

RESOLUTION

RESOLUTION

PROCEEDINGS

BEFORE

THE

IN RE:

COMMISSIONER'S

COURT

**ON-SITE SEWAGE FACILITIES
PREAMBLE**

DATE: 9/25, 2009

WHEREAS, the Texas Commission On Environmental Quality has established Rules 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 336, which authorizes a local government to regulate the on-site sewage disposal facilities in its jurisdiction in order to abate or prevent pollution, or injury to 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 Jim Wells County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Jim Wells, 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 Commissioners Court of Jim Wells County, Texas; and

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

WHEREAS, the Commissioners Court of Jim Wells 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 Jim Wells County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF JIM WELLS COUNTY, TEXAS;

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

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

SECTION 3. THAT, an Order for Jim Wells County, Texas be Adopted entitled “On-site Sewage Disposal” which shall read as follows:

ON-SITE SEWAGE DISPOSAL ORDER

SECTION 4 CONFLICTS.

All Orders or parts of the Orders of Jim Wells County, Texas not consistent with or in conflict with the provisions of this Order are hereby repealed.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 Jim Wells County, 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 and Chapters 7 and 37 of the Texas Water Code (TWC) and associated Rules referenced in Section 8 of this Order.

SECTION 6. AREA OF JURISDICTION.

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

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

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

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

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, attached here to, promulgated by the Texas Commission On Environmental Quality for on-site sewage systems are hereby adopted and all officials and employees of Jim Wells County, Texas having duties under said Rules are Authorized to perform such duties as are required of them under said rules.

SECTION 9. INCORPORATED BY REFERENCE.

The Rules, 30 TAC Chapters 30 and 285, and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current rules are attached as Appendix 1.

SECTION 10. AMENDMENTS.

The County of Jim Wells, 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 Commission On Environmental Quality requirements if local rules provide greater public health and safety protection. Listed below are more stringent Rules adopted by Jim Wells County, Texas:

- (a) A permit will be required for all on-site sewage facilities regardless of the acreage; and*
- (b) Only a licensed installer may install on-site sewage facilities.*

SECTION 11. DUTIES AND POWERS.

The Jim Wells County Safety Department Inspector(s) of Jim Wells County, Texas are 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 Commission On Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Jim Wells County, Texas.

SECTION 12. COLLECTION OF FEES:

All fees collected for permits and/or inspections shall be made payable to the *Jim Wells County On-Site Sewage Facility* and submitted to the Jim Wells County Safety Department.

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 Jim Wells County, Texas.

SECTION 14. PENALTIES.

The order adopts and incorporates all applicable penalty provisions related to On-site sewage facilities including, but not limited to those found in Chapter 366 and 341 of the Texas Health and Safety Code, Chapters 7, 26 and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Jim Wells County, Texas that the phrases, clauses, sentences, paragraphs, and section of this Order are severable, and if a phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgement 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 phrase, clause, sentence, paragraph, or section.

SECTION 16. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Jim Wells 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 Commission On Environmental Quality 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 certified copy of the minutes to the Texas Commission On Environmental Quality.

(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 it 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:

The order shall be in full force and effect from and its date of approval as required by law and upon the approval of the Texas Commission On Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 25th DAY OF September 2009

APPROVED;



L. Arnoldo Saenz
Hon. L. Arnoldo Saenz, County Judge, Jim Wells County

Ruben Sandoval
Ruben Sandoval, County Clerk, Jim Wells County

