



ORDINANCE NO. 20-0114-01

AN ORDINANCE OF THE CITY OF WHITEHOUSE, TEXAS AMENDING CODE OF ORDINANCES SECTION 50.36 "WATER WELL PERMIT" AND SECTION 50.37 "APPLICATION FOR PERMIT" ; RECODIFYING THE REMAINING PROVISIONS OF CHAPTER 50 "WATER SERVICES" ACCORDINGLY; PROVIDING THE PURPOSE, FOR A WATER WELL PERMIT, PROHIBITING CROSS-CONNECTION, AN APPLICATION FOR PERMIT, REVIEW OF APPLICATION, PERMIT ISSUANCE AND CONDITIONS, PREVENTION OF CONTAMINATION OF PUBLIC WATER SUPPLY, FOR ILLEGAL USE OF SANITARY SEWER SYSTEM, FOR CONVEYANCE OF PROPERTY, FOR NOTICE OF VIOLATION AND PERMIT RECOVATION, AND ESTABLISHING A PENALTY.

WHEREAS, the City Council of the City of Whitehouse finds that water wells located within the corporate city limits should be permitted and follow certain guidelines and procedures; and

WHEREAS, the City Council adopts this ordinance in order to promote the health, welfare and safety of the City of Whitehouse and its citizens

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITEHOUSE, TEXAS:

SECTION 1: Code of Ordinance Chapter 50 "Water Services" is amended as follows:

REGULATION AND PERMITTING OF WATER WELLS

Sec. 50.36 PURPOSE OF REGULATION.

In order to protect the public health, safety and welfare of the citizens and the city's public water supply, including but not limited to the city's groundwater source of public water supply, the city shall regulate the drilling and use of private water wells within the city's territorial jurisdiction through this ordinance (the "Water Well Ordinance").

Sec. 50.37 WATER WELL PERMIT.

It shall be unlawful for any person or entity to drill or attempt to drill any water well within the corporate limits of the city without first obtaining a permit approved by the city council. The cost of said permit shall be six hundred dollars (\$600.00) and shall be paid in advance in order for the application to be deemed administratively complete. (Ordinance 404 adopted 9/5/96; Am. Ordinance 10-1116-01 adopted 11/16/10; Am. Ordinance 13-0924-01 adopted 9/23/13; Am. Ordinance 18-0327-03 adopted 3/27/18; Am. Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.38 CROSS-CONNECTION PROHIBITED.

It shall be unlawful to cross-connect any water well in the city to any pipe or distribution line intended to be or capable of carrying city water.
(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.39 APPLICATION FOR PERMIT.

The owner of the land on which the well is to be placed shall file an application for permit containing the following information:

- (A) The legal description of the property;
- (B) The location of the well site on the property;
- (C) The proposed depth of the well;
- (D) The name and registration number from the Texas Department of Licensing and Regulation, or its successor agency, of the well driller;
- (E) The maximum capacity of the proposed well;
- (F) Engineering specifications providing detail on the well and the well distribution system;
- (G) The size, tubing, and pump size proposed;
- (H) The method of well completion proposed;
- (I) The maximum volume of water per day to be used from the well and the purposes for which it is to be used;
- (J) Property line and nearest water well spacing information;
- (K) Certification that the well will be used only for irrigation or agricultural purposes, and that the water from the well will in no way be used for potable purposes or come into contact with humans;
- (L) Information demonstrating that the city's sanitary sewer system will not be utilized;
- (M) Certification that the applicant consents to the inspection of the water well site and water well drilling process by the city, and further consents to annual inspections and testing of the water well site as well as all potential cross connection locations with the city public water system and the city sanitary sewer system;
- (N) Certification that the applicant understands and acknowledges required compliance with each provision of the Water Well Ordinance as it relates to applicant's water well and use thereof, and each act of the city related to the water well; and
- (O) Any other information reasonably required by the city to conduct a review of the application, as necessary and in the interest of the public health, safety and welfare and related protection of the city's public water supply.

(Ordinance 404 adopted 9/5/96; Am. Ordinance 10-1116-01 adopted 11/16/10; Am. Ordinance 13-0924-01 adopted 9/23/13; Am. Ordinance 18-0327-03 adopted 3/27/18; Am. Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.40 ADMINISTRATIVE COMPLETENESS REVIEW.

