

ORDINANCE # 2021_____
WELL #4 SANITARY CONTROL ORDINANCE

AN ORDINANCE OF THE CITY OF GLEN ROSE, TEXAS, PROVIDING FOR VARIOUS LEVELS OF SANITARY CONTROL WITHIN A 150-FOOT AND A 50-FOOT RADIUS OF WELL #4 ON BRYAN STREET AT LATITUDE 32° 13' 40.29" N AND LONGITUDE 97° 44' 48.63" W IN THE J. J. FARR, EAST END, AN ADDITION OF SOMERVELL COUNTY; PERMITTING SOME CONSTRUCTION AND AGRICULTURAL OPERATIONS; AUTHORIZING ENFORCEMENT; ESTABLISHING FINES FOR VIOLATIONS NOT TO EXCEED \$2,000 PER OFFENSE; PROVIDING INVALIDATION, REPEALING, PROPER NOTICE, MEETING, AND QUORUM CLAUSES; ESTABLISHING AN EFFECTIVE DATE; AND REQUIRING PUBLICATION OF THIS CAPTION IN THE OFFICIAL NEWSPAPER.

WHEREAS, the City of Glen Rose (City) is a Type A general-law Municipality and operates a public water system;

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) requires that "...groundwater sources for public water systems shall be located so that there will be no danger of pollution from flooding or from unsanitary surroundings";

WHEREAS, to protect groundwater sources the TCEQ requires that sanitary control easements be secured for all property within 150' of a public water system's water well;

WHEREAS, the City has not been able to secure the required sanitary control easements for its Well #4 on Bryan street at latitude 32° 13' 40.29" N and longitude 97° 44' 48.63" W;

WHEREAS, pursuant to Texas Administrative Code 290.41(c)(1)(F)(iv)(III) in lieu of a sanitary control easement a municipality may provide TCEQ with "a copy of an ordinance or land use restriction adopted and enforced by the political subdivision which provides an equivalent or higher level of sanitary protection to the well as a sanitary control easement";

WHEREAS, pursuant to §51.012 of the Texas Local Government Code (TLGC), a "municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic";

WHEREAS, pursuant to §217.002 of the TLGC, “The governing body of the municipality may: (1) abate and remove a nuisance and punish by fine the person responsible for the nuisance; (2) define and declare what constitutes a nuisance and authorize and direct the summary abatement of the nuisance; and (3) abate in any manner the governing body considers expedient any nuisance that may injure or affect the public health or comfort”;

WHEREAS, the state of Texas designates “certain areas as the extraterritorial jurisdiction (ETJ) of municipalities to promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities”;

WHEREAS, the water well subject to this Ordinance is located in the City’s ETJ;

WHEREAS, pursuant to §26.177 of the Texas Water Code (TWC) municipalities are granted authority to control and abate water pollution within their ETJ, “A city may establish a water pollution control and abatement program...” which “...may include areas within its extraterritorial jurisdiction which in the judgment of the city should be included to enable the city to achieve the objectives of the city...”;

WHEREAS, the construction, existence, and/or operation of septic tank or sewage treatment perforated drain fields; areas irrigated by low dosage, low angle spray on-site sewage facilities; absorption beds; evapotranspiration beds; abandoned, inoperative or improperly constructed water wells of any depth; underground petroleum and chemical storage tanks or liquid transmission pipelines; sewage treatment plants; sewage wet wells; sewage pumping stations; drainage ditches which contains industrial waste discharges or wastes from sewage treatment systems; animal feed lots; solid waste disposal sites, landfill and dump sites; lands on which sewage plant or septic tank sludge is applied; lands irrigated by sewage plant effluent; military facilities; industrial facilities; wood-treatment facilities; liquid petroleum and petrochemical production, storage, and transmission facilities; Class 1, 2, 3, 4 and 5 injection wells; pesticide storage and mixing facilities; and all other constructions or operations that could pollute the groundwater sources of the well that is the subject of this Ordinance are declared to be nuisances injurious to the public health when located within a 150-foot radius of the City’s Well #4;

WHEREAS, the construction, existence and/or operation of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, cemeteries, and/or the existence of livestock in pastures within a 50-foot radius of the City’s Well #4 are declared to be nuisances injurious to the public health;

WHEREAS, the measures implemented under this Ordinance are consistent with the legislative findings concerning groundwater protection presented in §26.401 of the TWC: “ The legislature finds that: (1) in order to safeguard present and future groundwater supplies, usable and potentially usable groundwater must be protected and maintained; (2) protection of the environment and public health and welfare requires that groundwater be kept reasonably free of contaminants that

interfere with present and potential uses of groundwater; (3) groundwater contamination may result from many sources, including current and past oil and gas production and related practices, agricultural activities, industrial and manufacturing processes, commercial and business endeavors, domestic activities, and natural sources that may be influenced by or may result from human activities; (4) the various existing and potential groundwater uses are important to the state economy; and (5) aquifers vary both in their potential for beneficial use and in their susceptibility to contamination. The legislature determines that, consistent with the protection of the public health and welfare, the propagation and protection of terrestrial and aquatic life, the protection of the environment, the operation of existing industries, and the maintenance and enhancement of the long-term economic health of the state, it is the goal of groundwater policy in this state that the existing quality of groundwater not be degraded”; and,

