

*Amendment needed
for \$150 permit fee
and 200' depth.*

CITY OF WEST COLUMBIA, TEXAS

ORDINANCE NO. 576

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, BY CHANGING THE TITLE OF CHAPTER 13 "NUISANCES" TO "PUBLIC HEALTH AND THE ELIMINATION OF NUISANCES; REPEALING ARTICLE III OF CHAPTER 13 ENTITLED "PREVENTION OF WATER POLLUTION FROM DEFECTIVE WELLS"; ADDING TO CHAPTER 13 ARTICLE VII ENTITLED "REGULATION OF PRIVATE WATER WELLS AND PROTECTION OF PUBLIC WATER SOURCES AGAINST CONTAMINATION; PROVIDING FOR WATER SOURCE PROTECTION; PROVIDING FOR WELLHEAD PROTECTION; DECLARING THE PURPOSE OF THE ORDINANCE; PROVIDING FOR METHODS OF REDUCTION OF POTENTIAL CONTAMINATION; PROVIDING FOR COMPLIANCE; PROVIDING THE SCOPE OF THE ARTICLE REQUIRING PERMITS; PROVIDING A PROCEDURE FOR ISSUANCE OF PERMITS AND REQUIRING A PERMIT FEE; PROVIDING FOR DISPOSITION OF FEES; REQUIRING CASING OF WELLS; PROHIBITING CONTAMINATION OF OTHER WATER SERVICES; PROHIBITING DEFECTIVE WELLS, CONTROLLING ABANDONED WELLS; EXTENDING THE PROVISION ORDINANCE TO WELLS OR DRILLING WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF WEST COLUMBIA, TEXAS; PROVIDING FOR ABATEMENT OF NUISANCES; PROVIDING FOR A PENALTY; PROVIDING GENERAL PROVISIONS; PROVIDING FOR ADMINISTRATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 401.002 of the Texas Local Government Code states, in pertinent part, that a city has the power to prohibit the pollution or degradation of and may police a stream, drain, recharge feature or area, or tributary, thereof, which may constitute or recharge the source of water supply of any city, and that a city may provide for the protection of and police any watersheds; and

WHEREAS, the authority granted by Section 401.002 of the Texas Local Government Code may be exercised inside or outside the City's boundaries in accordance with the guidelines set forth in Section 401.002; and

WHEREAS, Section 401.003 of the Texas Local Government Code provides that a City shall file notice with the county clerk when it has decided to regulate and control the use and development of any watersheds, flood-prone areas and impoundment areas for flood control and preservation; and

WHEREAS, Section 26.177 of the Texas Water Code provides that a City may establish a water pollution control and abatement program for the City; and

WHEREAS, the City Council has determined that potential sources of contamination exist which may threaten the integrity of the City of West Columbia's public water supply, and consequently the health, safety, commerce, public services, property, and the general welfare of the public; and

WHEREAS, these potential sources of contamination are created by a cumulative effect of anthropogenic and/or natural activities taking place within sufficient proximity to the City's public water supply or source of said supply as to pose a threat of contamination; and

WHEREAS, the Texas Commission on Environmental Quality (formerly known as the Texas Natural Resource Conservation Commission) has delineated certain areas within the corporate city limits as wellhead protection areas ("WSPA"), which WSPA maps are attached hereto as Exhibits 1-5 and incorporated herein by reference as if fully set forth herein; and

WHEREAS, the City Council has expressed its desire to regulate the drilling of water wells, establish a water pollution control and abatement program, and otherwise initiate procedures consistent with state statutes and regulations, to protect the City's ground water; and

WHEREAS, the City Council has determined that such regulations are in the best interest of the public to protect the health, safety and general welfare of the citizens of the City of West Columbia.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST COLUMBIA, TEXAS, THAT:

Section 1.

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

Section 2.

The City of West Columbia Code of Ordinance, Chapter 13, entitled "Public Health and the Elimination of Nuisances," is hereby amended by adding a new Article VII, entitled "Regulation of Private Water Wells and Protection of Public Water Sources Against Contamination," as follows:

**ARTICLE VII.
Regulation of Private Water Wells and
Protection of Public Water Sources Against Contamination**

Division 1. GENERALLY

SECTION 13-200. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety and

general welfare and to minimize public and private losses due to contamination of the public water supply, to maximize groundwater protection/pollution abatement control procedures, and effectuate land use restrictions that;

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly pollution remediation projects;
- (3) Minimize regulations on land use;
- (4) Minimize business interruptions;
- (5) Minimize damage to public facilities and utilities such as water mains, sewer lines, and treatment facilities;
- (6) Ensure that the public is provided with a safe potable water supply now and for future generations; and
- (7) Protect the natural resources of the state.

