of Brighton, and as such, are and shall be a lawful and legitimate exercise of the City Council's land use authority and police powers; and

**WHEREAS**, it is the intent of the City Council that the exercise of its home rule authority, and its police power and land use regulation authority, as expressed in any new regulations, will be consistent with the intent and purposes of the City of Brighton's Municipal Code and Land Use and Development Code and related regulations; any applicable provisions of the State Oil and Gas Conservation Act (C.R.S. §34-60-101, *et. seq.*); any applicable rules or regulations of the Colorado Oil and Gas Conservation Commission; and any applicable rules and regulations of the Colorado Department of Public Health and Environment; and

**WHEREAS**, recognizing that the City depends on groundwater as its primary source of domestic potable water supply, the City Council finds that it is essential to take the time necessary to study, investigate, explore all options, and ensure that any waste disposal injection well would only be authorized, if at all, only if all possible safeguards are in place to protect the City's groundwater resources, and that the permitting and development of any waste disposal injection well must be in a manner consistent with some or all of the aforementioned ordinances, rules and regulations; and

**WHEREAS**, it is understood that injection wells located within the City may bring additional heavy truck traffic onto City streets. The volume of truck traffic and the financial impact these trucks may have on City streets requires additional study; and

**WHEREAS**, it is understood that hydrocarbons and other oil and gas chemicals are present in the fluids to be injected and that these chemicals are flammable and could pose a risk to public safety as well as a potential risk to air and water quality; and

**WHEREAS**, it has been widely reported that waste injection wells have and continue to cause minor seismic activity in some areas of Weld County and in the State of Oklahoma. The City needs to better understand the risk of such seismic activity and if that risk can be eliminated; and

**WHEREAS**, the City Council finds and determines that it is necessary for the City Manager, City Attorney, and Staff to conduct such studies and investigations as may be required, and to consult with such agencies, commissions, companies and consultants as may be prudent, to determine what measures related to waste disposal injection wells should be adopted to protect the public health, safety and welfare; and

**WHEREAS**, issuing permits or other related entitlements providing for the establishment or operation of any waste disposal injection well, prior to completion of the City's studies and investigations around potential negative impacts of such facilities, poses a current and immediate threat to the public health, safety and welfare, and therefore the City Council specifically finds and

determines that a temporary moratorium on the issuance of any such permit, license and entitlement is necessary and proper; and

**WHEREAS**, for the protection of the public health, safety and general welfare, the City Council desires to adopt this moratorium, in order to maintain the current status quo and to provide reasonable time for the City Manager, City Attorney and Staff to study applicable law and regulations, a possible permitting procedure, appropriate zoning and land use regulations, and other regulatory standards and conditions to be imposed on such operations; and

**WHEREAS**, in order to protect the public health, safety and general welfare of the people of the City of Brighton, the City Council of the City of Brighton, Colorado, hereby finds and determines that an emergency exists in accord with City Charter § 5.1, and that it is necessary and appropriate to institute a temporary suspension and moratorium on the acceptance, processing or approval of any use permit, right of way permit, conditional use, variance, building permit, or other applicable entitlement for any waste disposal injection well or related facility or appurtenance, within or in close proximity to the Brighton City limits; during which time the City Council may consider amendments to the Brighton Municipal Code, concerning appropriate regulations, restrictions and requirements to govern, prohibit, restrict, or permit the same.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO:**

**Section 1.** Upon the effective date of this Ordinance as an emergency ordinance, and continuing until December 4, 2018, or until further action of the City Council by ordinance, whichever is earlier, no application for any *waste-disposal injection well* shall be accepted or processed by the City of Brighton, and no such application or use is authorized or permitted in the City.

**Section 2.** For purposes of this Ordinance, “waste-disposal injection well” means any and all well site locations, equipment, well-head, bottom-hole, facility, or related infrastructure, appurtenance, permit, right or entitlement, in any way associated with constructing, drilling, or operating any underground disposal or storage operation, within or in close proximity to the City limits, including the permitting, construction, erection, or proposed location of any related or appurtenant infrastructure that may be used in connection with any waste disposal injection well, including any proposed accessory equipment or supporting infrastructure proposed to be located in, upon, under, or through any real property within or in close proximity to Brighton City limits.

**Section 3.** That the moratorium herein adopted shall expire on December 4, 2018, unless earlier terminated or specifically extended by ordinance of the City Council.

**Section 4.** The City Manager, City Attorney and City Staff are authorized and directed to conduct such studies and investigations as may be required, and to consult with such agencies, commissions, experts, and consultants as may be prudent, to determine what restrictions and

regulations related to waste disposal injection wells should be adopted in Brighton to preserve and protect the public health, safety and welfare.

**Section 5.** The provisions of this ordinance are temporary in nature and are intended to be replaced by subsequent legislative enactment. Notwithstanding the terms of Sections 1 and 3 above, this ordinance may be extended by action of the City Council, if the City Council finds such extension necessary for continued study, investigation, or analysis, or for the preparation and implementation of legislative enactments; and the City Council determines that such extension(s), if necessary to the City, are in the public interest and will not result in undue hardship to any party. Similarly, this ordinance may be rescinded by the City Council at any time, if and when the City Council has adopted appropriate regulations.

**Section 6. Purpose.** The purpose of this ordinance is to provide for, and to protect and preserve, the health, safety and welfare of the people.

**Section 7. Validity.** If any part of this ordinance is for any reason held to be invalid, such decision shall not affect the legislative intent or the validity of remaining parts of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof, irrespective of whether one part may later be declared invalid.

**Section 8. Interpretation.** This ordinance shall be so interpreted and construed as to effectuate its general purpose and legislative intent.

**Section 9. Emergency Declaration and Effective Date.** In order to provide sufficient time for the City Manager, City Attorney and City Staff to commence, conduct, and complete studies, investigations, and analysis, and to prepare and provide findings and recommendations to the City Council; and time for the City Council to meaningfully consider and further study such findings and recommendations, it is hereby declared that: (i) an emergency exists; (ii) that this ordinance is necessary for the immediate preservation of public peace, health, safety, and welfare; and (iii) that it shall be in full force and effect immediately upon its adoption as an emergency ordinance.

**INTRODUCED, ADOPTED ON FIRST AND FINAL READING AS AN  
EMERGENCY ORDINANCE, AND ORDERED PUBLISHED THIS 5<sup>th</sup> DAY OF JUNE,  
2018.**

**CITY OF BRIGHTON, COLORADO**

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Kenneth J. Kreutzer, Mayor

**ATTEST:**

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Natalie Hoel, City Clerk

**APPROVED AS TO FORM:**

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Margaret Brubaker Esq., City Attorney  
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