

ORDINANCE NO. 2007-10-14

AN ORDINANCE OF THE CITY OF PLANO, TEXAS, REPEALING ORDINANCE NO. 65-5-2, AS CODIFIED IN CHAPTER 21 UTILITIES, DIVISION 2, PRIVATE WELLS, SECTION 21-36 THROUGH SECTION 21-46 OF THE CODE OF ORDINANCES IN ITS ENTIRETY AND ENACTING THIS NEW CHAPTER 21, UTILITIES, DIVISION 2, SECTION 21-36 THROUGH 21-47, PRIVATE WELLS IN THE CODE OF ORDINANCES ESTABLISHING REGULATIONS FOR THE CONSTRUCTION AND OPERATION OF WATER WELLS IN PLANO; PROVIDING FOR DEFINITIONS; PROVIDING FOR PERMIT AND LICENSE REQUIREMENTS AND FEES; PROVIDING FOR TESTING AND INSPECTIONS; PROVIDING FOR CONSTRUCTION REQUIREMENTS; PROVIDING A REPEALER CLAUSE; A SAVINGS CLAUSE; A SEVERABILITY CLAUSE; A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Engineer, Director of Public Works, and the City Building Official for the City of Plano [City] recommended a more comprehensive ordinance to regulate the drilling, construction, placement and use of private water wells in order to better protect the public water supply and the safety of the residents of the City; and

**WHEREAS**, the City Council for the City of Plano [City Council] agrees that protection of the public water supply and the safety of the residents of Plano is a legitimate concern; and

**WHEREAS**, the City Council finds that establishing regulations relating to the construction, location, drilling and operation of water wells in the City, if same is connected or could be connected to either the City's water or sewage system, will help protect the health, safety and welfare of the citizens of Plano; and

**WHEREAS**, The City Council has determined that it would be in the best interest for the health and safety of the City and its inhabitants to establish regulations for the construction, location, drilling and operation of water wells within the City; and

**WHEREAS**, upon recommendation of staff and upon full review and consideration of all matters related thereto, the City Council has determined that Ordinance No. 65-5-2, codified at Chapter 21, Utilities, Article II, Division 2, Private Wells, section 21-36 through section 21-46, Code of Ordinances should be repealed in its entirety and that this Ordinance enacting Chapter 21, Utilities, Article II, Division 2, Private Wells, sections 21-36 through 21-47 be passed.

**NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:**

**Section I.** Ordinance No. 65-5-2, codified at Chapter 21, Utilities, Article II, Division 2, Private Wells, section 21-36 through section 21-46, of the Code of Ordinances is hereby repealed in its entirety.

**Section II.** Chapter 21, Utilities, Article II, Division 2, Private Wells, section 21-36 through 21-47 of the Code of Ordinances is enacted to read verbatim as follows:

**“CHAPTER 21, UTILITIES, ARTICLE II, DIVISION 2, PRIVATE WELLS**

Sec. 21-36. Definitions.

(a) Approved water supply source – means Plano's water system.

(b) Backflow – means the reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of a potable water supply from any sources other than an approved water supply source.

(c) Backflow prevention assembly tester – means an individual licensed in accordance with Texas Commission on Environmental Quality [TCEQ] RULES, AS AMENDED, FOR THE PURPOSE OF TESTING Backflow Prevention Assemblies and registered with the City of Plano as a backflow prevention assembly tester.

(d) Building Official – means the officer or other designated authority charged with the administration and enforcement of this Ordinance or his or her designee, which may include members of other City departments as determined by the Building Official.

(e) City Engineer – means the person designated as the City Engineer and registered as a Professional Engineer in the State of Texas.

(f) Construction permit - means a permit issued by the City to a well driller licensed by the state to construct, install, repair or overhaul a water well.

(g) Cross-connection – means a point in the plumbing system where the public water supply is connected directly, or has the potential of being connected, to a source of non-potable substance that is not part of the potable water supply, including water wells. Any actual or potential physical connection between a potable water line and any pipe, vessel or machine containing a non-potable fluid, such that is it possible for the non potable fluid to enter into the potable

water system by backflow. This connection may be temporary or permanent, potential or actual, indirect or direct.

(h) Director of Public Works – means the Director of Public Works for Plano or his or her designee.

(i) Existing well – means a water well or water system which had been installed prior to the effective date of this Ordinance.

(j) Non-potable water – means a water supply, which has not been approved, for human consumption by TCEQ and the City.

(k) Person – means any individual, firm, partnership, association, corporation, company or organization of any kind.