SECTION 13-201. Methods of Reducing Potential Contamination

In order to accomplish its purpose, this ordinance shall employ the following methods:

- (1) Establish the City as a Water Source Protection Area (WSPA) based on a five year time of travel.
- (2) Restrict or prohibit uses within the WSPA that pose risks of contamination to the public water supply (PWS).
- (3) Control anthropogenic activities within the WSPA that may increase the threat of potential contamination of the public water supply.
- (4) Frequent monitoring of existing and future anthropogenic activities within the WSPA that have been identified as potential sources of contamination.
- (5) Enforcement of all applicable laws governing pollution abatement and control, storage, and transport of hazardous toxic materials, and collection, storage, and transport and treatment of municipal and industrial sewage.
- (6) Develop contingency plans for alternative drinking water supplies to help mitigate contamination of the current public water supply.
- (7) Inventory all potential sources of contamination within designated WSPA(s) every three (3) years.
- (8) Enforcement of State and local laws regulating on-site sewage systems.

- (9) Prohibition of storage of hazardous or toxic materials within the WSPA that is upgrade of the PWS well.
- (10) Enclosure of the PWS well within a fenced enclosure accessible only via a locked gate. Well identification should be posted on the fence.
- (11) Posting of signs that state "Wellhead Protection Area, City of West Columbia" around the perimeter of the WSPA(s) and governing ordinances.
- (12) Regulation of the construction, operation, correction and abandonment of water wells within both the city limits and the ETJ.
- (13) Develop and implement an emergency response plan to deal with potential contamination events.
- (14) Public education.
- (15) Establish a water control and abatement program that encompasses the entire corporate city limits and areas within the City's extraterritorial jurisdiction ("ETJ").

[Sections 13-202-209 left intentionally blank]

DIVISION 2.

SECTION 13-210. Powers and Duties of the City Manager or his designee

The City Council designates the City Manager or his designee, who shall be responsible for the enforcement of the provisions of this Ordinance and shall have the following powers:

- (1) To make or have made examinations of all wells within the City of West Columbia and all wells outside the city limits which by law is under the jurisdiction of the City, privately owned or otherwise;
- (2) To make or have made at any time the necessary analysis for tests of water there from;
- (3) To go upon the land and property of the owner of a well for that purpose;
- (4) To require the owner to furnish all information requested concerning a well, including, in the case of new wells, complete logs of the well showing depth to the aquifer through all geological formations encountered;
- (5) To supervise the construction, repair, abandonment and plugging of wells and the operation of such wells. The City Manager or his designee shall keep a register of all wells within the area defined in sub-paragraph (1) above, which shall show the name of the owner, the location, and the

date of construction of each well, its depth and diameter, the purpose for which the well was constructed, and if abandoned, the date of abandonment.

SECTION 13-211. Compliance with Article

It shall be deemed a violation of this article for any person to fail or refuse to comply with any order of the City Council or their designee made in conformity with and under the authority of this article.

SECTION 13-212. Scope of Article

The provisions of this article shall apply to all wells or other openings greater than ten (10) feet in depth. Furthermore, the owner of any proposed well shall be required to apply and receive from the City of West Columbia a permit to construct such a well or opening, the application for which shall supply all of the information required under Section 13-214, and for such permit the City of West Columbia shall charge and receive the fee hereinafter provided.

SECTION 13-213. Permit Required for Work on Wells

It shall be unlawful for any person to drill or otherwise construct, repair, correct, abandon or plug a well, or to engage upon such work, within the limits of the area defined in Section 13-210 (1), or to employ anyone else to engage in such work, without first applying for and securing a permit from the City of West Columbia or a duly authorized agent thereof. Such permit may be granted with the approval of the City's authorized agent to any person who files with the City of West Columbia the application hereinafter required, and complies with all other provisions of this article applicable to him. No permits will be issued for wells to be drilled into the Chicot Aquifer, except for public water supply use, and owned by the City of West Columbia.

