

ORDINANCE NO. 432

AN ORDINANCE SETTING RESTRICTIONS AND PROHIBITIONS TO NON-PUBLIC DOMESTIC WATER WELLS IN THE CITY OF SUBLETTE, KANSAS.

WHEREAS, the City of Sublette, Kansas has a public interest to protect the quality of water to the consumers of the City of Sublette, located in Haskell County, Kansas hereinafter referred to as "the City"; and

WHEREAS, this public water supply system is operated by "the City" in compliance with the policies and regulations of the Kansas Department of Health & Environment, hereafter referred to as "KDHE"; and

WHEREAS, restrictions and guidelines are necessary to prevent contamination of the water provided to the consumers from cross connections with the public water supply system and non-public domestic wells; and

WHEREAS, pursuant to the city's constitutional home rule authority has the authority to pass regulations to protect its public water supply and K.S.A. 65-163a, the city by its utility superintendent may refuse to deliver water through pipes and mains to any premises where a condition exists which might lead to the contamination of the public water supply system and it may continue to refuse the delivery of water to the premises until that condition is remedied; and,

NOW THEREFORE, be it ordained by the Governing Body of "the City" that the following regulations and ordinance be adopted: THE GOVERNING BODY OF THE CITY OF SUBLETTE, KANSAS HEREBY ESTABLISHES THE FOLLOWING:

TITLE: NON-PUBLIC DOMESTIC WATER WELLS

Section 1: REGISTRATION REQUIRED; APPLICATION CONTENTS.

It shall be unlawful for any person, organization, company, corporation or other entity to dig, drill or construct a water well within the corporate city limits without first having registered said well with the city building official. Such registration shall be accompanied by a registration fee in the amount provided in the city fee schedule, no part of which will be refunded. Registration forms for private water wells shall be obtained from the city building official's office and shall set forth:

1. Location of the well in relation to sewers.
2. Location of the well in relation to water lines.
3. Location of the well in relation to property lines and city right-of-way and easement lines.
4. Location of the well in relation to an existing disposal field.
5. Depth of the well.
6. Size and type of casing.
7. Description of pumping equipment used.
8. The well digger's name and address.
9. An assurance that the registrant is aware of, and will abide by, all conditions contained in this division.
10. A statement that any permit or license required by the state has been approved.

11. A copy of the well drilling and construction plan.
12. Address of any property that will share water from the well, and the name of the owner or occupant of said property.

Section 2: DRILLERS REGISTRATION, BOND AND INSURANCE.

a) Every well driller, before doing business in the city, must be licensed with the state pursuant to K.S.A. 82a-1206, and shall be registered with the city. Registration forms may be obtained from the city building official and must be submitted with a registration fee in the amount provided in the city fee schedule.

b) Each well driller shall file with the city a personal surety bond in the sum of \$5,000.00 signed by one or more sufficient sureties or a bond in a like amount of some corporate surety company doing business in the city to be approved by the city clerk, conditioned that the licensee shall indemnify and hold harmless the city of and from all accidents, damages, liability, claims, judgment, costs or expense caused by any negligence arising from a failure to protect such drilling work, or by any unfinished, unskilled and inadequate work done in pursuance of his registration to drill wells, or arising out of furnishing defective material or from failure to execute and perform any work during the period of such driller's registration. The obligee of said bond shall be the city and action may be maintained thereon by anyone injured by a breach of its conditions for a period of one year after the completion of any drilling work. All bonds tendered by the 15-57 drillers shall be approved in writing, as to form and substance by the city administrator.

c) The applicant shall also provide a certificate of liability insurance coverage with bodily injury coverage in the sum of \$100,000.00 for the injury or death of any number of persons in one accident, and with coverage in the sum of \$100,000.00 for property damage in any one accident.

Section 3: NOTICE REQUIRED PRIOR TO SITE WORK. Well drillers shall contact the city building official at least 48 hours in advance of commencing any site work in order that final site approval may be given.

Section 4: REQUIREMENTS FOR ABANDONED WELLS.

a) Abandoned private water wells shall be plugged in such circumstances and under such conditions and standards as contained in K.A.R. 28-30-7, which is hereby adopted and incorporated as if fully set forth in this section including all subsequent editions, amendments, supplements or appendices thereto. No well shall be plugged without the city building official being present to inspect the plugging procedures used.

b) Whenever the city building official shall find a well which has been improperly abandoned or discontinued for use, it shall be his duty to notify or inform the property owner on which such well is located, in writing, that such well must be abandoned in accordance with this division within 30 days of the time of service of such notice. Upon failure of the owner of the

property upon which said well is located to comply with such order, the city building official shall properly plug such well, assessing the cost and expenses to the property upon which said well is located. Said expenses shall be certified by the city clerk to the county for placement on the tax rolls.