(l) Potable water – means any public water supply, which has been investigated and approved by TCEQ and the City as satisfactory for drinking, culinary and domestic purposes.

(m) Premises or Property – means any property real, improved or personal that is connected to a City of Plano approved water supply source.

(n) Public sewer – means a common sewer directly controlled by public authority.

(o) Reduced Pressure Principal Backflow Prevention Assembly [RPZ] – means a backflow prevention assembly consisting of two independently acting check valves, internally force-loaded to a normally closed position and separated by an intermediate chamber (or zone) in which there is an automatic relief means of venting to the atmosphere, internally loaded to a normally open position between two tightly closing shutoff valves and with a means for testing for tightness of the checks and opening of the relief means.

(p) Sanitary sewer – means a pipe which carried wastewater and excludes storm, surface water and groundwater.

(q) Septic tank – means a watertight receptacle which receives the discharge of a drainage system or part thereof, which is designated and constructed so as to separate solids from the liquid, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a drain field, disposal or perforated piping.

(r) Testing or reporting deficiencies – means incomplete, or inaccurate backflow prevention assembly test results or reports filed with the City pursuant to this Ordinance, use of inaccurate gauges; or the use of improper operational certification methods.

- (s) Water main – means a water-distribution pipe for public or community use.
- (t) Water well – means bored wells, dug wells and driven wells developed into the underground soils, which are to produce water for private use. Water wells are prohibited unless approved under the provisions of this Ordinance.

Section 21-37. Permits and Licenses.

- (a) State License Required - Construction of water wells shall be performed only by those holding a valid water well driller's license issued by the State of Texas. The state license number shall be displayed during construction at the site of the work. The number shall be clearly readable from the nearest traveled public roadway. Water well drillers must hold a current contractor registration with the City and be in good standing. In addition, the approved permit issued by the City shall be displayed during construction at the site of the work and remain on site until a final inspection is obtained.
- (b) Construction Permit and Registration Required – Persons who wish to construct, repair or overhaul water wells in the City must obtain the necessary contractor registration and construction permits as provided for in this Ordinance and other applicable ordinances. "Overhaul" and "repair" means work that is not considered routine maintenance. All workmanship and materials shall meet the requirements of this Ordinance in regard to the drilling, construction, location and operations of such wells and systems. The forms, plans and other information and documentation required to be provided under this Ordinance may be approved by the Building Official or his or her designees only if all provisions of this Ordinance are complied with.
- (c) Construction Permit Not Required - Construction permits are not required for routine maintenance of water wells. It is the well driller's and well owner's responsibility to notify the Building Official of routine maintenance prior to the maintenance being performed, and that official, or his designee, will determine if the work to be done may be classified as routine maintenance.
- (d) Construction Permits Not Transferable - Each construction permit issued under this Ordinance shall be specific to the property and shall be obtained by the well driller. No such construction permit shall be assigned or transferred to another person, and no person shall permit another person to obtain a construction permit in his/her name or permit any new well construction, repair or overhaul work to be performed under his/her construction permit other than a person authorized to do the same.

- (e) Issuance of Construction Permit - The Building Official, or his or her designee, shall issue all construction permits in accordance with the provisions and requirements of this Ordinance and other applicable ordinances. Incomplete applications or applications that do not meet the requirements of this Ordinance shall be denied. The decision of the Building Official shall be final. All applications for permits shall be submitted using a standard form issued by the Building Inspection Department. The application shall provide the following information:
1. Company name, address and telephone number of the well driller;
  2. Well driller's State of Texas license number;
  3. Name, address, legal description and telephone number of property owner;
  4. Company name and State of Texas license number of the assigned electrical contractor who must be registered to work in the City of Plano.
  5. Company name and State of Texas license number of the assigned plumbing contractor who must be registered to work in the City of Plano.
  6. Company name and State of Texas license number of the assigned irrigation contractor (if applicable) who must be registered to work in the City of Plano.
  7. A plan of the property that shows the location of the proposed water well, all buildings, functioning septic tanks, drain fields and other significant structures. The plan shall also show the location of structures and adjacent property if within ten (10) feet of the property line. All setbacks and dimensions shall be shown to be in conformance with Section 21-46 of this Ordinance.
  8. Any other information deemed necessary by the City.
- (f) Duration of Construction Permits - Every construction permit issued under the provisions of this Ordinance shall expire one-hundred eighty (180) days after the date issued. In every case where a permit is expired, a new permit shall be obtained before any work is resumed. Any work performed pursuant to an expired permit shall be considered work performed without a permit.
- (g) False Statement or Bad Faith - Any person who shall willfully make any false statement in order to obtain a construction permit shall be guilty of a misdemeanor and subject to the penalty provided herein.