SECTION 13-214. Application

Every application for a permit of the drilling, construction, repair and correction, abandonment or plugging of a well, shall state the name and address of the owner thereof, the purpose for which the permit is desired; the location of the well or the proposed well; its approximate depth; and if for a permit for the drilling or construction or repair and correction of a water well, the estimated amount of water to be pumped, or which is pumped daily, monthly or annually, and the use or uses for which the water will be or is required; if for a permit for the drilling or construction or repair and correction of a water well, the proposed method of drilling or construction, or the proposed method of repair and correction, and kind of equipment to be used, and in all cases, the name of the contractors, and license number issued by the Texas Water Well Drillers Board, if done through a contractor, whom the owner desires to drill or construct, repair and correct, or do the work pursuant to an abandonment of a well in compliance to this article.

SECTION 13-215. Inspection Before Issuance

It shall be the duty of the City Council or its designated representative to inspect the property where any well is to be drilled, sunk, dug or bored and to refuse the

issuance of a permit to drill, sink, dig or bore a well in a place which does not meet with its approval as to drainage and other sanitary conditions.

SECTION 13-216. Execution

All permits shall be executed in triplicate, one copy delivered to the applicant, one copy to the City Manager, and two shall be retained in the office of the City of West Columbia.

SECTION 13-217. Additional Permits

It shall be unlawful for any applicant who obtains a permit to construct a well of a certain depth, or to extend such well to a depth exceeding the depth provided for in such permit, without first obtaining an additional permit therefore.

SECTION 13-218. Fees – Amounts

The fees to be paid to the City of West Columbia for the permits required by this article shall be as follows:

- (1) Permit for the drilling or construction of a new well up to fifty feet deep, One Hundred Dollars (\$100.00).
- (2) Permit for the drilling or construction of a new well fifty feet deep to one hundred fifty feet deep, One Hundred Fifty Dollars (\$150.00).
- (3) Permit for the drilling or construction of a new well one hundred fifty feet deep to two hundred fifty feet deep, Two Hundred Twenty-five Dollars (\$225.00).
- (4) Permit to repair or correct a defective well, One Hundred Fifty Dollars (\$150.00).
- (5) Permit to abandon or plug a well, One Hundred Fifty Dollars (\$150.00).
- (6) Triennial inspection fee, One Hundred Fifty Dollars (\$150.00).

SECTION 13-219. Disposition

All fees and other money collected by the City of West Columbia by virtue of this article shall be expended by such City to cover the expense of making examinations of wells within the City of West Columbia, to make or have made the necessary analyses and test of water therefrom, to supervise the construction, repair, abandonment and plugging of wells, and their operation, and such other expenses as may be necessary to enforce this article.

SECTION 13-220. Casing of Wells Required

Every well constructed, whether drilled, dug, or excavated, which encounters salt water or water containing mineral or other substance injurious to health or vegetation, shall be securely plugged and sealed or cased in such manner that the

waters be confined to the stratum or strata in which found, and all wells shall be so constructed and cased in such manner that the waters be confined to the stratum or strata in which found, and all wells shall be so constructed and cased so that no water from one stratum can by reason of the construction of the well come in contact with waters from another stratum. The casing shall be set in top of the stratum from which water is to be taken and shall be cemented in place by suitable method to be approved by the City Manager or his designee to the end that cement be forced up around the outside of the casing to the surface of the ground so that all water found in the strata, except that from which water is to be used, shall be scientifically developed to accomplish the purpose mentioned, such better method may be prescribed by the City in lieu of cementing. The casing used shall be of weight per foot, not less than the following:

<u>Size of Casing</u>	<u>Minimum Weight Per Foot</u>
4 inch	10 pounds
5 inch	14 pounds
6 inch	18 pounds
8 inch	28 pounds
10 inch	40 pounds
12 inch	49 pounds
15 inch	60 pounds
18 inch	80 pounds
20 inch	89 pounds

The casing shall be mechanically continuous from the point of setting the bottom of the well to a point not less than twelve inches above ground level and shall be so installed as to make impossible any leakage as against any pressures which may be encountered.

If casing is of two or more diameter sizes, the different sizes shall be connected with threaded nipples or be sealed with rubber, cement or by some other manner satisfactory to the City of West Columbia.