WHEREAS, the City Council has determined that an ordinance in lieu of a sanitary control easement would achieve the TCEQ objective of protecting groundwater sources from unsanitary surroundings, is necessary for the welfare and good order of the municipality, is consistent with the intent of state law to protect public health and control and abate water pollution, would enable the City to abate nuisances injurious to the public health, would promote and protect the public health of persons residing in and adjacent to the municipality, is authorized in the City’s ETJ pursuant to §26.177 of the TWC, and would achieve the City’s objectives of protecting its water supply against pollution;

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

SECTION 1 (OF 13)
INCORPORATION OF RECITALS

All of the above recitals are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2 (OF 13)
PURPOSE

The purpose of this Ordinance is to protect the public water supply at the well described and located below by means of sanitary control.

SECTION 3 (OF 13)
PROHIBITIONS WITHIN A 150’ RADIUS OF SUBJECT WELL

The construction, existence, and/or operation of the following within a 150-foot radius of the well described and located below are prohibited: septic tank or sewage treatment perforated drain fields; areas irrigated by low dosage, low angle spray on-site sewage facilities; absorption beds;

evapotranspiration beds; abandoned, inoperative or improperly constructed water wells of any depth; underground petroleum and chemical storage tanks or liquid transmission pipelines; sewage treatment plants; sewage wet wells; sewage pumping stations; drainage ditches which contains industrial waste discharges or wastes from sewage treatment systems; animal feed lots; solid waste disposal sites, landfill and dump sites; lands on which sewage plant or septic tank sludge is applied; lands irrigated by sewage plant effluent; military facilities; industrial facilities; wood-treatment facilities; liquid petroleum and petrochemical production, storage, and transmission facilities; Class 1, 2, 3, 4 and 5 injection wells; pesticide storage and mixing facilities; and all other constructions or operations that could pollute the groundwater sources of the well that is the subject of this easement. For the purpose of this easement, improperly constructed water wells are those wells which do not meet the surface and subsurface construction standards for a public water supply well.

SECTION 4 (OF 13)
PROHIBITIONS WITHIN A 50' RADIUS OF SUBJECT WELL

The construction, existence and/or operation of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, cemeteries, and/or the existence of livestock in pastures is specifically prohibited within a 50-foot radius of the water well described and located below.

SECTION 5 (OF 13)
PERMITTED CONSTRUCTION AND AGRICULTURAL OPERATIONS

This easement permits the construction of homes or buildings upon the Grantor's property, and farming and ranching operations, as long as all items in Restrictions Nos. 2 and 3 are recognized and followed.

SECTION 6 (OF 13)
LOCATION OF THE WATER WELL SUBJECT TO THIS ORDINANCE

Well #4, the subject of this Ordinance, is located on Bryan Street at Latitude 32° 13' 40.29" N and Longitude 97° 44' 48.63" W. Exhibit "A," identifying the location of Well #4 and the area subject to this Sanitary Control Ordinance in the J. J. Farr, East End, an addition to Somervell County, attached hereto and referred to herein is hereby incorporated herein and made a part of this Ordinance for all purposes as if fully set forth herein.

SECTION 7 (OF 13)
TERM

This Ordinance shall continue in effect until the use of the subject water well as a source of water for public water systems ceases.

SECTION 8 (OF 13)
ENFORCEMENT

Enforcement of this easement shall be proceedings at law or in equity against any person or persons violating or attempting to violate the restrictions in this Ordinance, either to restrain the violation or to recover damages.

SECTION 9 (OF 13)
PENALTY FOR VIOLATIONS

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this chapter shall be fined in accordance with section 1.01.009 of this code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 10 (OF 13)
INVALIDATION

Invalidation of any one of these restrictions or uses (covenants) by a judgment or court order shall not affect any of the other provisions of this Ordinance, which shall remain in full force and effect.

SECTION 11 (OF 13)
SAVINGS/REPEALING CLAUSE

All other portions of the CCO shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 12 (OF 13)
PROPER NOTICE, MEETING, AND QUORUM CLAUSE

It is hereby officially found and determined that the meeting at which this Ordinance was adopted by majority vote of the City Council of the City of Glen Rose, Texas was open to the public; that public notice of the time, place, and purpose of the meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code; and, that a quorum was present pursuant to §22.039 of the Texas Local Government Code.

**SECTION 13 (OF 13)
EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage and publication.

PASSED AND APPROVED this the 13th day of July, 2021.

APPROVED:

Julia Douglas, Mayor

ATTEST:

Stephanie Ritchie, City Secretary