

**ORDINANCE NO. 2028**

**AN ORDINANCE AMENDING CHAPTER 86, "UTILITIES", ARTICLE II, "WATER AND SANITARY SEWER SYSTEMS," DIVISION I, "GENERALLY," OF THE CODE OF ORDINANCES OF THE CITY OF EULESS, TEXAS BY ESTABLISHING RULES AND REGULATIONS REGARDING SANITATION AND POLLUTION CONTROL OF THE AREAS IN PROXIMITY TO THE CITY'S PUBLIC WATER SUPPLY WELLS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Euless, Texas is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, in order to preserve and protect the public health, safety and welfare of its citizens the City Council has previously adopted regulations governing the operation, maintenance, improvement and extension of the municipally owned water and sewerage system; and

**WHEREAS**, the City of Euless, Texas owns and operates water supply facilities within the City, including three (3) water wells and related facilities, which provide potable water to the residents of the City; and

**WHEREAS**, because maintenance of sanitary conditions around such wells is vital to the protection of the wells and to the protection of the health and safety of the residents of the City, the City Council has determined that it is necessary and proper to establish rules and regulations governing the control of sanitary conditions around the wells.

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

**SECTION 1.**

**THAT** Chapter 86, "Utilities", Article II, "Water and Sanitary Sewer Systems", Division I "Generally," of the Code of Ordinances of the City of Euless is hereby amended by adding Section 86-40 to read as follows:

**Sec. 86-40. Sanitary and pollution control of areas in proximity to the city's public water supply wells.**

(a) *Purpose.*

This section sets forth uniform requirements for uses and the construction of facilities in or on land within one hundred fifty feet (150') of the Wells in order to promote sanitary conditions in and around such Wells, to secure all such land from pollution hazards, and to enable the City to comply with all applicable state and local regulations.

The objective of this section is to prevent certain uses and the construction of facilities in or on land surrounding the Wells, which might create a danger of pollution to the water produced from such Wells.

(b) *Definitions.*

*City Council* shall mean the City Council of the City of Euless, Texas.

*City* shall mean the City of Euless, Texas.

*Person* shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or its legal representatives, agents, successors, or assigns.

*Wells* shall mean the water wells owned and operated by the City, which are more specifically identified and described in Exhibit "A" attached to the ordinance adopting this section and made a part thereof.

(c) *Prohibited Activities*

The following activities are prohibited within the designated areas of land surrounding the Wells:

- (1) Construction and/or operation of any underground petroleum and/or chemical storage tank, liquid transmission pipeline, stock pen, feedlot, dump grounds, privy, cesspool, septic tank, sewage treatment plant, sewage wet well, sewage pumping station, drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems, solid waste disposal site, land on which sewage plant or septic tank sludge is applied, land irrigated by sewage plant effluent, septic tank perforated drain field, absorption bed, evapotranspiration bed, area irrigated by low dosage, low angle spray on-site sewage facility, military facility, industrial facility, wood treatment facility, liquid petroleum and petrochemical production, storage, and/or transmission facility, Class 1, 2, 3, and/or 4 injection well, pesticide storage and/or mixing facility,

abandoned well, inoperative well, improperly constructed water well of any depth, and all other construction or operation that could create an unsanitary condition is prohibited within, upon, or across all areas of land within a 150-foot radius of the Wells. For the purposes of this section, “improperly constructed water wells” are those wells that do not meet the surface and subsurface construction standards for a public water supply well.

- (2) Construction and/or operation of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, and cemeteries is specifically prohibited within, upon, or across any area of land within a 50-foot radius of the Wells.

(d) *Permitted Activities*

- (1) Construction of homes or buildings upon any area of land within a 150-foot radius of the Wells is permitted, provided the restrictions described in subsection (c) above are met.
- (2) Normal farming and ranching operations are not prohibited by this section; provided, however, livestock shall not be allowed within a 50-foot radius of the Wells.

(e) *Right of Entry*

City employees, or authorized representatives of the City, bearing proper credentials and identification, shall be permitted to immediately enter upon any premises located within a 150-foot radius of any Well to conduct any inspection or observation necessary to enforce this section.

(f) *Required Removal*

Any person who shall violate any provision of this section shall be required to immediately cease construction and/or remove the prohibited building, use or potential source of contamination within 90 days after notification that they are in violation of this section.

### **SECTION 3.**

**CUMULATIVE CLAUSE.** This ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Euless, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

#### **SECTION 4.**

**SEVERABILITY CLAUSE.** That 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, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or 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 City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or sections.

#### **SECTION 5.**

**PENALTY FOR VIOLATION.** Any person, firm or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with Chapter 1, "General Provisions", Section 1-12, "General Penalty," Euless Code of Ordinances. Each instance of a violation of any provision of this ordinance is a separate offense.

#### **SECTION 6.**

**SAVING CLAUSE.** All rights and remedies of the City of Euless are expressly saved as to any and all violations of the provisions of the City Code or any other ordinances regulating water and sewer systems that 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, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 7.**

**PUBLICATION.** The City Secretary of the City of Euless is hereby directed to publish in the official newspaper of the City of Euless, as required by Section 12 of Article II of the Charter of the City of Euless.

#### **SECTION 8.**

**EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication as required by the City Charter and the laws of the State of Texas.

**PRESENTED AND GIVEN FIRST AND FINAL READING AND APPROVED** at a regular meeting of the Euless City Council on the \_\_\_\_ day of April, 2014 by a vote of \_\_\_\_ ayes, \_\_\_\_ nays, and \_\_\_\_ abstentions.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Mary Lib Saleh, Mayor

\_\_\_\_\_  
Kim Sutter, TMRC, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Wayne K. Olson, City Attorney