SECTION 13-221. Wells Contaminating Other Water Sources

Any well or other opening located inside the area defined in Section 13-210. (1) which penetrates the underground water supply and which pollutes or contaminates any other wells or the City's water supply, is declared a nuisance, and on notice to the owner of such well, or to the operator therefore, or to his agent in charge of the well or of the property on which it is situated, issued by the City Manager or his designee such nuisance shall be abated by the owner within ten (10) calendar days from the date of such notice by filling and plugging the well or opening in the manner provided for in this article for abandoned wells; and if owner or his agent shall fail to abate such nuisance within such time, such City Manager or his designee shall have the right to go onto the land or property upon which the well is situated and abate such nuisance in the manner provided herein and the owner thereof shall be liable to the City of West Columbia for the cost of such work and shall pay such cost upon demand to the owner by the City. A fine of not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) per day will be imposed on the owner and/or operator for each day that exceeds the ten (10) calendar days. In such cases where a situation occurs that

compliance cannot be made in ten (10) calendar days, a request must be submitted to the City Manager or his designee, to determine if circumstances warrant an extension. If the ten (10) calendar days have expired prior to the request being submitted, the request will not be accepted, and all fines shall be imposed. Cost of repairs will not be considered as justification for an extension request. If, however, the owner can prove that he is financially unable to make the repairs, then said owner must submit, in writing, a request for the City of West Columbia to make the repairs and agree to make restitution in full to the City of West Columbia.

SECTION 13-222. Defective Wells

Every well whether dug or drilled, which for any reason does not completely prevent the mixing of water or other liquid from above and below the source of the City's water supply, or which for any reason would tend to pollute or contaminate any other well or the water in the source of the City's water supply, shall be considered a defective well and the City Manager or his designee on his own initiative or upon information or complaint from any source may make such an examination of any well suspected of being defective and if such examination indicates in the opinion of the City Manager or his designee, that the well is a probable source of contamination of the City water supply or any other well, or that the water from such well is unsafe for human consumption, shall issue written instructions to the owner or his agent in charge of such well or the property with the provisions of this article, and prescribe a time which in his judgment, under all the circumstances, is reasonable within which such instructions shall be complied with. It shall be unlawful for the owner or operator of such defective well to fail to comply with such instructions within the time prescribed by the City Manager or his designee. If instructions are not followed in the given time frame, a fine of not less than One Thousand Dollars (\$1,000.00) per day, nor more than Two Thousand Dollars (\$2,000.00) per day will be imposed.

SECTION 13-223. Abandoned Wells

An abandoned well is: (a) a defective well which, in the judgment of the City Manager or his designee, cannot be corrected to comply with the requirements of this article, or (b) any well which has been continuously out of use for a period of six (6) months, or longer. Whenever any wells have not been in active use for more than two (2) years, the owner or operator of such well shall report the fact to the City of West Columbia in writing. Every abandoned well shall be filled and plugged with such materials and in a manner approved by the Texas Water Well Drillers Board that will, in its and the City's judgment, prevent the pollution and contamination of the City's water supply or the contamination of any other well within the limits of the City of West Columbia and at the expense of the owner of such well.

Whenever the City of West Columbia shall receive notice from any source of the existence of an abandoned well which has not been plugged and filled in accordance with the provisions of this article and/or the Texas Water Drillers Act or rules promulgated by the Texas Water Well Drillers Board, it shall notify the owner or agent in charge of such well or of the property upon which it is situated that such well is abandoned and shall instruct him to fill and plug such well in accordance with this article; and the owner or operator of such well shall comply with such order within sixty (60) days after the date of written notice. Should he fail to so comply within such period or if, after using reasonable diligence, should the City of West Columbia fail to locate

the owner or the agent in charge of such well or of the property upon which the well is situated, the City Manager or his designee may go on the land or property upon which the well is situated and fill and plug such well in the manner required by this article. Whenever it becomes necessary for the City of West Columbia to fill and plug any abandoned well the owner thereof shall be liable to the City of West Columbia for the cost of doing such work and shall pay such cost upon demand. The City shall further be entitled to file a lien affidavit among the real property records of Brazoria County for the amount of any unreimbursed costs not paid within thirty (30) days of written demand by the City to the owner of the property.

