

ORDINANCE NO. 228

AN ORDINANCE OF THE CITY OF WALLIS, TEXAS ESTABLISHING ALL PERSONS OWNING OR OCCUPYING PROPERTY WITH BUILDINGS OR STRUCTURES THEREON, SITUATED WITHIN THREE HUNDRED FEET (300') OF WHERE A SANITARY SEWER OR WATER LINE HAS BEEN LAID TO CONNECT WITH THE SANITARY SEWER AND WATER LINE; ALLOWING FOR WELLS ON TRACTS 10 ACRES OR LARGER TO MAINTAIN THE WATER LEVEL OF A LAKE/POND; REGULATING WATER WELLS GREATER THAN THREE HUNDRED (300) FEET FROM A MUNICIPAL WATER SUPPLY OR WHO PLAN TO DRILL A WELL SIX (6) INCHES OR LARGER ON A TRACT OF FIFTY (50) ACRES OR MORE FOR PURPOSES OF IRRIGATING SUCH TRACT REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR A FINE IN AN AMOUNT UP TO \$2,000 FOR EACH VIOLATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, the City of Wallis provides water and sewer utility services to properties within the City; and

WHEREAS, Section 214.013 of the Texas Local Government Code provides that the City may provide a sanitary sewer system and require property owners to connect to the sewer system and to fix a lien against the owner's property and charge the cost of

the connection to the owner of the property as a personal liability and to impose a penalty on the owner for failure to connect; and

WHEREAS, Section 552.001 of the Texas Local Government Code provides that city may purchase, construct, or operate a utility system inside or outside the municipal boundaries and may regulate the system in a manner that protects the interests of the city.

WHEREAS, the City Council of the City of Wallis, Texas determines that in order to protect the public health and safety it is necessary to require that all buildings and structures within the City of Wallis shall connect to the City's water and sewer system if it is located within three hundred feet (300') of the property to permit connection;

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

Section 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

Section 2. All persons owning or occupying property with buildings or structures thereon, situated in any portion of the city where a sanitary sewer has been laid, shall connect with the sanitary sewer. Provided however; that no person shall be compelled to make such connection unless or until such sanitary sewer has been laid within three hundred feet (300') of such property. When sanitary sewer is within three hundred feet (300') of such property the owner or occupant must connect to the sanitary sewer within thirty (60) days.

Section 3. No extension of any sewer line shall hereafter be laid outside the city limits except within an approved addition or subdivision within the confines of the extraterritorial jurisdiction of the city. The extension of sewer lines within an approved addition or subdivision outside the city limits shall be controlled in accordance with the subdivision ordinance of the city.

Section 4. All persons owning or occupying property with buildings or structures thereon, situated in any portion of the city where a water main or line has been laid, shall connect with the water main and line. Provided however; that no person shall be compelled to make such connection unless or until such water main and line is within three hundred feet (300') of such property.

Section 5. No extension of any water main or line shall hereafter be laid outside the city limits except within an approved addition or subdivision within the confines of the extraterritorial jurisdiction of the city. The extension of water mains or lines within an approved addition or subdivision outside the city limits shall be controlled in accordance with the subdivision ordinance of the city. When water mains or lines are within three hundred feet (300') of such property the owner or occupant must connect to the water mains or lines within thirty (30) days.

Section 6. Persons, partnerships, corporations, or firms whose property is located within the city and is greater than three hundred (300) feet from a municipal water supply or who plan to drill a well six (6) inches or larger on a tract of fifty (50) acres or more for purposes of irrigating such tract shall not drill a well for water without first having obtained a permit for the drilling of a private water well from the building inspector along with Council Approval. Permits may be obtained by filing an application with the building inspector stating the following:

- (1) The name of the owner of the property, the owner's street address and mailing address, and home and business telephone numbers;
- (2) If the applicant is not the owner, the applicant's name, street address, mailing address, and home and business telephone numbers;
- (3) The name of the landowner, the landowner's street address and mailing address, and home and business telephone numbers;
- (4) A scaled drawing of the premises showing the location of the well, courses of all water lines to be operated from the well, location of the nearest source of

municipal water supply, and location of the nearest septic system field and/or sanitary sewer lines; and

(5) The name, address and telephone number of the person or firm drilling the well.

The application shall be signed by both the applicant and driller. If the building inspector determines that the applicant and the proposed well comply with this ordinance, he/she shall authorize issuance of the permit. An application to drill a well six (6) inches or larger on a tract of fifty (50) acres or more for purposes of irrigating such tract shall be accompanied with a nonrefundable fee as provided for by the City Council. The biannual renewal shall be accompanied by a nonrefundable renewal fee as set by City Council.

