

**ORDINANCE # 4.01**

**RIGHT-OF- WAYS SANITARY CONTROLS NEAR PUBLIC WATER WELLS**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MERTZON, TEXAS, ESTABLISHING RULES AND REGULATIONS REGARDING SANITATION AND POLLUTION CONTROL OF THE RIGHT OF WAY AREAS IN PROXIMITY TO THE CITY'S PUBLIC WATER SUPPLY WELLS. PROVIDING FOR: FINDINGS OF FACT; A POPULAR NAME; PURPOSE; DEFINITIONS; SANITATION CONTROLS; SANITATION HAZARDS; INVESTIGATION AND NOTICE OF VIOLATIONS; ENFORCEMENT INCLUDING MAXIMUM FINE OF \$2,000 AND MAXIMUM CIVIL PENALTY OF \$1,000 PER OFFENSE; SEVERABILITY; SAVINGS CLAUSE; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.**

WHEREAS, the City of Mertzon, Texas (the "City"), owns and operates water wells and related facilities within the City, 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 deems it 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 Mertzon, Texas, Count of Irion, State of Texas that:

SECTION 1.0 FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Mertzon and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2.0 POPULAR NAME

This Ordinance shall be commonly referred to as the City's "RIGHT-OF-WAYS SANITARY CONTROLS NEAR PUBLIC WATER WELLS"

### SECTION 3.0 PURPOSE

- A. This Ordinance sets forth uniform requirements for the users 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.
- B. The objective of this Ordinance 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.

### SECTION 4.0 DEFINITIONS

Unless the context requires otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

- 4.1 City Council: the governing body of the City of Mertzton, Texas.
- 4.2 City: the City of Mertzton, Texas.
- 4.3 Ordinance: this ordinance establishing rules and regulations regarding sanitary and pollution control of the area in proximity to the City's public water supply wells.
- 4.4 Person: an individual, corporation, organization, government agency, business, trust, partnership, association, or any other legal entity.
- 4.5 Wells: public water wells owned and operated by the City of Mertzton, Texas.

### SECTION 5.0 PROHIBITED ACTIVITIES

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

- A. Construction and/or operation of any underground petroleum and/or chemical storage tank, liquid transmission pipeline, stock pen, feedlot, dump grounds, privy, cesspool, 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, 4 and/or 5 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 Ordinance, “improperly constructed water wells” are those wells that do not meet the surface and subsurface construction standards for a public water supply well.

- B. 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 150-foot radius of the Wells.
- C. Construction of homes or building upon any area of land within a 150-foot radius of the Wells is permitted, provided the restrictions described in items A and B above are met.
- D. Normal farming and ranching operations are not prohibited by this Ordinance; provided, however, livestock shall not be allowed within a 150-foot radius of the Wells.

#### SECTION 6.0 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 Ordinance.

#### SECTION 7.0 INVESTIGATIONS AND NOTICE OF VIOLATIONS

- 7.1 The Code officer by observation or on the basis of a complaint by any person, shall investigate alleged violations of this Ordinance
- 7.2 The Code Officer may enter upon any lot where a violation of this Ordinance is alleged to have occurred, at any reasonable time, in order to examine the alleged violation so long as the Code Officer shall make first an attempt to contact any occupant and shall not damage the property making entry.
- 7.3 If the Code Officer determines there is a violation of this Ordinance, the Officer shall give notice in writing to the person owning, occupying or exercising control of the property upon which a violation of the provisions of this Ordinance is found. The notice will inform the person that the condition must be corrected, repaired, cleaned or removed within seven (7) days from receipt of the above notice, and if corrective action is not taken, the City may, but is not obligated to:
  - a. Authorize that the necessary work be done or improvements made; and
  - b. Pay for the expense incurred having the work done or improvements made and bill the expense to the person owning, occupying or exercising control of the property.

### SECTION 8.0 PENALTY

Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00. Each day of violation shall constitute a separate offense.

### SECTION 9.0 REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

### SECTION 10 SEVERABILITY CLAUSE

If any paragraph, clause, phrase or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of provision thereof, other than the part so decided to be invalid or unconstitutional.

### SECTION 10.0 SAVINGS CLAUSE

The repeal of any ordinance or parts of ordinances effectuated by the enactment of the amendments to this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinance at the time of passage of this Ordinance.

### SECTION 11.0 EFFECTIVE DATE

This Ordinance shall become effective up on passage and approval of the City Council of the City of Mertzson, Texas and after publication as may be required by governing law.

### SECTION 12.0 PROPER NOTICE & OPEN MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, as required by law, and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Texas Government Code, Chapter 551.

INTRODUCED AND APPROVED ON THE 9<sup>TH</sup> DAY OF SEPTEMBER 2019, AND PASSED AND ADOPTED ON THE 23<sup>RD</sup> DAY OF SEPTEMBER 2019, by a vote of 4 (ayes) to 0 (nays) and 1 (abstentions) of the City Council of the City of Mertzton, Texas.

CITY OF MERTZON

  
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Lisa Hight, Mayor

ATTEST:

  
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Sheri Benson, City Administrator