ORDINANCE NO. 6362

AN ORDINANCE TO AMEND CHAPTER 4.33 "PRIVATE WELLS" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.33.010 THROUGH 4.33.040.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Chapter 4.32 "Private Sewage Disposal Systems" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.33.010 through 4.33.040 as follows:

~~4.33.010 - Scope.~~
~~The provisions of this chapter shall apply to all private water wells located or to be constructed within the city of Council Bluffs, including, but not limited to, new construction and modification of existing wells.~~

~~4.33.020 - Permit required.~~
~~No person shall construct a private well in the city of Council Bluffs, or own/use a well constructed after the effective date of this provision, unless a permit has been issued for the well by the department of public health. This permit shall be in addition to any permits required by the state or county. This requirement shall not apply to monitoring wells used for soil and groundwater investigation.~~

~~4.33.025 - Registration of pre-existing wells.~~
~~Any person who owns property in the city of Council Bluffs which has a well, other than a monitoring well, which was constructed prior to the effective date of this ordinance, shall register said well with the city. Registration forms for this may be obtained in the department of public health or from the city clerk's office. There will be no fee charged for the registration of a pre-existing well.~~

~~4.33.030 - Permit process.~~
~~(a) Any person desiring a well permit shall make application to the director of public health on the form prescribed by the him/her. The director of public health shall determine the necessary information, data and testing required for the issuance of the permit. (b) In determining whether to issue a permit or not, the director of public health shall consider the availability of public water to serve the real property, building or facility, the estimated amount of water to be consumed, possible contamination of the water, and the purpose for which the water will be used. The applicant shall be required to have an environmental assessment completed to determine if there are known sources of contamination within five hundred (500) feet of the proposed site. (c) If the property, building or facility to be served is located within two hundred (200) feet of public water, the director of public health shall automatically deny the permit, and the applicant shall be required to use the public water system. (d) If the director of public health determines that the water is in an area of contamination or is otherwise unfit, he/she may deny the permit or make such limitations as to the use of the water from said private well as are necessary to protect life and property. In determining what the actual area of contamination is, the director of public health shall consider current levels and areas of contamination, as well as where the contamination might reasonably be expected to expand to in the foreseeable future. (e) The application shall not be deemed complete until all information, data and testing results~~

~~required by the director of public health have been submitted to him/her for consideration and the required fee paid in full. (f) The director of public health shall rule upon the permit application within thirty (30) working days of the submitting of the completed application. The director of public health may, upon good cause, extend said period for approval of the application an additional thirty (30) working days by issuing a written notice to the applicant. Any application which is not acted upon in a timely manner by the director of public health shall be deemed to have been denied upon the expiration of time provided by this section. (g) The applicant may appeal the decision of the director of public health to the board of health by filing a written notice of appeal with the director of public health within ten (10) business days of the decision. The board of health shall meet to determine the appeal within forty-five (45) days of the date the appeal is filed. (h) The applicant shall pay an application fee in the amount of twenty-five dollars ($25.00). (i) All required testing and collection of information and data shall be at the applicant's expense.~~

~~4.33.040 - Penalty.~~
~~Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND October 22, 2018.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____