Section 7. Owners of property consisting of ten (10) acres or more used for a single-family residence may, upon presenting a request to the city council, obtain a permit for the drilling of up to one water well for every two hundred (200) acres to be used for the sole limited purpose of maintaining the water level in a lake/pond of two (2) or more acres. Such permit shall be given only after approval by the city council. The city council may approve such application only upon a finding that the following conditions have been met:

(1) A survey, prepared by a registered surveyor, has been presented with the application filed with the city council showing the dimensions of the property and the location of the lake/pond. The property involved shall consist of ten (10) acres or more and the lake/pond on the property shall be two (2) or more acres.

(2) Evidence that the casing of the proposed water well is no larger than five (5) inches.

(3) A plan dealing with seepage and overflow has been presented with the application and approved by the city engineer showing that the lake/pond will not present a seepage or overflow that will interfere with or cause water to run over adjoining property.

(4) A statement has been submitted by the owner/applicant that the water will be used for maintaining the water level in the lake or pond and no water will be pumped from the lake or pond for any agricultural or lawn maintenance purposes and that neither the well nor lake/pond will be in any manner connected to the city potable water supply. The water level may be maintained within the lake/pond in such a manner as to provide storm water detention for the remainder of the property.

(5) The applicant has, if required, applied for and received approval for such well from any applicable subsidence district, conservation district or any other governmental entity that regulates groundwater in the county where the well is located.

(6) The applicant has presented a statement prepared by an engineer stating the level at which the lake/pond is to be maintained. It is a requirement of this ordinance that the water level be maintained at such level with no more than a twelve (12) inch drop. Failure to maintain such level or within twelve (12) inches of the level for any seven-day period shall be a violation of the permit and subject to revocation. Equipment failure or economic hardship shall not be a defense to revocation as hereafter provided.

An application for a residential recreational water well shall be accompanied with a nonrefundable fee as provided for by the City Council. The biannual renewal shall be accompanied by a nonrefundable renewal fee as set by City Council.

Section 8. An owner/developer proposing to develop a tract of land of ten (10) acres or more for single-family residential use may present a request to the city council for a permit for the drilling of one water well to be used for the sole limited purpose of maintaining the water level in a lake/pond of two or more acres to be located within such development. Such permit shall be granted by the city council only upon a finding that the following conditions have been met:

(1) A survey, prepared by a registered surveyor, has been presented with the application filed with the city council showing the dimensions of the property and

location of the lake/pond. The property involved shall consist of ten (10) acres or more and the lake/pond on the property shall be two (2) or more acres.

(2) A plan dealing with seepage and overflow has been presented with the application and approved by the city engineer showing that the lake/pond will not present a seepage or overflow that will interfere with or cause water to run over adjoining property.

(3) A statement signed by the owner/developer has been submitted with the application stating that the water will be used for maintaining the water level in the lake or pond, and no water will be pumped from the lake or pond for any agricultural or lawn maintenance purposes and that neither the well nor lake/pond will be in any manner connected to the city potable water supply. The water level may be maintained within the lake/pond in such a manner as to provide storm water detention for the remainder of the property as agreed to by the city engineer and owner/developer as long as it meets all applicable requirements.

(4) Any lake/pond designed for floodwater detention must properly accumulate and discharge the storm water runoff from within the subdivision. The design must be developed and signed by a professional engineer. The design must be evidenced by a drawing signed and sealed by the engineer and attached to the application. The drawing must show the detention area is capable of holding the required floodwater runoff above the constant level of the lake/pond. The drawing must show the depth and area of the lake/pond and the adjacent open space and certification that the open space meets these requirements.

(5) The well must be used to maintain the water level for a lake/pond, as above described, within a recorded subdivision. No drilling shall occur until the subdivision plat has received final approval. A permit may be applied for only after the filing of a plat with the city and receipt of preliminary approval. A permit may be granted conditioned on final approval of the plat. The lake/pond must be contained wholly within the subdivision and no part of the lake/pond shall abut a

perimeter boundary of the subdivision. The lake/pond must be shown on the plat to be recorded with appropriate language dedicating its use to the residents of the subdivision under the control of the homeowners' association.

(6) The applicant has received a permit for drilling from any applicable subsidence district if the well is located within a subsidence district. A copy of the permit or statement shall be delivered to the city prior to commencement of drilling.

