

ORDINANCE NO. 03-02B

AN ORDINANCE TO AMEND THE COUNTY CODE OF ORDINANCES OF MILLS COUNTY, IOWA, BY AMENDING ORDINANCE NO. 2003-02 TIME OF TRANSFER INSPECTION ORDINANCE TO ENACT A NEW SECTION 240.020. APPLICABILITY SETTING FORTH THE REAL ESTATE SUBJECT TO THE SEPTIC TANK INSPECTION REQUIREMENT AND TO RENUMBER THE SECTIONS TO ACCOUNT FOR THE INCLUSION OF THE NEW SECTION AND TO ENACT A NEW EFFECTIVE DATE FOR THE ORDINANCE

BE IT THEREFORE ORDAINED BY THE BOARD OF SUPERVISORS OF MILLS COUNTY, IOWA:

Section 1. AMENDMENT ONE. A NEW SECTION 240.020. APPLICABILITY OF CHAPTER 4 TIME OF TRANSFER INSPECTION OF TITLE II HEALTH AND WELFARE is enacted as follows:

Section 2. NEW SECTION. 240.020. APPLICABILITY. The septic tank inspection requirements of this ordinance shall apply to any transfer of an interest in real estate subject to the transfer tax imposed by Chapter 428A, Code of Iowa. In addition, any executory (real estate) contract for the sale of land under which the vendee is entitled to or does take possession thereof shall be subject to the septic tank inspection requirements of this ordinance. Any transfer in fulfillment of such an executory (real estate) contract shall not be subject to the inspection requirements of this ordinance.

Section 3. AMENDMENT TWO. CHAPTER 4 TIME OF TRANSFER INSPECTION OF TITLE II HEALTH AND WELFARE is renumbered as follows:

Section 4. CHAPTER 4 - TIME OF TRANSFER INSPECTION

240.010. PURPOSE. All private on-site wastewater treatment and disposal systems existing in Mills County shall comply with Chapter 69 of Iowa Administrative Code 567 and be inspected for compliance prior to or during any change in ownership of land on which the system and/or building is located. The property holder transferring the property or the transferor of the property shall obtain an inspection report from Mills County Public Health Department and present it to the buyer or transferee of the property prior to, or during the negotiation of the property transfer.

240.020. APPLICABILITY. The septic tank inspection requirements of this ordinance shall apply to any transfer of an interest in real estate subject to the transfer tax imposed by Chapter 428A, Code of Iowa. In addition, any executory (real estate) contract for the sale of land under which the vendee is entitled to or does take possession thereof shall be subject to the septic tank inspection requirements of this ordinance. Any transfer in fulfillment of such an executory (real estate) contract shall not be subject to the inspection requirements of this ordinance.

240.030. EXEMPTIONS. Any on-site wastewater treatment and disposal systems which were installed under county permit or which passed county inspection within two years previous to

property transfer are exempt from further inspection until the next property transfer. However, inspections may still be conducted if requested.

240.040 SEPTIC TANK INSPECTION. The septic tank inspection shall include the pumping out and inspection of the septic tank(s); the unearthing of the tank(s) may also be required by the Department to assist in the inspection process.

240.050 CERTIFIED TANK PUMPER. The septic tank must be pumped by a certified tank pumper. If the septic tank has been pumped and visually inspected by a licensed septic pumper within 3 years of the time of application, and documentation is available, the Department may waive pumping of the septic tank.

240.060 SECONDARY TREATMENT SYSTEM INSPECTION. The secondary treatment system inspection shall include an inspection of the lateral field/mound/etc. to locate any surface failure. In the case that a distribution box is required it shall also be unearthed and inspected for speed levelers if there is no inspection record of their installation. If the distribution box cannot be located a new secondary treatment system must be installed.

240.070 COMPLIANCE. In the case that any portion of the on-site wastewater treatment and disposal system does not comply with Chapter 69 of Iowa Administrative Code 567, repairs or modifications must be made to bring the system into compliance immediately. However, if weather conditions exist such as frost or excessive rain, the property owner may be given a time frame of up to 6 months from the time of sale or transfer to complete this work.

240.080 COSTS. All costs associated with the primary inspection shall be the responsibility of the transferring party. If work is required, the responsibility for the work is negotiable between the parties and the Department shall be informed, in writing, of who is taking responsibility.

240.090 FAILURE TO INSPECT. If the original owner fails to have the property inspected as required, the transferee of the property shall assume this responsibility, along with any renovation costs.

240.100 FEE. A fee shall be assessed for the inspection. That fee shall be applied toward a permit fee if major repair or renovation is required.

~40.110 TRANSFER OF INFORMATION. If the on-site wastewater treatment system was put in under a county permit, the Public Health Department will try to locate the permit and provide copies of maps and information on the inspection report. The transferor shall provide the Department all of the names of previous owners associated with the property since 1987, if known. The person ordering the inspection has the responsibility of ensuring the transferee receives all of the information provided.

240.120 PUBLICATION. A copy of the National Small Flows Clearinghouse publication, "The Care and Feeding of your Septic System," or similar publication will be provided with each inspection report. These documents must be given to the transferee.

240.130 ENFORCEMENT. The Mills County Board of Health shall enforce the regulations set forth in this ordinance pursuant to Iowa Code Section 455B.172(4). The Board of Health or its agent shall be responsible for issuance of the inspection reports. The Board of Health shall establish the fee for an inspection report in its policies.

240.140 PENALTIES. The Mills County Board of Health shall order any person violating any part of this Chapter to comply with the regulations. Any person who fails to comply with this Chapter and/or an order of the Mills County Board of Health shall be found guilty of committing a County Infraction as defined in CHAPTER 7 VIOLATIONS AND PENALTIES OF TITLE I ADMINISTRATION.

Section 5. AMENDMENT THREE. Section 17. EFFECTIVE DATE of Ordinance 2003-02 Time of Transfer Inspection Ordinance is hereby repealed and a new Section 17. EFFECTIVE DATE of Ordinance 2003-02 Time of Transfer Inspection Ordinance is enacted as follows:

Section 6. AMENDED EFFECTIVE DATE. Section 17. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after January 1, 2004. Any contractual agreement entered into before January 1, 2004, for the purchase of real property shall be exempt from the rules, regulations and requirements set forth in this ordinance.

Section 7. REPEALER. All other ordinances, rules, regulations, or part thereof, in conflict with this ordinance are hereby repealed by this ordinance.

Section 8. SEVERABILITY. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole, or any provision thereof not adjudicated to be invalid or unconstitutional.

Section 9. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage, approval, and publication as provided by law.

First Reading: _____ Second Reading: _____ Third Reading: _____

Approved:

Chair - Board of Supervisors

Mills County Auditor