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**CITY OF NEWARK
DELAWARE
CITY COUNCIL
PUBLIC HEARING
NOTICE**

November 28, 2016 - 7:00 P.M.

Pursuant to Section 402.2 of the Charter of the City of Newark, Delaware, notice is hereby given of a public hearing at a regular meeting of the Council in the Council Chamber at the Municipal Building, 220 S. Main Street, Newark, Delaware, on November 28, 2016 at 7:00 p.m., at which time the Council will consider for Second Reading and Final Passage the following proposed Ordinances:

- Bill 16-31- An Ordinance Amending Chapter 17, Housing and Property Maintenance, Code of the City of Newark, Delaware, By Updating Code Sections to Allow Private Certified Rental Property Maintenance Inspectors, to Allow Financial Credits if Such Inspectors are Used and to Clarify Certain Aspects of the City of Newark's Annual Rental Inspection Program *(The second reading of this Bill was rescheduled from the November 14, 2016 meeting)*
- ✓ Bill 16-32 - An Ordinance Amending Chapter 30, Water, Code of the City of Newark, Delaware, By Permitting Potable and Non-Potable Water Supply Wells Under Certain Conditions
- Bill 16-33 - An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Regarding the Provision of a Limited Enhanced Early Retirement Option
- Bill 16-34 - An Ordinance Amending Chapter 2, Administration, Code of the City of Newark, Delaware, By Updating the Appointment Language for Conservation Advisory Commission Members

Renee K. Bensley, CMC
City Secretary

Advertised: Newark Post – November 18, 2016
Direct Mail: November 18, 2016

BILL NO. 16-32

1st Reading: 11/14/2016

2nd Reading: _____

**CITY OF NEWARK
DELAWARE**

ORDINANCE NO. 16-__

An Ordinance Amending Chapter 30, Water, Code of the City of Newark, Delaware, By Permitting Potable and Non-Potable Water Supply Wells Under Certain Conditions

THE COUNCIL OF THE CITY OF NEWARK HEREBY ORDAINS:

That Chapter 30, Water, Code of the City of Newark, Delaware, be hereby amended in the following respect:

AMENDMENT 1. Create a new Article VIII, Wells, and adding the underscored text as follows:

"ARTICLE VIII. – WELLS.

Sec. 30-57. Potable and non-potable water supply wells permitted under certain conditions.

It shall be unlawful for any person to drill or construct, install, operate, or use any well for the taking of water within the corporate limits of the City of Newark except as in subsections a., b., and c. below.

- a. Wells constructed as part of the City's water utility or other municipal activity
- b. Existing water supply wells when the Public Works and Water Resources Director has determined the cost to connect to the public system to be infeasible.
- c. Private wells for geothermal heating/cooling systems
- d. Any well permitted by section 30-57(b) or 30-57(c) shall be subject to the following conditions;
 1. Such well shall meet all of the requirements established by the Public Works and Water Resources Department for the installation of wells in the City.

2. The water to be used shall be metered and all expense associated with metering and communications shall be borne by the well owner/operator. Meters and communications equipment shall be purchased from the City.
3. There shall be backflow prevention installed in accordance with City standards and specifications.
4. The cost of water shall be charged at bulk rates at the current rate including any customer charges if applicable.
5. All installations, operations, disconnection, billing, charges, and other regulations shall be subject to City ordinance, inspection and oversight.
6. The City shall have the right to enter on said property and inspect said system at any time.
7. Any geothermal heating/cooling system or irrigation well shall also be subject to federal, state, and county regulations.
8. A utility permit from the Public Works and Water Resources Department for well drilling is required for all wells and application for the permit shall be made a minimum of two weeks prior to construction of the well. The Director may waive the two-week notice requirement in instances where the loss of production due to well failure has made this infeasible.
9. Copies of the approved DNREC well permit shall be provided to the Public Works and Water Resources Department along with the utility permit application.
10. Copies of all applicable construction logs shall be provided to the Public Works and Water Resources Department within 30 days of well construction or as soon as otherwise practicable.

