

ORDINANCE # 011909
WATER WELLS

COPY

AN ORDINANCE REGULATING THE DRILLING AND OPERATION OF WATER WELLS FOR NON-MUNICIPAL USES IN THE CITY OF POTH, TEXS; REQUIREING APPLICATION AND ISSUANCE OF A PERMIT FOR THE DRILLING AND OPERATION OF ANY SUCH WELL; DECLARING IT A MISDEMEANOR TO DRILL OR OPERATE ANY SUCH WELL IN VIOLATION OF THE PROVISIONS OF THE ORDINANCE; CONTAINING A PENALTY CLAUSE, A SAVING CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Poth, Texas, owns and operates water supply facilities within the City, including three (3) water wells and related facilities, which provide potable water to the residents of the City; and

WHEREAS, the City shall regulate and require permits for all private water wells within the corporate limits of the City in order to protect and conserve the quality and quantity of city owned and operated wells; and

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTH, TEXAS

§ 1.00 GENERAL PROVISIONS.

It shall be unlawful for any person, firm or corporation to drill or operate any water well within the corporate limits of the City without first obtaining a permit therefore from the City, and without complying with the terms and provision of this ordinance.

§ 2.00 APPLICATION FOR DRILLING AND OPERATION OF WELLS.

Application for the drilling and/or operation of a water well shall conform to the following requirements and give the following information:

(A) It shall be in writing and signed by the owner of the premises where the well is located.

(B) It shall give the street address and legal description of the property where the well is located or to be located.

(C) It shall be accompanied by detailed drawings and specifications showing the exact location of the well on the premises, the depth and diameter of the well hole, type and

size of the casing and pumping facilities to be used, maximum capacity per minute of the pumping facilities, and location of all piping and outlets on the premises to be served by the well.

(D) It shall be accompanied by a fee of \$100 to defray the city's cost in investigating the application and issuing the permit. This fee will not be refundable whether the permit is granted or denied.

§ 3.00 RULE- REGULATIONS & PERMITS

All water wells for non-municipal use in the city shall be drilled and operated in conformity with the following regulations:

(A) The well hole shall not have a maximum depth in excess of 400 feet from the ground surface.

(B) The well borehole shall not have a maximum diameter in excess of six inches.

(C) The property upon which the well will be located shall consist of a minimum of ten acres.

(D) The well shall be located only in the backyard of the premises, and no well shall be permissible in the front or side yards of any premises within the city.

(E) The pumping device used to raise water from the well shall not have a maximum pumping capacity in excess of 100 gallons per minute.

(F) The well opening, pumping facilities and storage tanks shall be housed in a manner to comply with all applicable city codes.

(G) The pumping and electrical connections to the well shall be in conformity with all requirements of the city Building codes.

(H) The well, pumping facilities and water systems connected thereto shall be subject to inspection by the city.

(I) No such well shall ever be connected to the city Municipal Water System.

(J) Water from such well shall be used only for non-domestic purposes. Non-domestic purposes, as used in this subchapter, shall mean for purposes other than for non-human consumption and/or connection to plumbing facilities used within residential and public buildings of all kinds for preparation of food for human consumption and/or washing of utensils used in cooking or serving food for human consumption and clothing for human wear and/or disposal of waste into the city Municipal Sewer System.

(K) Water from such well shall be used only for non-domestic uses of the owner of the

premises where the well is located, and no water from such well shall be given away or sold to other persons, firms or corporations.

(L) If the city, after investigation, determines that water from such well is being discharged in any manner, by drainage or seepage or otherwise, into the city Municipal Water System, an additional sewer charge will be made to such premises to reasonably compensate the city for handling such discharge.

(M) Such well shall be drilled and operated in conformity with all municipal, county and state health and safety laws, rules and regulations, which compliance shall be the responsibility of the owner or owners of the premises where the well is located.

(N) Water faucets connected with such well, whether located at the wellhead or otherwise, shall be enclosed and locked when not in use, so as to prevent access thereby by children or any person who is not authorized by the owner to use water from the well in conformity with this subchapter.

(O) During any time of rationing of water usage from the city Municipal Water System, the premises where any such well is located shall have a legible sign placed in the front yard of the premises to inform both the public and municipal officials that a private well is in operation on said premises.

§ 4.00 PERMITS.

