



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Master

File Number: O-1213-48

File ID: O-1213-48	Type: Ordinance	Status: Non-Consent Items
Version: 1	Reference: Item No. 32	In Control: City Council
Department: Legal Department	Cost:	File Created: 06/04/2013
File Name: Domestic Water Wells	Final Action:	

<p>Title: <u>CONSIDERATION OF ORDINANCE NO. O-1213-48 UPON SECOND AND FINAL READING:</u> AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 21, SECTION 21-404 OF THE CODE OF THE CITY OF NORMAN TO REQUIRE PERMITS FOR DOMESTIC AND INDUSTRIAL WATER WELLS AND SET FORTH CONDITIONS FOR APPROVAL OF SUCH PERMITS; AND PROVIDING FOR THE SEVERABILITY THEREOF.</p>

Notes: ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1213-48 upon Second Reading section by section.

ACTION TAKEN: _____

ACTION NEEDED: Motion to adopt or reject Ordinance No. O-1213-48 upon Final Reading.

ACTION TAKEN: _____

Agenda Date: 06/25/2013

Agenda Number: 32

Attachments: Text File O-1213-48, O-1213-48, O-1213-48
Annotated, Oversight Committee Minutes 3-6-13,
Pert excerpt April 30 SS Minutes Water Wells

Project Manager: Kathryn Walker, Assistant City Attorney

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Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/11/2013	Introduced and adopted on First Reading by title only Aye: 9	Mayor Rosenthal, Council Member Spaulding, Council Member Lockett, Council Member Gallagher, Council Member Williams, Council Member Jungman, Council Member Kovach, Council Member Griffith, and Council Member Castleberry			Pass

Text of Legislative File O-1213-48

Body

BACKGROUND: Recently, a property owners association (POA) inquired about the potential for drilling a well from which water could be drawn and used for irrigation of the neighborhood's common areas. As discussed in the February 13, 2013 Oversight Committee meeting, Staff has been examining the City's existing ordinances regulating wells and determined that the applicable Code provision needs to be updated both to reflect the current constraints of state law on water well regulation by cities as well as to ensure contamination and quantity issues with domestic water wells are addressed to protect the public water supply. The Oversight Committee met on March 6, 2013 and recommended the Ordinance go forward to full Council. The ordinance was discussed by the full City Council at its April 30, 2013 Study Session. Changes were made to the ordinance consistent with the discussion by the full Council. The first portion of this memorandum will examine the applicable laws related to domestic water wells, and the second portion will outline the proposed changes to Section 21-404 of Norman's Code.

Applicable State Law

The Oklahoma Water Resources Board (OWRB) has exclusive authority by law to regulate groundwater use and to issue permits allowing its withdrawal. Any landowner has a right to take groundwater from land owned by him for domestic use without a permit from the OWRB. Although a municipality cannot deny a landowner the right to withdraw groundwater for a domestic use, it can regulate or permit the drilling of domestic and industrial water wells within its corporate limits. Pursuant to this authority, the City can require landowners in Norman to obtain a permit from the City to drill a water well for domestic or industrial use. Water wells drilled for other beneficial uses - e.g., irrigation use - require a permit from the OWRB. The OWRB estimates that approximately 100,000 groundwater wells existed in 2012, with an estimated 70,000 of those being domestic wells. Because domestic wells are exempt from permitting requirements through the OWRB, it is unknown how much water is being withdrawn from the 70,000 domestic wells.

The City's ordinances do not define the term "domestic use." Oklahoma groundwater law defines "domestic use" as "the use of water by a natural individual or by a family or household for household purposes, for farm and domestic animals up to the normal grazing capacity of the land and for the irrigation of land not exceeding a total of three (3) acres in area for the growing of gardens, orchards and lawns, and for such other purposes, specified by Board rules, for which *de minimis* amounts are used[.]" The Oklahoma Water Resources Board has specified that "domestic use" also includes "the use of water by non-household entities for drinking water purposes, restroom use, and the watering of lawns, provided that the amount of groundwater used for any such purposes does not exceed five acre-feet per year."

Reading the two definitions together, the domestic use exemption appears to have four components: (1) household use for natural individuals, families, households; (2) farm and animal use to the normal grazing capacity of the land; (3) irrigation use for gardens, orchards, and lawns not exceeding three acres; and (4) other purposes specified by the OWRB in *de minimis* amounts, i.e. up to 5 acre feet of water per year for use by non-household entities for drinking water, restrooms, and watering of lawns.

The use of groundwater by a property owner's association for irrigation of the common areas appears to qualify as a "domestic use" under the OWRB rule as a use by a non-household entity for the watering of lawns. As such, the use of the water would be limited to 5 acre feet or 1,629,257 gallons of water per year. Such a domestic use would not require a permit from the OWRB, but would require a permit from the City.

Water Well Permits, Norman Code, Section 21-404

Section 21-404 was adopted by the City Council of Norman in the early 1970's and has not been updated since that time. It requires all persons desiring to drill a water well to obtain a permit from the City of Norman and forbids non-domestic users from drilling or deepening a privately owner well into the Garber Wellington sandstone formation without approval by City Council. It also empowers Council to issue cease and desist orders during a period of drought, low water supply, or when deemed necessary to safeguard the citizen welfare. Finally, it requires the owners of private water wells to plug and abandon those wells when the City furnishes water service to them.

The ordinance, while well intentioned, is out of date and is inconsistent with existing State law. Staff has been

working on draft amendments to this section that would be consistent with State law while providing reasonable protection of the public water supply.

DISCUSSION: Ordinance No. O-1213-48 would limit the City's authority to regulate to only domestic and industrial wells and also limit the use of such water to domestic and industrial use as defined by State law. The protections for the City are contained in the proposed amendments to Section 21-404(c). Permits for industrial and domestic water wells would be conditioned on the following:

Wells must be constructed by an OWRB certified well driller;
The OWRB Groundwater Well Completion Report must be submitted to the City upon completion;
An operable totalizing meter must be installed and maintained by the permit applicant;
At least 30 feet of well surface casing must be installed to reduce the risk of groundwater contamination;
There must be no cross-connection of the well to the public water supply;
Water must not be withdrawn in excess of the limits set by law;
Water withdrawn from the well will be used only for the stated purpose for which the well is installed;
Water withdrawn from the well must not be applied or discharged to property owned by others; and
Well user must submit records annually that document the volume of water being withdrawn.

These items will help protect the public water supply by reducing the risk of contamination and monitoring the amount of water being withdrawn from each domestic or industrial water well. Additionally, on those properties served by City water, or required to be served by City water, privately owned wells may not be drilled into the Garber-Wellington sandstone formation.

RECOMMENDATION: Staff recommends adoption of Ordinance No. O-1213-48.