

CITY OF DRIPPING SPRINGS

ORDINANCE No. 1710.02

AN ORDINANCE ENACTING VOLUME 1, ARTICLE 4, CHAPTER 11, SUBCHAPTER A OF THE DRIPPING SPRINGS CODE OF ORDINANCES; ADOPTING RULES FOR ON-SITE SEWAGE FACILITIES; PROVIDING FOR RECITALS, POPULAR NAME, PURPOSE, CONFLICTS, COMPLIANCE, AMENDMENTS, PERMITTING PROCEDURES, DUTIES & POWERS, APPEALS, VARIANCES, AND PENALTIES, IN ACCORDANCE WITH TEXAS HEALTH & SAFETY CODE CHAPTERS 341 & 366 AND TEXAS WATER CODE CHAPTERS 7, 26, AND 37 AND 30 TEXAS ADMINISTRATIVE CODE 285, INCLUDING A CRIMINAL FINE OF UP TO \$2000 PER OFFENSE AND INJUNCTIVE RELIEF

WHEREAS, the Texas Commission on Environmental Quality (“TCEQ”) has established Rules for on-site sewage facilities (“OSSFs”) 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 OSSFs 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 public meeting and public hearing to determine whether the City Council of the City of Dripping Springs, Texas should enact an Ordinance controlling or prohibiting the installation or use of OSSFs in Dripping Springs; and

WHEREAS, said meeting and public hearing were held in accordance with the published notice thereof, and the evidence and argument there presented were considered by the Dripping Springs City Council; and

WHEREAS, the Dripping Springs City Council finds that the incorporated area of the City is located entirely within the Contributing Zone of the Edwards Aquifer; and

WHEREAS, the Dripping Springs City Council finds that soil conditions within the City consists generally of porous limestone susceptible to rapid transportation of groundwater and that such soils are highly variable, stony and fragile systems easily subject to degradation and highly susceptible to lateral discharge of groundwater pollutants through seeps directly into creeks and other bodies of

surface water; and

WHEREAS, the Dripping Springs City Council finds that the TCEQ, for the stated purpose of protecting existing and potential uses of groundwater, has implemented special protective regulations for the Contributing Zone of the Edwards Aquifer under the Edwards Aquifer Rules promulgated as 30 TAC Chapter 213; and

WHEREAS, the Dripping Springs City Council finds that the TCEQ has identified the Edwards Aquifer, including the Recharge and Contributing Zones of the Edwards Aquifer, as being one of the most sensitive aquifers in Texas to groundwater pollution; and

WHEREAS, the Dripping Springs City Council finds that most of the existing residents of the City currently rely on OSSFs and that OSSFs may continue to be utilized by a significant percentage of the future projected population growth of the City; and

WHEREAS, the Dripping Springs City Council finds that most residents of the City depend solely upon groundwater for their drinking water and that protecting groundwater resources of the City is vital to human health and safety of the residents of the City; and

WHEREAS, the City Council of Dripping Springs finds that the use of OSSFs in Dripping Springs, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the City Council of Dripping Springs, Texas has considered the matter and deems it appropriate to enact an Ordinance adopting Rules regulating OSSFs to abate or prevent pollution, or injury to public health in Dripping Springs, Texas.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dripping Springs:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Volume 1, Article 4, Chapter 11, Subchapter A of the City of Dripping Springs Code of Ordinances is hereby established so read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. 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.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance 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 Commission on Environmental Quality.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

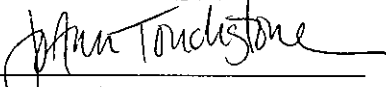
PASSED AND APPROVED this, the 10th day of June 2008, by a vote of ___ (ayes) to ___ (nays) to ___ (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS

by: 

Mayor Todd Purcell

ATTEST:


Jo Ann Touchstone, City Secretary

APPROVED AS TO FORM:

Alan J. Bojorquez, City Attorney

Attachment “A”

VOLUME: 1

ARTICLE 4: HEALTH & SAFETY

CHAPTER 11: SEWER / SEPTIC SYSTEMS

SUBCHAPTER A: OSSF RULES

SECTION 1. ENACTMENT PROVISIONS

1.1. Recitals Adopted

The foregoing recitals are hereby found and determined to be true and correct.

1.2 Popular Name

This Chapter shall be commonly cited as the "OSSF Rules."

1.3 Purpose

This Chapter adopts regulations for OSSFs in the City of Dripping Springs ("City") and supports the City's serving as the local government that regulates OSSFs in the City.

1.4. Conflicts

This Chapter repeals and replaces any other On-site Sewage Facility Ordinance for the City of Dripping Springs, including Ordinance No. 1710.1, adopted on August 11, 1998.