The department staff shall review the application for water well permit to determine whether the application includes all of the information and materials required under Section 50.39, including payment of fees under Section 50.37. Department staff and/or the city council may request additional information from the applicant to assist in the review of the information and materials submitted under Section 50.39. Department staff may also conduct a site visit during administrative review of the application. Review of the permit application for approval or denial shall not be submitted to the city council until department staff has made a determination of administrative completeness of the application.

(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.41 REVIEW OF ADMINISTRATIVELY COMPLETE PERMIT APPLICATION.

Upon a determination of administrative completeness under Section 50.40, the application shall be placed on a city council agenda for consideration by the city council. A permit may only be approved by the city council if the application information and materials demonstrate that each of the following conditions have been met:

- (A) The water well location does not present any danger of pollution, including but not limited to pollution from flooding or unsanitary surroundings;
 - (B) The water well is located at least 50 feet from the adjacent property line, and is spaced from existing wells, including water wells providing source groundwater to the city's public water supply, such that no interference or adverse effects on the city's water supply and distribution system can occur;
 - (C) The well will be drilled by a licensed water well driller in good standing according to the Texas Department of Licensing and Regulation, or its successor agency;
 - (D) The well and well site meet each condition set forth in the Texas Department of Licensing and Regulation, or its successor agency, rules, in 16 Texas Administrative Code, Chapter 76 (entitled "Water Well Drillers and Water Well Pump Installers"), as may be amended;
 - (E) The applicant has certified that the well will only be used exclusively for irrigation and/or agricultural purposes only, and that water from the well will in no way be used for human consumption or recreational uses;
 - (F) The applicant has consented to the inspection of the water well site and water well drilling process, and to annual inspections and testing of the water well site as well as all potential cross connection locations with the city's public water system and the city's sanitary sewer system;
 - (G) That the city's sanitary sewer system will not be utilized; and
 - (H) The well does not present a nuisance to the public.
- (Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.42 PERMIT ISSUANCE; PERMIT CONDITIONS.

- (A) Upon a determination by the city council that the applicant meets each of the requirements of Section 50.41, and payment of the recordation fee pursuant to Section 50.44, the department shall issue a permit to the applicant authorizing the drilling and use of the water well within the city's territorial jurisdiction.
- (B) A permit issued by the city under this section shall include each of the following conditions:
 - 1. The applicant/permittee, by signing and accepting the permit, agrees to abide by the city's Water Well Ordinance. Acceptance of the permit by the person or entity to whom it is issued constitutes acknowledgment of, and agreement to comply with, all of the permit terms and conditions;
 - 2. The permit does not confer any rights and/or privileges other than those expressly set forth in the permit;

3. The applicant/permittee shall provide written notice to the city of any change of ownership, name of any authorized representative or well operator, mailing address or other contact information;
4. The city shall conduct inspections in accordance with the Water Well Ordinance;
5. All applicable state and federal regulations shall be followed by the applicant/permittee;
6. The application, the certifications contained in the application, and all information pursuant to which the permit has been granted is incorporated therein, and the permit has been granted based on the accuracy thereof. A finding that false information has been supplied to the city shall be grounds for immediate revocation of the permit, and shall subject the permit holder to city penalties; and
7. Any other condition deemed necessary by the city to achieve the purpose of the Water Well Ordinance.

(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.43 PREVENTION OF CONTAMINATION OF PUBLIC WATER SUPPLY.

- (A) Each person or entity maintaining or operating a water well within the city limits shall install and maintain a backflow prevention device acceptable to the department on the water line immediately adjacent to any city water meter serving the property upon which such water well is located. The backflow prevention device shall be sufficient to prevent contamination of the city's public water supply by the water well in the event that the well distribution system were to be inadvertently cross-connected to the city's water supply system, or in any other way pose a pollution threat or hazard based on proximity of the two separate distribution systems. Such device shall be annually inspected and certified in operable condition by a licensed operator certified for such purpose and such certification provided to the city at the owner's expense.
- (B) Any person or entity owning or operating a well which has been continuously out of use for a period of more than one (1) year shall report such condition to the city and shall immediately cap the well to prevent contamination. All abandoned wells shall be plugged at the expense and responsibility of the owner or operator in accordance with Texas Department of Licensing and Regulation, or its successor agency, rules governing water well plugging.

