

OSSF

See Page 3 of 5

8-13-01
#33

**ORDER ADOPTING RULES OF SOMERVELL COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES PREAMBLE**

WHEREAS, the Texas Natural Resource Conservation Commission has established Design Criteria for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage disposal facilities in its jurisdiction in order to abate or prevent pollution, or injury to the public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a meeting and public hearing to determine whether the Commissioners Court of Somervell County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Somervell, Texas; and

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof, and the evidence and arguments there presented were considered by the Commissioner Court of Somervell County, Texas; and

WHEREAS, the Commissioners Court of Somervell County, Texas finds that the use of on-site sewage facilities in Somervell County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, Commissioners Court of Somervell County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Somervell County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF SOMEVELL COUNTY, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

SECTION 2. THAT the use of on-site sewage facilities in Somervell County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3: THAT an Order for Somervell County, Texas BE adopted entitled "On-Site Sewage Disposal," which shall read as follows:

FILED FOR RECORD
9:30 A.M. _____ P.M.
21 DAY OF Aug 20 01
Roxella Williams
COUNTY AND DISTRICT CLERK
SOMERVELL COUNTY, TEXAS
By _____ Deputy

AN ORDER ENTITLED ON-SITE SEWAGE DISPOSAL

SECTION 4. CONFLICTS.

All Orders or parts of the Orders of Somervell County, Texas not consistent with or in conflict with the provisions of this order are hereby repealed.

SECTION 5. ADOPTING CHAPTER 366.

The County of Somervell, Texas clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

SECTION 6. AREA OF JURISDICTION.

(a) The Rules shall apply to all the area lying in Somervell County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

(b) (OPTIONAL) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Somervell County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of Somervell County, Texas must comply with the Rules adopted in Section 8 of this Order.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules ("Design Criteria For On-Site Sewage Facilities") and Administrative Rules 30 TAC 285.1 through 285.91, attached hereto, promulgated by the Texas Natural Resource Conservation Commission for on-site sewage systems are hereby adopted, and all officials and employees of Somervell County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE.

The Design Criteria and all future amendments and revisions thereto are incorporated by reference and are thus made part of these Rules. A copy of the current Design Criteria is attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS.

The County of Somervell, Texas wishing to adopt more stringent Rules for its On-site Sewage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Natural Resource Conservation Commission requirement. Listed below are the more stringent Rules adopted by Somervell County, Texas:

- * (a) Anyone who owns property within Somervell County, on which an on-site sewage treatment facility is to be installed, shall obtain a permit, prior to any such installation, from the County, regardless of the number of acres on which the on-site sewage facility is to be constructed. This more stringent requirement is intended to insure that no public nuisance or pollution of ground water within Somervell County shall be committed.

- * (b) Anyone who owns an on-site sewage treatment facility, which requires a maintenance contract (aerobic systems), shall obtain and maintain a valid contract with an approved maintenance company for the life of the facility. This more stringent requirement is intended to insure that proper maintenance of all on-site sewage treatment facilities within Somervell County shall be performed, resulting in an avoidance of a public nuisance or the pollution of ground water, rivers and lakes.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Somervell County, Texas is herewith declared the designated representative for the enforcement of these Rules within its jurisdictional area. The appointed individual(s) must be approved and certified by the Texas Natural Resource Conservation Commission before assuming the duties and responsibilities of the Designated Representative of Somervell County.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Somervell County, Texas.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the commissioners Court of Somervell County, Texas.

SECTION 14. PENALTIES.

This order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341

and 366 of the Texas Health and Safety Code, Chapter 7 and 26 of the Texas Water Code and 30 TAC Chapter 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Somervell County, Texas that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order, since the same would have been enacted by the Commissioners Court without incorporation in this Order of such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 16. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Somervell County, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Commissioners Court shall follow the procedures outlined below:

- (a) The Commissioners Court shall inform the Texas Natural Resource Conservation Commission by certified mail at least 30 days before the published date of the public hearing notice that it wishes to relinquish its On-site Sewage Facility Order.
- (b) The authorized agent shall post the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least 30 days prior to the anticipated date of action by the authorized agent.
- (c) The authorized agent shall send a copy of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes to the Texas Natural Resource Conservation Commission.
- (d) The executive director shall process the request for relinquishment and may issue an order relinquishing the authority to regulate OSSF's within the authorized agent's jurisdiction or may refer the request to relinquish to the commission.
- (e) Prior to issuance of a relinquishment order the local governmental entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designation to the executive director.

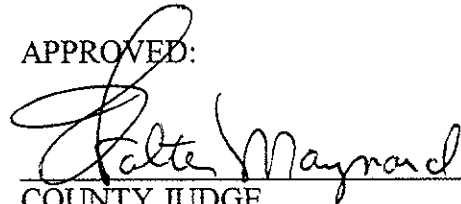
SECTION 17. EFFECTIVE DATE.

This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Natural Resource Conservation Commission.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 13 DAY OF August, 2001.

APPROVED:


COUNTY JUDGE

(SEAL)

ATTEST:


COUNTY CLERK