

## **ORDINANCE NO. 284**

### **AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ELY, IOWA, BY AMENDING ADDING CHAPTERS DEALING WITH PRIVATE WATER WELLS**

**BE IT ENACTED** by the City Council of the City of Ely, Iowa:

**SECTION 1. SECTIONS ADDED.** Sections 93 and 94 of the Code of Ordinances of the City of Ely, Iowa adopted:

93.01 **SCOPE.** The provisions of this chapter shall apply to all private water wells located or to be constructed within the City, including, but not limited to, new construction and modification of existing wells other than monitoring wells used in connection with soil and groundwater contamination.

93.02 **PERMIT REQUIRED.** No person shall construct a private well in the City or own or use a well constructed after the effective date of this provision, unless the City Administrator has issued a permit for the well. 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.

93.03 **REGISTRATION OF PRE-EXISTING WELLS.** Any person who owns property in the City which has a well (other than a monitoring well) which was constructed prior to the effective date of the ordinance codified by this chapter, shall register said well with the City. Registration forms for this may be obtained from the Water Department or from the City Administrator's office. There will be no fee charged for the registration of a pre-existing well. Registration shall include, but not be limited to, exact location, well history, separation from public water supply and vulnerability to contaminants. Any pre-existing well located in a contaminated area shall be plugged and sealed in accordance with the Iowa Department of Natural Resources regulations at the owner's cost. In addition, closed loop geothermal wells must be registered with the City upon commencement of construction, the same as pre-existing wells.

93.04 **PERMIT PROCESS.**

1. Any person desiring a well permit shall make application to the City on the form prescribed by the City. A nonrefundable permit fee of \$50 shall accompany the permit request. The City Administrator shall determine the necessary information, date, and testing required for the issuance of the permit.

2. **Private Wells Prohibited.** No person shall construct a private well within the City limits after the effective date of the ordinance codified by this section (December 2, 2004), provided that said public water main is located within 150 feet of the property line of such owner, and no private well shall be allowed in any contaminated area, as determined by the City or the Iowa Department of Natural Resources. This prohibition shall not apply to closed loop geothermal wells.

3. In determining whether to issue a permit or not, the City Administrator or Designee 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 Iowa Department of Natural Resources Leaking Underground Storage Tank Section shall be notified of any permit application. The applicant shall be required to have an environmental assessment completed to determine if there are known sources of contamination within 500 feet of the proposed site.

4. If the property, building, or facility to be served is located within 150 feet of public water, the City Administrator or Designee shall automatically deny the permit, and the applicant shall be required to use the public water system.

5. If the City Administrator or Designee determines that the water is in an area of contamination or is otherwise unfit, said official 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 City Administrator or Designee shall consider current levels and areas of contamination, as well as where the contamination might reasonably be expected to expand to the foreseeable future.

6. The application shall not be deemed complete until all information, data, and testing results required by the City Administrator or Designee have been submitted to said official for consideration and required fee is paid in full.

7. The City Administrator or Designee shall rule upon the permit application within 30 working days of the submitting of the completed application. The City Administrator or Designee may, upon good cause, extend said period for approval of the application an additional 30 working days by issuing a written notice to the applicant. Any application that is not acted upon in a timely manner by the City Administrator or Designee shall be deemed to have been denied upon the expiration of time provided by this section.

The applicant may appeal the decision of the City Administrator or Designee to the City Council by filing a written notice of appeal with the City Administrator or Designee within ten (10) business days of the decision. The City Council shall meet to determine the appeal within 45 days of the date the appeal is filed. In considering the grant or denial of any application for construction or drilling of a well within City limits, the Council shall consider whether the property is furnished with water, whether it is safe to construct or drill a well on the premises, and other considerations which the Council deems appropriate. If any person fails to comply with this section for more than 10 days after receiving written notice of the violation, the City may impose a penalty and cause well abandonment to be performed and the expense to be assessed as a special tax against the property. In addition, the Superintendent may at any time revoke the permit for any violation of this Code of Ordinances and may require that the work be stopped. Where appeal is taken, the decision of the City Council is final.

8. All required testing and collection of information and data shall be at the applicant's expense.

9. The issuance of a City permit for a private well shall not relieve the applicant from the duty to secure any other permits required by the County or State.

10. Registration of Pre-Existing Wells. Any person who owns property in the City which has a water well as of the effective date of the ordinance codified by this section (upon publication), other than a monitoring well, shall register said well with the City. There shall be no fee for the registration of a pre-existing well.

## CHAPTER 94

### WATER WELL ABANDONMENT

94.01 PURPOSE. To prevent contamination of groundwater and to protect public health, safety and welfare by assuring that unused, unsafe or non-complying wells or wells which may serve as conduits for contamination or wells which may be illegally cross-connected to the community water system, are property abandoned.

94.02 APPLICABILITY. This chapter applies to all wells located on premises served by the community water system.

94.03 DEFINITIONS.

1. “Non-complying” means a well or pump installation which does not comply with provisions of this chapter, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.
2. “Pump installation” means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pit sampling faucets and well seals or caps.
3. “Unsafe” means a well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances in exceedance of the standards for drinking water established by the Iowa Code, or for which a Health Advisory has been issued by the Iowa Department of Natural Resources.
4. “Unused” means a well or pump installation, which is not in use or does not have a functional pumping system.
5. “Well” means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use.
6. “Well Abandonment” means the filling and sealing of a well according to the provisions of the Iowa Code.

94.04 ABANDONMENT REQUIRED. All wells located on the premises served by the community water system shall be abandoned in accordance with the terms of this chapter by \_\_\_\_\_ or no later than 1 year from the date of connection to the community water system whichever occurs last, unless a well operation permit has been obtained by the well owner from the system.

94.05 WELL OPERATION PERMIT. The community water system may grant a permit to a private well owner to operate a well for a period not to exceed five (5) years providing the conditions of this section are met. An owner may request renewal of a well operation permit by submitting information verifying that the conditions of this section are met. The community water system, or its agent, may conduct inspections or have water quality test conducted at the applicant’s expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the County Sanitarian. The following conditions must be met for insurance or renewal of a well permit:

1. The well and pump installation meet or are upgraded to meet the requirements of the Iowa Code;
2. The well construction and pump installation have a history of producing bacteriologically safe water as evidenced by at least two (2) samples taken a minimum of two (2) weeks apart;
3. There are no cross-connections between the well and the pump installation and the community water system; and
4. The purposed use of the well and pump installation can be justified as being necessary in addition to water provided by the community water system.

94.06 ABANDONMENT PROCEDURES.

1. All wells abandoned under the jurisdiction of this chapter or rule shall be abandoned according to the procedures and methods of the Iowa Code. All debris, pump, piping, unsealed liners and any other obstructions, which may interfere with sealing operations, shall be removed prior to abandonment.

2. The owner of the well, or the owner's agent, shall notify the city at least forty-eight (48) hours prior to commencement of any well abandonment activities. The Superintendent of the community water system shall observe the abandonment of the well.

**SECTION 2. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 10th day of February, 2020, and approved this 10<sup>th</sup> day of  
February, 2020.

ATTEST:

  
Luanne Miller, City Clerk

  
Eldy Miller, Mayor

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First Reading: 02/10/20

Second Reading: 02/10/20

Third Reading: 02/10/20

Adopted. 02/10/20

Posted. 6/12/2019

I certify that the foregoing was posted as Ordinance No. 281 on the 12 day of June, 2019, as required by law.

  
Adam Thompson, City Administrator

SEAL