(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.44 USE OF SANITARY SEWER SYSTEM.

- (A) It shall be unlawful to permit water discharged from a water well in the city to flow into or be diverted into the city's sanitary sewer system without prior consent of the city. In the event that the city determines that groundwater from the water well is being discharged into the city's sanitary sewer system, applicant/permittee shall be deemed by its application for a water well permit to have consented to and authorized the city to install a metering device upon the water well, and shall thereafter pay the applicable municipal charges for sewer treatment for all water produced by the water well.

- (B) The city shall install such meter on the water well and the applicant shall remit to the city within 15 calendar days the applicable water tap fee for a new meter installation. The city shall invoice applicant/permittee each month thereafter for the costs of sewer services charged to other city customers for all water produced from said well.
- (C) In the event that applicant/permittee fails to remit the required sewer charges in accordance with the regular sewer billing and payment policies of the city, the city may disconnect municipal water service to the applicant's/permittee's property and may also enter upon applicant's property and disable the water well so as to prevent water from being produced therefrom. Responsibility for any damage to the water well in such event shall remain solely the responsibility of the applicant.

(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.45 CONVEYANCE OF PROPERTY; RECORDATION IN OFFICIAL PUBLIC RECORDS.

- (A) The certifications, representations and agreements of applicant/permittee shall run with the water well, and upon the sale or transfer of any property upon which a water well is located, the purchaser shall be required to complete and file with the city an application to transfer water well permit, by which the transferee of the water well permit shall agree to be bound to the agreements and authorizations of the original applicant.
- (B) Upon approval of a permit application by the city council, the applicant/permittee shall pay a recording fee to the city equivalent to the applicable recording fee of the Smith County Clerk's office. Upon payment of the recordation fee, the city shall issue the permit to applicant under Section 50.42 and shall record notice of the permit and required compliance with the Water Well Ordinance in the Smith County Official Public Records.

(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.46 NOTICE OF VIOLATION; PERMIT REVOCATION.

- (A) The city shall conduct all inspections authorized under the Water Well Ordinance as necessary to ensure that the water well is being maintained in compliance with the permit, the Water Well Ordinance and all applicable state and federal regulations.
- (B) In the event the city determines that the condition of the water well or conduct by the applicant/permittee related thereto violates the Water Well Ordinance, the permit, or any applicable state or federal regulation, the city shall send written notice to applicant/permittee. Such violation shall be corrected by applicant/permittee within 15 calendar days after the date of such notice, and applicant/permittee shall not produce groundwater from the water well until the condition has been corrected as determined by city inspection and written acknowledgement by the city.
- (C) In the event the violation has not been corrected pursuant to Subsection (B) of this section, the permit shall be revoked by the city and the applicant/permittee shall not use the water well unless the applicant/permittee submits a new application to the city and receives approval under the Water Well Ordinance.

(Ordinance 20-0114-01 adopted 1/14/20).

Sec. 50.47 PENALTIES.

A person commits an offense if the person violates any provision of this ordinance. An offense under this section is considered a Class C misdemeanor, and, upon conviction in the municipal court of the City of Whitehouse, Texas, shall be fined in an amount not to exceed the sum of TWO HUNDRED DOLLARS (\$ 200.00) for each offense and a separate offense shall be deemed committed each day during or on which an offense occurs or continues.

(Ordinance 20-0114-01 adopted 1/14/20).

SECTION 2 - REPEALER

That all provisions of the ordinances of the City of Whitehouse in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Whitehouse not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3 - SAVINGS

An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Ordinances of the City of Whitehouse, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 4 – SEVERABILITY

That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part thereof decided to be unconstitutional, illegal, or invalid.

SECTION 5 – EFFECTIVE DATE

This Ordinance shall take effect after its passage and the publication of the caption, as the law and charter in such case provide.

Passed and Approved by Whitehouse City Council this 14th day of January 2020.



Charles Parker, Mayor

ATTEST:



Susan Hargis, City Secretary