Section 21-37.1 Offenses and Penalties related to Permits and Licenses

- (a) A person commits an offense if he recklessly or negligently violates or fails to comply with the following subsections of this ordinance:
  - (1) Section 21-37, subsections(a), (b), (c), (d), (f), (g)

Section 21-38. Fees.

- (a) Permit and Inspection Fees. The permit and inspection fees provided in this Ordinance shall be paid to the City before the issuance of a permit and before any work is started. Fees shall not be collected prior to permit approval. Inspection and re-inspection fees shall be in accordance with the City's approved fee schedule, as amended.
- (b) Whenever any work for which a permit is required by this Ordinance has been commenced or completed without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work. An investigative fee, in addition to the permit fee, shall be collected whether or not a permit is then subsequently issued. The investigation fee shall be double the amount of the permit fee set by the City's approved fee schedule, as amended. The payment of such investigative fee shall not exempt any person from compliance with all provisions of this Ordinance nor from any penalty prescribed by law.

Section 21-39. Well Completion, Inspection and Testing

- (a) The Building Official or his or her designee(s) shall have the right, at any time, to enter the property for the purpose of inspections to insure compliance with this Ordinance.
- (b) Upon completion of the well, the well driller shall immediately furnish the Building Official with a copy of the driller's report. Any well that is not completed shall be sealed and considered a plugged or an abandoned well in accordance with rules, regulations and statutes of the State of Texas.
- (c) The owner of a well shall have a Backflow Assembly Test completed, immediately upon installation, annually and after any repair to the assembly. Only a state licensed Backflow Prevention Assembly Tester registered with the City shall perform the test. A report, on a City approved form, shall be submitted immediately to the Department of Public Works upon the completion of each test
- (d) Each completed Backflow Assembly Test form, together with the records of such tests, repairs, or replacements, shall be received by the Public

Works Department within ten (10) calendar days after the testing, repair, or replacement by the licensed tester. If an assembly fails, the water supply shall not be restored until the assembly is repaired or replaced and retested and passes the test. A well shall not be operated without having passed the backflow assembly test.

#### Section 21-39.1 Offenses and Penalties related to Testing, Completion and Inspections

A person commits an offense if he recklessly or negligently:

- (1) Fails to permit an inspection of the well pursuant to section 21-39(a).
- (2) Fails to provide the Building Official with a copy of the driller's report pursuant to section 21-39(b)
- (3) Fails to seal and plug an incomplete or abandoned well as required by section 21-39(b).
- (4) Fails to provide a copy of the Backflow Assembly test report within ten (10) calendar days as required by section 21-39(d).
- (5) Performs a Backflow Assembly test without being licensed and registered as required in section 21-39(c).
- (6) Operates a well without a current successful backflow test report on file with city.

#### Section 21-40 Construction Requirements.

- (a) Electrical - 120v Ground Fault Circuit Interrupting ("GFCI") receptacle shall be installed immediately adjacent to the well equipment to allow for maintenance work on the equipment or the use of a freeze protection device.
- (b) Freeze Protection - Adequate provisions must be made to protect piping from freezing by insulation or heat or both on all water wells. The RPZ relief valve must not be enclosed
- (c) Backflow Protection. - An RPZ is the only approved backflow prevention assembly allowed on properties located within Plano, its ETJ or other premises. The RPZ is to be installed on all properties which contain a well.
- (d) Casing. - A casing of steel or other approved material shall be provided to prevent caving of the formations penetrated and also to ensure protection of water supply from contamination by water from shallow strata. The wall shall be cased from the bottom of the drilled hole to twenty four (24) inches above the finish grade or more if required to keep surface water

from entering casing. The well casing shall be cemented in place and sealed to protect the underground water formation from potential contamination resulting from surface water or individual waste disposal systems (i.e. septic tanks).

- (e) Well Seal - The annular space between the drilled hole and the well casing shall be sealed with concrete or grout for a depth of at least ten (10) feet above the water producing formation. The casing shall be covered at the ground with a concrete slab no less than twenty-four (24) inches by twenty-four (24) inches by twelve (12) inches. The top of the slab shall protrude six (6) inches above finished grade and shall be sloped away from the casing. The top of the casing shall be provided with a suitable well seal to prevent contamination of the well. If a vent is provided on the casing, it shall be equipped with an elbow turned downward and screened with a 16 (gauge)-mesh screen.
- (f) Abandonment of Wells - Permanently abandoned wells shall be filled with cement grout or redi-mix concrete. Abandoned wells shall not be used for the disposal of wastewater, septic tank effluent or other wastes.
- (g) Screening - The water bearing formation shall be screened to control, among other similar conditions, the flow or production of sands and formation materials.
- (h) Compliance with Texas Department of Licensing and Regulation (TDLR) rules and regulations - Permittee shall comply with any and all TDLR rules and regulations and other governing state statutes.