- e. If a well is drilled without receiving proper authorization and permit from the Public Works and Water Resources Department, the Director is authorized to take appropriate steps necessary to close the well or bring it into compliance with the requirements of this section. The Director shall bill the violator for 150% of all costs incurred by the City to close the well and/or bring into compliance. Where a property has been assessed for costs pursuant to this section, a notation of the lien shall be entered in the municipal lien docket for such fees.
- f. Any person found to have violated any of the provisions of this Section shall be fined not less than \$25 nor more than \$100.00. Each day that a violation continues shall be deemed a separate offense

MOTION for Acceptance as First Reading on November 14, 2016.

by Council Member Morehead.

Second Reading and Final Passage on _____, 2016.

VOTE: __ to __.

Mayor

Attest:

City Secretary

Approved as to Legality & Form:

City Solicitor

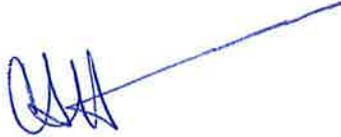


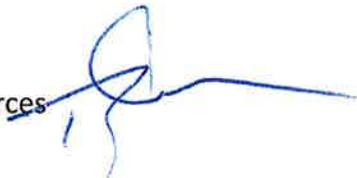
PUBLIC WORKS & WATER RESOURCES
CITY OF NEWARK

220 South Main Street · Newark, Delaware 19711
302.366.7000 · Fax 302.366.7160 · www.cityofnewarkde.us

October 17, 2016

TO: Mayor and Council

VIA: Carol S. Houck, City Manager 

FROM: Tom Coleman, Director of Public Works and Water Resources 

RE: Overview of Bill No. 16-32

Bill No. 16-32 is on the November 14th Council agenda for First Reading, with a Second Reading and potential action scheduled for the meeting on November 28th. The bill amends Chapter 30, Water, Code of the City of Newark, Delaware by spelling out the certain conditions under which both potable and non-potable water supply wells should be permitted within the corporate limits of Newark.

The Department of Natural Resources and Environmental Control has recently begun enforcing a 2000 legislative change that removed their ability to deny well permits for industrial (non-potable) wells located within the service territory of municipal water purveyors. Prior to this re-interpretation, DNREC would only approve such permits if the affected municipality agreed to allow the well to be drilled, similar to how they handled and still handle potable wells within municipal boundaries. Per an October 12th letter from the DNREC Division of Water, all municipalities will need to have a local regulation in their code to prevent this from happening in the future. This is due to the fact that DNREC will be compelled to approve the permit without future legislative action at the state level otherwise giving them the authority to deny such permits.

This issue was initially brought to our attention by the Town of Frankford who recently suffered the consequences of not having a local ordinance restricting the installation of non-potable wells. Their largest water customer who was responsible for roughly 1/3rd of their water sales drilled a non-potable well for industrial use, dramatically reducing water sales and resulting in an extreme financial burden for the Town due to existing debt service undertaken to support what had historically been their average water demand.

While Newark is less vulnerable to such a significant impact from the loss of any one customer, without a local ordinance there would be nothing to stop a similar impact coming as a result of a combination of large customers choosing to do the same. By limiting well construction within Newark we are also providing protection of our groundwater resources from depletion, reducing additional conduits for contamination, and providing for a local enforcement

mechanism to deal with people who install wells without a permit or otherwise outside of the conditions of their permit.

In addition to recommending Council approve the attached ordinance, we are also requesting that Council to direct the City's lobbyist pursue a statewide legislative change allowing DNREC the authority to deny non-potable well permits within municipal water utilities service territories. We have been advised by Frankford that their local legislators, Senator Hocker and Representative Collins, have indicated their desire to pursue a similar legislative effort. This would provide for an additional level of protection for the City while expanding protection to the portions of our service territory located outside of municipal limits.

- c. Mark Neimeister, Water Operations Superintendent
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