(A) Applications for permits under this subchapter shall be made to the city Planning & Zoning Committee, and in addition to other information herein required, shall state in detail the specific use intended to be made of water from the well for which the permit is requested. If the application is found to be in order and in compliance with all of the regulations contained in this subchapter, as well as state, county and other municipal laws, rules and regulations, then the permit will be issued; otherwise it will be denied. Denial of a permit may be appealed to the city Council by giving notice in writing to the City Secretary of intent to appeal within 15 days after notice of such denial.

(B) Any permit issued under this subchapter shall be for the sole benefit of the owner or owners, and their tenants, of the property where located. In the event of a subsequent change of ownership of the subject property, then the new owners must submit a new application to the city for a permit for continued use of the existing well.

§ 5.00 INSPECTION OF WELL PREMISES.

Premises where any private well, as contemplated by this ordinance, is located, shall be subject to inspection at any time, without notice, by municipal officials, to determine whether it is being drilled and/or operated in conformity with the provisions of the subchapter, and whether water from such well is being discharged into the city Municipal Sewer System or connected in any way to the city Municipal Water System.

§ 6.00 EXEMPTIONS.

Wells for non-municipal use within the city in existence at the effective date of this

subchapter shall be exempt from the limitations set forth in the subchapter with respect to depth and diameter of the well hole, size and type of pumping facilities and location on the premises, if they are not then in conformity with such regulations. The exemptions shall continue only during the continuing life and uses of the well, however, and shall terminate upon the abandonment of the well. Existing wells, however, shall be subject to all other regulations of this subchapter relating to their continued operation, including the requirement of a permit for such continued operation; provided, however, the owner or owners of the premises where such existing wells are located shall have a period of three months in which to obtain a permit. No permit fee will be charged for the initial permit for continued operation of an existing well.

§ 7.00 ABANDONMENT OF WELLS.

Upon abandonment of any non-municipal well in the city, the owner or owners of the premises where such well is located shall disconnect all plumbing lines and connections from said well and shall plug the hole, with cement or other means, sufficient to prevent any person from stepping into or falling in the well hole or raising water from the abandoned well.

§ 8.00 VIOLATIONS

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed \$200.00. Each day that a violation of this ordinance occurs by continued drilling or operation of a well in violation of the provision of the ordinance shall be deemed to constitute a distinct and separate offense

§ 9.00

This ordinance shall in no manner prejudice the lawful rights of the City of Poth, or any other individual or entity, to seek recourse in any court of competent jurisdiction neither to recover damages for the unlawful or negligent drilling or operation of any well, nor to enjoin the drilling or operation of any well deemed to constitute a nuisance.

§10.00 SEVERABILITY

Each and every section, sentence, paragraph, phrase and provision of this ordinance is declared to be a separate and distinct part hereof, which the City of Poth would have enacted alone, and the holding of any part of this ordinance invalid for any reason shall not affect the validity of any other part hereof.

§11.00 VARIANCES.

If water from the city Municipal Water System is not available to particular premises within the city, or for any other reason of an emergency or hardship nature under particular circumstances deemed adequate after hearing, any provisions of this subchapter should equitably be waived, then the city Council may grant variances from the particular provisions of the subchapter as to particular premises, either temporary or permanent, in order to alleviate such hardship, emergency or inequity. Application for such variance shall be made in writing, and unless made a part of an original application hereunder,

shall be accompanied by the same fee as for drilling or operation of a well. The city Council may, at its election, refer such application to the city staff for study and recommendation.

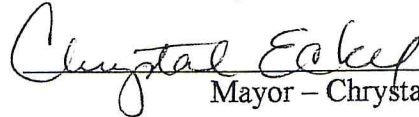
§ 12.00 SUPERCEDING REGULATION OR STATUTE

Whenever any applicable statute, regulation, or permit of any state, federal, or other agency, having jurisdiction over the subject matter of this Ordinance, is in conflict herewith, the stricter requirement shall apply, unless mandated otherwise.

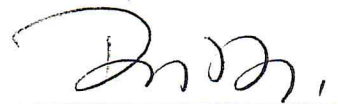
§13.00

The matters addressed in this ordinance are necessary for the immediate preservation of public health and safety of the citizens of the City of Poth, Texas. Accordingly, the City Council declares this matter to be an emergency thereby waiving the requirement that this ordinance be read and voted upon on two separate meetings and this ordinance shall, therefore, take effect upon the passage of this ordinance by the City Council of the City of Poth Texas and the publication of its provisions as required by applicable law.

PASSED AND APPROVED, AND ADOPTED on this the 19th day January, 2009.


Mayor – Chrystal Eckel

ATTEST:


City Secretary – Rose Huizar

(City Seal)