(7) The applicant has presented with the application a statement prepared by a licensed professional engineer setting the level at which the lake/pond water is to be maintained. It is a requirement of this ordinance that the water level be maintained at such level with no more than a twelve-inch (12") drop. Failure to maintain such level or a level within twelve inches (12") of the established level for seven (7) consecutive days shall be a violation of the permit and grounds for revocation of the permit, provided the reduction of water level has not been caused by any water rationing imposed by the city.

(8) In addition to the recordation of a subdivision plat, the developer must file covenants and conditions creating a homeowners' association with the power to levy an assessment sufficient to, among other things for which the association may be formed, maintain the lake/pond and adjacent open space, the water well, the water supply line and the fuel/electricity for operation of the water well. The developer shall be jointly responsible with the homeowners' association for the responsibilities created under this ordinance. At such time as the developer has notified the city in writing that developer no longer has any control over the homeowners' association, and furnishes an affidavit of acceptance of responsibility from the homeowners' association, the developer shall be relieved of responsibility and the homeowners' association shall be solely responsible for the obligations hereby created.

(9) The well casing shall be no larger than five inches (5") in diameter and the well casing shall be cemented to the first water sand.

(10) The well shall not extend to a depth greater than four hundred feet (400').

(11) The top of the well casing shall extend above ground no less than four feet (4') above the floodplain. The discharge pipe must have installed a device to prevent siphoning of water from the lake/pond into the well.

(12) The banks of the lake/pond shall be supported by a border of two-sack cement sand construction capable of preventing erosion and must be approved by the city engineer. The engineer's approval shall be a prerequisite to issuance of a permit.

(13) The lake/pond and adjacent open space may, at the discretion of the homeowners' association, be available to the residents of the subdivision.

(14) No commercial use shall be made of the lake/pond, and no charge shall be made to any resident for use except through a uniform assessment through the homeowners' association.

(15) Each well drilled under this ordinance shall be equipped with a meter capable of measuring the amount of water pumped from the well. The meter shall be maintained in good operating condition at all times. The developer/homeowners' association shall submit written monthly reports to the city by the tenth day of each month for pumping during the previous month showing the number of gallons pumped. At least quarterly, the developer/homeowners' association shall submit a written report in addition to the monthly reports stating the static water levels and at least annually a written report showing the pull-down levels. Forms for such reports shall be furnished by the city.

(16) Any well drilled under this ordinance shall be drilled in compliance with the laws of the state, and upon cessation of use such abandonment must comply with the laws of the state. Such well shall also be subject to an annual inspection as set out elsewhere in this ordinance.

(17) The original application for a permit to drill under this Ordinance shall be accompanied by a filing fee as provided by City Council. In the event the bacteriological test shows the presence of coliform, the developer/ homeowners' association shall have sixty (60) days to cure the problem and submit the application again for inspection. The resubmission of each additional test shall be accompanied by a filing fee as provided by City Council. If coliform is present, failure to cure the problem and obtain a test showing no coliform present shall be grounds for revocation of the permit. All fees required in this ordinance shall be paid to the city.

(18) The city council shall have the right to revoke the permit for water production and use of the well upon the proper showing of any one of the following:

(A) The city determines that any provision of the city code under which the permit was granted is being violated;

(B) The homeowners' association fails or refuses to perform the work needed to maintain the lake/pond and adjacent open space, the water well, the water supply line and the fuel/electricity for operation of the water well;

(C) The city determines that water from the well is being used for other purposes than to maintain the level of the lake/pond or that water is being removed from the lake/pond;

(D) The water level as originally designated is not being maintained in accordance with this ordinance;

(E) An aquifer from which a private water well is pumping is threatened with depletion if the city pumps all or any part of its water from the same aquifer for public consumption.

(19) The developer and/or homeowners' association assumes all risk of any damage to persons or property that may occur by reason of construction, use or maintenance of the well and lake/pond or from any cause whatsoever resulting from the

well and lake/pond. The developer and/or homeowners' association shall be solely responsible for security about the well and lake/pond and shall be solely responsible for determining what safety precautions and notices may be required and for implementing such precautions and posting such notices. The developer and/or homeowners' association shall be responsible for injury to or by, or damage caused to or by, any person in, on or about the well and lake/pond created under this ordinance or from the design and construction of the well and lake/pond or from lack of adequate or ineffective safety measures, and the developer and/or homeowners' association shall hold the city, its officers, appointees and agents harmless from any claim or cause of action arising from such damage or injury. The application for drilling a well as above described shall be accompanied by an affidavit signed by the developer agreeing to such indemnity. The developer shall remain liable thereunder until the transfer to the homeowners' association and a similar affidavit prepared on behalf of the governing body of such association agreeing to the indemnity has been filed with the city. Each year an affidavit executed by the current board or governing body of the homeowners' association shall be filed. An application for a shall be accompanied with a nonrefundable fee as provided for by the City Council. The biannual renewal shall be accompanied by a nonrefundable renewal fee as set by City Council.