Section 5: CROSS CONNECTIONS.

a) Prohibited. No cross connections shall be allowed from a private well to or from the city water system.

b) Right of entry; termination of service. It shall be the duty of the owner or occupant of the property to give the city building official free and open access to the property at reasonable times for the purpose of making a cross connection inspection. If the city building official is denied entry to make said inspection or finds that a cross connection exists, the city may terminate the city's water supply to that location in accordance with K.S.A. 65-163a. a. Abatement; owner/occupant responsible for costs. If the city building official finds a cross connection exists, the city may terminate the city's water supply to that location in accordance with K.S.A. 65-163a. The owner, tenant and lessee shall be liable jointly 15-58 and severally for any damages to the city water system and users of the city water system caused by such cross connection.

Section 6: AUTHORITY TO SEEK INJUNCTIVE RELIEF.

If it appears that the well drilling and construction plan for a well are not sound or violate any provision of this division, or the driller does not have the proper equipment, or if it appears that such well may endanger the integrity of the physical city water system or the quality of the city's water, the city reserves the right to seek injunctive relief to prevent the construction of said well. In addition, the city reserves the right to seek injunctive relief, in addition to the notice and hearing procedure contained in section 15-708, prohibiting the operation of any private well.

Section 7: MINIMUM CONSTRUCTION STANDARDS ADOPTED.

Minimum construction standards for constructing private water wells are as contained in K.A.R. 28-30-6, which is hereby adopted and incorporated as if fully set forth in this section, including all subsequent editions, amendments, supplements or appendices thereto.

a) The minimum distance standards contained in K.A.R. 28-30-8, are hereby adopted and incorporated as if fully set forth in this section, including all subsequent editions, amendments, supplements or appendices thereto except as follows:

1. No private water well shall be constructed closer than 50 feet to any disposal field or sewer line, nor any disposal field or sewer line constructed closer than 50 feet to an existing private water well. No well shall be constructed closer than 25 feet to any existing public supply water line.

2. No private water well shall be constructed so as to encroach upon any city right-of-way or city easement unless such location is authorized in advance by the city for the purpose of testing groundwater contamination.

- b) Disposal of well water used for heating and/or cooling shall be through reinjection back to the same level of aquifer, except that during the spring, summer and fall months such water used for heating and/or cooling may be used for domestic lawn or garden watering.
- c) Backflow prevention devices shall be installed in accordance with section 15-603 through 15-605 and shall be maintained by the property owner, occupant or lessee.
- d) The well driller shall maintain a well log for each well constructed and shall file said well log with the city building official within 30 days after well construction is completed.
- e) The city building official shall be allowed to inspect any well during construction and any time thereafter. The well driller shall contact the city building official for final site approval at least 48 hours prior to any site work.

Section 8: AUTHORITY TO DISCONTINUE.

a) Notice. Upon notice and hearing, city council may order the discontinuance of the use of a private water well where it has reason and cause to believe that the public health and/or welfare is endangered. Notice shall be given by residential service to the occupant of the premises upon which the well is located not less than ten days prior to said hearing. In the event the premises is not occupied, notice shall be posted, not less than ten days prior to said hearing, upon the premises and by return receipt mail to the premises' registered owner according to county records.

b) Temporary order due to public safety concerns. In the event any private water well poses an immediate threat to public health and/or welfare, the city building official may order the temporary discontinuance of the use of that private water well pending notice and hearing before the city council. Said notice and hearing shall be in accordance with subsection (a) of this section, and said hearing shall occur not later than 15 days, excluding weekends and holidays, after the city building official orders the temporary discontinuance.

c) Appeals. Any property owner or occupant who receives an order of discontinuance from the city council may appeal said ruling to the county district court. Said appeal shall be filed with the clerk of the district court within ten days of said ruling. Said appeal shall not stay any order of discontinuance.

Section 9: GRANDFATHER CLAUSE. All private water wells existing within the city limits prior to the effective date of this ordinance shall be grandfathered from the provisions of sections 2, 3, 7(a), 7(b), and 10.

Section 10: DRILLING OF DOMESTIC WATER WELL PROHIBITED; CONDITIONS.

Due to the health concerns of the public water supply as discussed herein, a domestic water well shall not be drilled on any property in the City limits of Sublette, Kansas, when a municipal water connection is readily available to said property.

Section 11: PENALTIES. Any violation of this division shall be punishable in the city municipal court. The penalty shall a maximum of 30 days in jail and a \$500 fine. Each day a violation of this ordinance occurs shall be a separate offense.

Section 12: CONFLICTING ORDINANCES. In the event any provision or term of this ordinance conflicts with another ordinance previously in effect then that conflicting provision or part thereof of the other ordinance shall be repealed, but any parts of a conflicting ordinance shall not invalidate the ordinance. The cross-connection ordinance previously adopted by the City shall not be repealed by the passage of this ordinance unless specific provisions conflict with one another; in such an event this ordinance shall replace those conflicting parts or sections thereof.

Section 13: EFFECTIVE DATE. This ordinance shall become effective after its publication in the Haskell County Monitor chief, the official newspaper of the City of Sublette.

PASSED AND APPROVED BY THE GOVERNING BODY AND THE MAYOR OF THE CITY OF SUBLETTE, KANSAS, this 2nd day of April, 2018.

LAWRENCE HOERMAN-MAYOR

ATTEST:

JEANNIE TRIGG-CITY CLERK