

## ORDINANCE NO. 2014-36

**AN ORDINANCE OF THE CITY COUNCIL OF THE OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 7, ARTICLE 2 AND CHAPTER 8, ARTICLE 1 OF THE LAND DEVELOPMENT CODE AND CHAPTER 86, ARTICLES 2 AND 9 OF THE SAN MARCOS CODE OF ORDINANCES TO PROHIBIT PRIVATE WATER WELLS ON PROPERTY CONNECTED TO THE CITY'S WATER AND WASTEWATER SYSTEMS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.**

### **RECITALS:**

1. City staff proposed and the Planning and Zoning Commission has considered and recommended approval of revisions and amendments to the Land Development Code.
2. The City Council hereby finds and determines that the adoption of the following ordinance incorporating such revisions and amendments is in the interest of the public health, welfare and safety.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:**

**SECTION 1.** The City's Land Development Code and the San Marcos Code of Ordinances and are amended as set forth below. Added text is indicated by underlining. Deleted text is indicated by ~~strike throughs~~.

**SECTION 2.** Section 7.2.1.1 of the City's Land Development Code is amended to read as follows:

#### **Section 7.2.1.1 The City System**

(a) *Installation of Water Facilities.* Where water is to be provided through the City system, the developer shall install adequate water facilities, including fire hydrants, in accordance with the current Rules and Regulations for Public Water Systems of the TCEQ, and the firefighting standards of the Texas Board of Insurance, and the standards and specifications of the City.

(b) *Facilities for Health and Safety Emergencies; ~~Alternative Water Sources~~.* All water facilities connected to the City's water system shall be capable of providing water for health and emergency purposes, including fire protection.

(c) *Alternative Water Sources.* Where a development is served by the City water system, ~~a~~An alternative source of water source, excluding a well, within a development may be used for irrigation purposes, subject to City

approval and the obtaining of all appropriate permits from the U.S. Army Corps of Engineers, the TCEQ, and any other applicable agency. Pursuant to Section 7.2.1.3, a well is prohibited and may not be used for irrigation purposes. An alternative water source may not be used for potable (i.e., drinking) water supply under any circumstances. The design and construction of water system improvements and alternative water sources shall comply with the following standards:

- (1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the TCEQ.
- (2) Design and construction of water service from the City shall be in accordance with the standards in the City's TCSS Manual.
- (3) Design and construction of a fire protection and suppression system shall be in accordance with the standards in the TCSS Manual, and in accordance with the City's Fire Department and Fire Code (also see Chapter 86 of the City Code for cross-connection control and backflow prevention).

**SECTION 3.** Section 7.2.1.3 of the City's Land Development Code is amended to read as follows:

#### **Section 7.2.1.3 Individual Wells**

(a) *No City Service to Property with Wells. Within the City Limits.* The provision of water or wastewater supply or service to a new or existing development served by individual wells, whether such wells are for irrigation or any other for potable or nonpotable uses, within the City limits is prohibited. No owner or developer of property having one or more water wells may connect from such property to a city water or wastewater system unless such owner or developer first abandons the water well or wells on the property under applicable water well abandonment laws and regulations.

(b) *Other Wells Within the ETJ.* Individual wells on property within the ETJ that is not served by the city water or wastewater system shall be subject to approval by the county health official, and this approval shall be documented by the health official's signature on the water system statement on the plat. The developer must submit with the plat application a certificate from a professional engineer registered in this state or a geoscientist licensed to practice in this state verifying the adequacy of the proposed source of well supply prior to plat approval.

(c) *Compliance with Other Regulations.* Installation, operations and maintenance of individual wells that are not otherwise prohibited under

subsection (a), shall comply with City standards, regulations of the TCEQ, any other applicable State rules and regulations, and applicable regulations of groundwater conservation districts. In the event of conflict among these regulations, whichever is the most stringent shall apply.

(d) The prohibition of a well or wells ~~within the City limits~~ in this section does not apply to:

- (1) Texas State University properties being served by the Texas State University public water system, or
- (2) existing wells that were permitted and serving properties already connected to the city water or wastewater systems prior to July 1, 2014.

**SECTION 4.** Chapter 8, Article 1, General Definitions of the City's Land Development Code is amended to add the following definition (the definitions in this Article shall be renumbered accordingly):

Alternative water means any water from a source on or available to a customer's premises other than directly from the City's water system. Alternative water sources include the following:

- (1) Water from a natural source such as a spring, pond, or river (if permitted)
- (2) Reclaimed water.
- (3) Gray water.
- (4) Rain water.
- (5) Any water supplied by the city water system that has passed through a point of delivery and is no longer controlled by the City's public water system.

The term does not include water from a well.

**SECTION 5.** The definition for "Alternative Water" in Section 86.056 of the San Marcos City Code is amended to read as follows:

Alternative water means ~~any source other than City of San Marcos potable water sources, including rain water, gray water, reclaimed water, permitted EAA wells, other groundwater sources, etc.~~ any water from a source on or available to a

customer's premises from a source other than directly from the city's water sources. Alternative water sources include the following:

- (1) Water from a natural source such as a spring, pond, or river (if permitted).
- (2) Reclaimed water.
- (3) Gray water.
- (4) Rain water.
- (5) Any water supplied by the city water system that has passed through a point of delivery and is no longer controlled by the public water system.

The term does not include water from a well.

**SECTION 6.** The definition for "Auxiliary Water Supply" in Section 86.553 of the San Marcos City Code is amended to read as follows (the definitions in this section shall be rearranged in alphabetical order accordingly):

Auxiliary Alternative water supply means any water supply source on or available to a customer's premises from a source other than directly through from the city's water supply sources. Alternative water sources include all of the following:

- (1) —Water from another public water system.
- (12) Water from a natural source, such as a well, spring, pond, or river (if permitted). or creek.
- (23) Reclaimed water.
- (2) Gray water.
- (3) Rain water.
- (45) Any water supplied by a public water system, including the city water system, that has passed through a point of delivery and is no longer controlled by the public water system.

The term does not include water from a well.

**SECTION 7.** In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the Land Development Code and San Marcos City Code.


**SECTION 8.** If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

**SECTION 9.** All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 10.** This ordinance will take effect after its passage, approval and adoption on second reading.

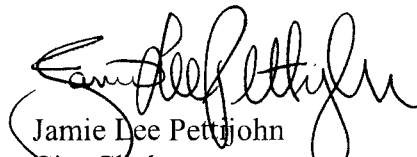
**PASSED AND APPROVED** on first reading on June 17, 2014.

**PASSED, APPROVED AND ADOPTED** on second reading on July 1, 2014.




Daniel Guerrero  
Mayor

Attest:



Jamie Lee Pettijohn  
City Clerk

Approved:



Michael J. Cosentino  
City Attorney