Section 9. The City Council may revoke any permit granted by this ordinance for failure to comply with the laws of this state or this ordinance. A well for which a permit has been revoked shall not be used to supply water for any purpose. Such prohibition shall be suspended during any time such revocation is under appeal to the city council. An appeal shall be filed within fifteen (15) days of notice of revocation and shall be acted upon by the city council within thirty (30) days after notice is received. Appeals shall be filed with the city secretary.

Section 10. Any permit granted under this ordinance shall be good for two (2) years and shall be renewed every two (2) years (biannually) on the anniversary of the approval. No renewal will be given prior to inspection by the City. A renewal application must be accompanied by a statement that there has been no change from the original application.

Section 11. No building permit or certificate of occupancy may be issued for any building or structure within the city limits that does not comply with this ordinance.

Section 12. The city council shall have the right to temporarily suspend the license and forbid further pumping in any period the city deems necessary to ration water and limit water consumption by its water customer.

Section 13. Any well drilled under this ordinance shall be drilled in compliance with the laws of the state, and upon cessation of use such abandonment must comply with the laws of the state, and shall be subject to an annual inspection as set out elsewhere in this ordinance.

Section 14. Each year, on the anniversary date of the permit, the owner shall provide a bacteriological test performed by a testing laboratory which shows the presence of no coliform in each well drilled under this ordinance.

Section 15. Water lines connected to a private water well shall not be connected to any water line supplying water from the municipal water system. Any water line in existence upon the effective date of this ordinance which connects a private water well to any line supplying water from the municipal water system shall be disconnected from the municipal water system.

Section 16. The City shall maintain a permanent file on all wells drilled under this ordinance. Any permit granted under this ordinance shall be accompanied with a copy of the ordinance. A copy of the permit and attached provisions signed by the applicant shall be maintained in the file as evidence that the applicant is aware of the terms of this ordinance. The City shall conduct an inspection of the lake/pond, well and appurtenances each year and shall maintain a permanent file on each well drilled under this section.

Section 17. In the month of March of each calendar year beginning March, 2019, each private water well shall be tested for coliforms. Owners and operators of private wells shall be responsible for making an appointment with the office of the

building inspector between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, for a representative of the city to take a water sample from the private well for analysis. At the time of the making of the appointment, the owners or operators shall pay an inspection fee as provided for by City Council. The owners or operators of a private water well found to contain coliforms shall not use, for any purposes, water from such well until said well is chlorinated and pumped, and a sample is resubmitted and no coliforms are found to be present.

Section 18. All private water wells drilled, operated or abandoned, and all water well drillers, shall comply with the Water Well Drillers statute and related rules, a copy of which shall be maintained in the office of the City Secretary.

Section 19. Anyone failing to comply with the provisions of this ordinance by failing to obtain a permit to drill a private water well, or failing to obtain an annual water analysis for detection of coliform, or using water for any purpose in which the presence of coliform has been detected, or operating or drilling a private water well not in compliance with the Water Well Driller's and rules or any other provision of this ordinance, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine in an amount up to \$2,000. Each separate day or any portion thereof during which any violation of this ordinance occurs or continues shall be a separate offense, and upon conviction shall be punishable as herein provided.

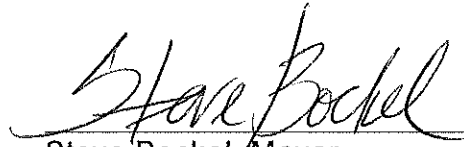
Section 19. It is hereby declared to be the intention of the City Council that they sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

Section 20. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

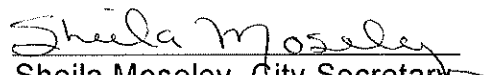
Section 21. This Ordinance shall become effective immediately upon its approval and passage.

PASSED, APPROVED, AND ADOPTED this 20th day of February, 2019.

APPROVED:


Steve Bockel, Mayor

ATTEST:


Sheila Moseley, City Secretary