SECTION 13-224. Wells Outside the City; Abating Nuisance, Drilling

The owner or lessee of property on which any well heretofore drilled or that may be hereafter drilled outside the City of West Columbia which is found to be contaminating or polluting influence to the underground water bearing strata from which the municipal water supply of the City of West Columbia is taken or drawn or may hereafter be taken or drawn as well as the owner or lessee of all wells drilled inside the area defined in Section 13-210: (1) shall be subject to all the provisions of Sections 13-221 and 13-222 and all other provisions of this article relating to the protection of the water supply of the City of West Columbia, and any such contaminating well may be abated as provided herein.

SECTION 13-225. Wells Imposing Immediate Threat; Abating Nuisance

Any well or other opening located inside the area defined in Section 13-210 (1) which, in the sole opinion of the City Manager or his designee, presents an immediate threat and menace to the health, morals, safety or general welfare of the public, is declared to be a nuisance. The City Manager or his designee shall have the right to go on property upon which such wells are situated and abate the nuisance in a temporary manner. Such well shall thereafter be filled and plugged by the owner after giving of required notice and in such manner set out in Section 13-223. hereof. The owner thereof shall be liable to the City of West Columbia for the cost of doing such temporary work under this section and shall pay such cost upon demand. The City shall further be entitled to file a lien affidavit among the real property records of Brazoria County for the amount of any unreimbursed costs not paid within thirty (30) days of written demand by the City to the owner of the property.

SECTION 13-226. Prohibition of Connection to Public Drinking Water Supply

It is unlawful for any person to connect, whether directly, indirectly, by cross connection, or otherwise or in any manner, a well or water source of any kind to the public drinking water supply. Notwithstanding any provision in this Code to the contrary, the installation of an air gap or a reduced pressure to the back flow prevention device shall not be permitted between a private water system and/or well and the public drinking water supply.

SECTION 13-227. Violation and Penalties

A person who violates any of the provisions of this article is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not less than Ten Dollars (\$10.00) nor more than Two Thousand Dollars (\$2,000.00). Each day a

violation occurs constitutes a separate offense.

[Sections 13-228 through 13-229 left intentionally blank].

Division 3. GENERAL PROVISIONS

SECTION 13-230. Lands to Which this Ordinance Applies

The Ordinance shall apply to all areas located within the designated WSPA(s) as designated by the City Manager or his designee. Division 2 shall apply to all areas within the City limits of the City of West Columbia, Texas.

SECTION 13-231. Basis for Establishing the Wellhead Protection Area(s)

The wellhead protection area(s) as delineated by the Texas Commission on Environmental Quality (TCEQ) using a site specific method stipulated in the Texas Wellhead Protection Program Description and is based on a five (5) year time of travel. Information submitted to the TCEQ required for this delineation included the maximum anticipated pumpage of each well in gallons per minute (GPM), the screened interval for each well, and the depth of each well. The respective wells were plotted on a City map and submitted to the TCEQ for delineation and compilation of a wellhead Protection Report. As required, an inventory of the WSPA(s) will be conducted by the local community, the results of which will be submitted to the TCEQ for inclusion in the report, which will be presented to the Community upon completion.

SECTION 13-232. Establishment of Permit

A permit governing construction, operation, correction, and abandonment of wells shall not impinge on existing permitting requirements currently in effect nor is it the intent of this ordinance to invalidate their purpose.

SECTION 13-233. Compliance with Article

It shall be deemed a violation of this article for any person to fail or refuse to comply with any order of the City Manager or his designee made in conformity with and under the authority of this article.

SECTION 13-234. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 13-235. Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing

body; and, (3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 13-236. Warning and Disclaimer of Liability

The degree of protection of the City's PWS wells and public water supply is considered reasonable for regulatory purposes and is based on scientific and engineering considerations along with best professional judgment. It is recognized that not all potential sources of contamination are unavoidable and that a contamination event may occur due either to manmade or natural causes. This Ordinance does not imply that the WSPA(s) will totally preclude a contamination event from taking place. This Ordinance shall not create liability on the part of the City or any official or employee thereof for any damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

[Sections 13-237 through 13-239 left intentionally blank]

Division 4 ADMINISTRATION

SECTION 13-240. Designation of the Wellhead Protection Area Administrator

The City Manager and his designees are hereby appointed the Water Source Protection Administration to administer and implement the provisions of this Ordinance and other appropriate sections of Chapter 26.177 of the Texas Water Code.