#### Section 21-40.1 Offenses and Penalties related to Construction Requirements

- (a) A person commits an offense if he recklessly or negligently fails to: comply with the any of the requirements in section 21-40, subsections (a) through (h).

#### Section 21-41. Applicability of State Regulations.

The regulations of the TDLR and the Texas Water Well Drillers Act, as existing or as may be amended as they pertain to the construction of water wells, shall be and are hereby incorporated into this Ordinance and must be strictly complied with.

#### Section 21-42. Commercial Use.

It shall be unlawful for a commercial water well to be used for domestic (household) use or for consumption by the public.

Section 21-43. Irrigation Use Only.

Any water well must be constructed in accordance with the provisions of this Ordinance and may be used only for irrigation purposes. It shall be unlawful for a water well to be used for domestic (potable water) use.

Section 21-44. Location.

(a) Water wells shall be constructed no closer to property lines or buildings than the following distances:

1. Not allowed within the front yard setback
2. Not allowed within the side yard setback
3. Rear property lines: ten (10) feet;
4. Buildings: ten (10) feet;
5. Power lines: thirty (30) feet;
6. Functioning septic tanks and drain fields: one hundred fifty (150) feet;
7. Functioning septic tanks and drain fields: fifty (50) feet; if well is concrete cased;
8. Functioning septic spray heads/soil absorption area: eighty (80) feet;
9. Barns and animal pens: one hundred, fifty (150) feet; and
10. Permanent derricks and towers: no closer than forty (40) feet to side property lines.

(b) Existing wells currently in use as of the effective date of this ordinance do not have to comply with the location restrictions in section 21-44(a). Any existing well that is not in use as of the effective date of this ordinance may not be reactivated unless it is in compliance with the location restrictions in 21-44(a).

(c) The operation of water wells shall be subject to any and all ordinances or statutes regulating noise.

Section 21-44.1 Offenses and Penalties related to Location

(a) A person commits an offense if he recklessly or negligently fails to comply with any of the location restrictions in section 21.44(a). Each distinct violation of a distance restriction shall be considered a separate offense.

(b) A person commits an offense if he recklessly or negligently reactivates an existing well in violation of section 21.44(b).

Section 21-45 Debris, etc. on Public Rights-of-Way

It shall be unlawful for any debris, dirty water, mud or any other refuse to be dumped or discharged onto public rights-of-way. The drilling operation of any well shall control and dispose of, among other things, all drilling, cuttings, mud and water so as not to create a mud pit or disposal operation at the well site.

Section 21-46 No Cross Connections Allowed

It shall be unlawful for any person to connect a water well to the approved water supply system for the City. This shall include both sewage and potable water sources of the City's water supply.

Section 21-46.1 Enforcement

The Building Official and the Public Works Department are responsible for the enforcement of this Ordinance.

**Section II.** All provisions of the Code of Ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section III.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section IV.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

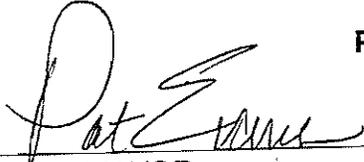
**Section V.** Any person, firm or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(a) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

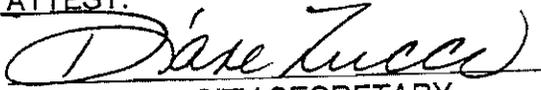
**Section VI.** This Ordinance shall become effective immediately upon its passage and publication as required by law.

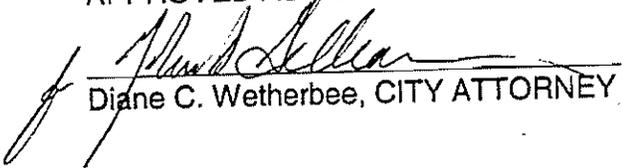
**DULY PASSED AND APPROVED ON THIS** 8th **day of**  
October, **2007.**

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Pat Evans, MAYOR

ATTEST:  
  
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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:  
  
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Diane C. Wetherbee, CITY ATTORNEY