

ORDINANCE NO. 175

AN ORDINANCE OF THE TOWN OF ANNETTA TEXAS ESTABLISHING REGULATIONS FOR THE CONSTRUCTION AND DRILLING OF WATER WELLS IN ANNETTA AND ITS EXTRA TERRITORIAL JURISDICTION; REPEALING ORDINANCE NO. 135; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Annetta, Texas is a Type A general law municipality located in Parker County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, The Town Council has investigated and determined that it would be in the best interest of the Town of Annetta, Texas and its inhabitants to establish regulations for the construction, location and drilling of new water wells within Annetta and its Extra Territorial Jurisdiction ("ETJ"); and

WHEREAS, the Town Council finds that establishing regulations relating to the construction, location and drilling of new water wells within Annetta and its ETJ will help protect the health, safety and welfare of the citizens of Annetta.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ANNETTA TEXAS, THAT:

SECTION 1.

Definitions.

The following words, terms and phrases as used in this ordinance shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

Available to the property means that Town water service is located within 200 feet of the property line as determined by the Town official or Town inspector.

Town means the Town of Annetta, Texas.

Town inspector means the person hired or otherwise designated by the Town to perform the inspections required by this ordinance.

Town official means the Town official who administers this ordinance, or any duly authorized designee of such official.

New water well means a water well that is not in existence as of the effective date of this ordinance.

Owner means a person having title to the real property where the water well is located or is to be constructed.

Permittee means the person to whom is issued a permit for a water well under this ordinance and whose permit is not revoked by the Town official in accordance with this ordinance, and his or her heirs, successors and assigns.

Person means an individual, firm, association, organization, partnership, trust, company, or corporation, or any other legal entity.

TCEQ means the Texas Commission on Environmental Quality

Water well means any hole or holes, bore or bores, dug at a depth of ten feet or deeper to any sand, horizon, formation, strata or depth for the purpose of producing water for any use.

All technical or industry words or phrases used in this ordinance and not specifically defined, shall have the meaning customarily attributable to them by prudent operators in the well or drilling industry.

SECTION 2.

Water well use restricted.

(a) A person commits an offense if the person causes, allows, or permits the drilling, digging, boring, driving, or use of any new water well on a tract or lot within the Town where Town water service is available to the property.

(b) A person commits an offense if the person maintains a water well in violation of any applicable laws or regulations, including the requirements of this ordinance and any other ordinance adopted by the Town.

(c) A person commits an offense if the person abandons a water well without first notifying the Town official and permanently capping or plugging such well in a manner approved by the TCEQ.

SECTION 3.

Permit required.

(a) An owner of property in the Town or in the Town's ETJ shall apply for a water well permit before drilling a new water well on the property.

(b) A permit shall not authorize the use of more than one water well on any single tract or lot within the Town.

SECTION 4.

Permit application.

Applications for a permit for a new water well or a water well in need of repair shall be submitted to the Town Secretary. The applicant shall provide, to the best of the applicant's knowledge, the following information with respect to the water well and the property upon which the water well is located:

- (1) Name and address of the property owner;
- (2) Location of the property where the well is located or is to be located (such as street address, block, lot, addition) including a survey of the property, if available, indicating the location of the well on the property;
- (3) Purpose for which the well is used (household, irrigation, water lawn or garden, water livestock, etc.);
- (4) Type of well (dug, drilled, bored, or driven);
- (5) Depth of well (within 25 feet);
- (6) Diameter of well and type of casing used;
- (7) Pump size and production capacity of the well; and
- (8) Identity and water well driller's license number of person or persons who will drill the new well.

SECTION 5.

Fees.

An applicant for a water well permit for a new water well shall pay a nonrefundable permit fee as set forth in the Town's fee schedule to cover the Town's cost of inspection. No permit shall be issued until the permit fee has been paid in full.

SECTION 6.

Permitting process and inspections for new water wells

(a) After the applicant has submitted an application to the Town for a water well permit for a new water well, the Town official shall determine if the application complies with Section 4 of this ordinance. Before issuing the permit, the Town official shall fully consider the health and public safety of the citizens of the entire Town as it relates to the depth of the well, and its proximity to Town sewer lines, water lines, septic systems, lakes, streams, creeks, and flood zone areas. Upon determining that the application is complete and that the new water well will not negatively impact the public safety and health, the Town official shall issue the permit subject to a site inspection.

(b) No permit for a new water well shall be issued unless and until the Town's inspector has personally inspected the site and, has determined the location of the water well on the property and that such well will be constructed in accordance with all applicable laws and regulations. The Town official may revoke any water well permit for a new water well that is not constructed in accordance with applicable laws and regulations, including the requirements of this ordinance.

(c) Before final inspection and approval of use of a new water well, the owner must provide to the Town a copy of the driller's log that is required to be provided to the Upper Trinity Groundwater Conservation District.

(d) The granting of a permit for a new water well shall not relieve the owner of responsibility for safety and health in the construction and operation of the water well, and the Town reserves the right to inspect all water wells and perform a water quality test within the Town, the Town's ETJ or CCN annually or more often, if deemed necessary, to protect the public health and safety. No water well shall be used for a potable water source until the water quality test has been performed and results certified as safe for household consumption.

SECTION 7.

Permit revocation.

(a) If a permittee fails to comply with any provision of this ordinance, the Town official shall issue a written notice to the permittee of the nature of the noncompliance, stating a reasonable time in which compliance must be achieved, and stating that if compliance is not achieved within such time, a public hearing will be held on a certain date and time regarding the water well permit. If the Town Council determines at the public hearing that the permittee is not in compliance with the requirements of this ordinance, the Town council may suspend the permit for a period of time or revoke the permit.

(b) For purposes of this section, notice must be given by certified mail, return receipt requested, to the permittee at the permittee's address of record as stated on the permittee's water well permit application.

(c) Any permittee whose water well permit is revoked by the Town may file a permit application for a water well permit, in accordance with the requirements of this ordinance, at any time after the date the water well permit is revoked.

SECTION 8.

Cross connection and backflow prohibited

A water well shall not be connected to any other source of water supply as mandated by the TCEQ. A permittee must have installed at the meter by a licensed installer, at permittee's expense, a backflow prevention assembly on any approved connection of a water well in accordance with TCEQ rules and regulations to ensure the safety of the Town's potable water supply.

SECTION 9.

Town Ordinance No. 135 is hereby repealed in its entirety.

SECTION 10.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Annetta, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 11.

All rights and remedies of the Town of Annetta, Texas, are expressly saved as to any and all violations of the provisions of any other ordinances and of the Code of Ordinances of the Town of Annetta which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances and of such Code, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 12.

Any person who commits an offense under this ordinance shall be guilty of a misdemeanor and shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a new or preexisting water well is used, constructed or maintained in violation of this ordinance shall constitute a separate offense.

SECTION 13.

It is hereby declared to be the intention of the Town Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the Town Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 14.

The Town Secretary of the Town of Annetta is hereby directed to publish in the official newspaper of the Town of Annetta, the caption, penalty clause, and effective date clause once as authorized by Chapter 52 of the Local Government Code.

SECTION 15.

This ordinance shall be in full force and effect from and after its passage, and it is so ordained.

PASSED AND APPROVED on this 16th day of February 2017.

TOWN OF ANNETTA



Bruce Pinckard, Mayor

ATTEST:



Jamee Long, Town Secretary