SECTION 13-241. Duties and Responsibilities of the Wellhead Protection Administrator

Duties and responsibilities of the Water Source Protection Administration shall include, but are not limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Ordinance.
- (2) Review water well permit applications and other permit applications where applicable to determine whether the proposed activity in the WSPA will pose a threat to the integrity of the public water supply.
- (3) Review, approve, or deny (or recommend denial where authority for denial is not granted) all applications for permits required by the adoption of this ordinance.
- (4) Review permits for proposed development within the WSPA(s) to assure that all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required.
- (5) Where interpretation is needed to the exact location of the boundaries of the WSPA(s) (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Wellhead Protection Administrator shall make the necessary interpretation.
- (6) When WSPA delineation has not been provided by the State (for

example, upon completion of a new PWS well) the Administrator shall delineate a one-quarter mile radius around the well and administer it in accordance with this ordinance until such time as site-specific determination can be made.

- (7) WSPA Administrator shall coordinate the City of West Columbia's emergency response activities in the event a potential contamination event occurs.
- (8) The WSPA Administrator shall also maintain an active list of potential sources of contamination, which shows the physical location, street address, contact, and telephone number. This list shall be kept open for public inspection.

SECTION 13-242. Noncompliance and Penalties

Persons and/or entities found to be in violation of this ordinance shall be notified, in writing, by the City Manager or his designee. A person who violates any of the provisions of this ordinance is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00). Each day that a violation occurs constitutes a separate offense.

SECTION 13-243. Variance – Procedures

- (1) The City Council shall hear and render judgment on requests of variances from the requirements of this Ordinance.
- (2) The Council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Wellhead Protection Area Administrator in the enforcement or administration of this Ordinance.
- (3) Any person or persons aggrieved by the decision of the Council may appeal such decision to a district court of competent jurisdiction.
- (4) No variance may be requested nor granted as a means to circumvent the intentions of this Ordinance or as a remedy for a violation of this Ordinance (i.e., a variance cannot be issued after the fact).
- (5) The Wellhead Protection Administrator shall maintain a record of all actions involving an appeal.
- (6) Upon consideration of the intent of this Ordinance, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance.
- (7) Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the potential

threat of contamination of the PWS well and aquifer, to afford relief.

- b. Variances shall only be issued upon, (i) showing a good and sufficient cause; (ii) a determination that failure to grant a variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- c. Any application to whom a variance is granted shall be given written notice that the activity receiving this variance will decrease the travel time for potential contaminants to reach the PWS well and that any and all liability of a contamination event as a result of this activity receiving the variance is on the variance holder.

Furthermore, the City of West Columbia, its officers and services, as well as its employees are released from any responsibility and liability for any damages and/or contamination events due to activity receiving the variance.

- (8) Variances may be issued by the Council for new development necessary for the conduct of the functionally dependent use, provided that: (i) the criteria outlined in Sections 13-243(1) – (8) are met, and (ii) the development is protected by methods that minimize the risk of a contamination event and creates no additional threats to public safety.

Section 3

Any and all Code provisions, rules, ordinances, police regulations, resolutions, and/or informal policies of the City of West Columbia, whether written, or otherwise, which are in any manner in conflict with or inconsistent with this article, shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

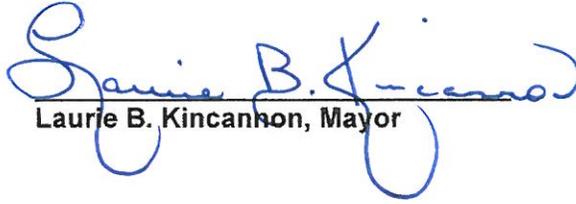
Section 4

It is hereby declared to be the intention of the City Council that the several provisions of this article are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase, or other portion of this article is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provisions of this article which are not specifically designated as being illegal, invalid, or unenforceable.

Section 5

This article shall be effective upon its passage and approval, and the publication of its caption as provided by law.

PASSED AND APPROVED on the 10th day of May, 2010.


Laurie B. Kincannon, Mayor

ATTEST:


Kelli Kuban, City Secretary