1.5. Texas Health and Safety Code, Texas Water Code, and Texas Administrative Code

The City of Dripping Springs, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the Texas Health and Safety Code ("H&SC"), Chapters 7, 26, and 37 of the Texas Water Code ("TWC"), Title 30, Chapter 285 of the Texas Administrative Code ("TAC"), and associated rules referenced in Section 3.2 of this Chapter.

1.6. Area of Jurisdiction

- (a) The Rules shall apply to all the area lying within the incorporated limits of Dripping Springs, Texas.
- (b) These Rules shall apply to any political subdivision that has or will hereafter executed and intergovernmental contract with the City of Dripping Springs, Texas for the purposes of this Chapter.

SECTION 2. DEFINITIONS

2.1. Rules of Interpretation

Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2 Specific Terminology

2.2.1. **City:** the City of Dripping Springs, an incorporated municipality located in Hays County, Texas.

2.2.2. **OSSF:** on-site sewage facility.

2.2.2. **OSSF Rules:** this ordinance.

SECTION 3. REGULATIONS

3.1. On-Site Sewage Facility Rules

Any permit issued for an on-site sewage facility within the jurisdictional area of Dripping Springs, Texas must comply with the Rules adopted in Section 3.2 of this Chapter.

3.2. On-Site Sewage Facility Rules Adopted

The Rules of the TCEQ at 30 TAC Chapter 285 ("On-Site Sewage Facilities") and all future amendments and revisions thereto are hereby adopted and incorporated herein by reference. All officials and employees of the City who have duties under said Rules, are authorized to perform the duties that are required of them under said Rules. A copy of the current TCEQ Chapter 285 Rules is attached to these Rules as Appendix I.

3.3. Compliance

Any structure discharging sewage into an OSSF within the City limits, and any permit issued for an OSSF within the City limits, must comply with the Rules adopted in Sections 3.2 and 3.4 of this Chapter.

3.4. Amendments

The City reserves the right to adopt more stringent Rules for its OSSF Chapter and understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Each more stringent requirement shall be justified based on a greater public health and protection. Each more stringent requirement shall be submitted to the executive director for approval based on the justification of greater health and protection.

SECTION 4. ADMINISTRATION

4.1. Application, permit and inspection required.

The City shall require an application, permit and inspection for construction, alteration, extension or repair to a residential or commercial on-site sewage facility, regardless of the size of the tract of land.

4.2. Maintenance of OSSFs

Effective January 1, 2008, the City shall require the maintenance for all OSSFs, identified in 30 TAC 285.91(12), to be performed by a TCEQ registered maintenance company (or

provider) unless:

- 4.2.1. The homeowner/property owner is a certified maintenance provider registered with the State for their aerobic treatment unit;
- 4.2.2. The homeowner/property owner holds a valid Class D or higher wastewater treatment license, and is certificated by the manufacturer for the brand of OSSF that he/she owns.
- 4.2.3. The homeowner is a Registered Professional Engineer, which holds a current non-expired license.

4.3. Maintenance Inspections and Reports:

- 4.3.1. Inspections at a minimum must meet all inspection requirements (no less than once every three (3) months) as set by TCEQ, and the inspection requirements outlined by the manufacturer for the brand being inspected.
- 4.3.2. Inspection reports shall address all inspection and testing requirements as set by the OSSF Rules, as well as the testing requirements outlined by the manufacturer for the brand being inspected.
- 4.3.3. The City shall require the reporting of sludge levels in the pump tank, and the condition of the spray area to be included on each testing report specified by the OSSF Rules.

4.4. Commercial OSSF

Effective September 1, 2008, Commercial businesses utilizing a Class I or Non-Standard Treatment system will be required to submit a contract for electronic monitoring, and maintenance will be performed every eight (8) weeks.

- 4.4.1. Regarding sand filter systems:
The City is requiring a continuous maintenance contract be submitted for the life of the sand filter system or until such time as the system has been replaced by an alternate system.
- 4.4.2. Sand filter systems shall be maintained at one (1) month intervals by a maintenance provider that has been approved and trained by the designing Engineer. A letter must be submitted to the City's office and be kept on file regarding the status of approval of said maintenance provider. This letter must be an original with a seal and signature of the Engineer and a signature of the provider.
- 4.4.3. Submitted reports must include the different parts of the system that were checked and which parts, if any, that were replaced or cleaned.

4.5. Effective January 1, 2008, lots of less than one (1) acre will require a subsurface disposal drainfield. Minimum lot size with public water is three-fourths ($\frac{3}{4}$) of an acre.

4.6. Any single-family dwelling, commercial or institutional facility, multi-unit residential or recreational vehicle park occupied any part of the day or night shall be connected to an on-site sewage facility or other approved method of wastewater treatment and/or disposal.

- 4.7. Effective January 1, 2008, under no circumstances will more than one habitable structure be utilized on less than $\frac{3}{4}$ acre lot/tract; to the exclusion of Duplexes and Condominiums as long as there is sufficient application area to support the OSSF.
- 4.8. All construction, alteration, extension or repair to any on-site sewage facility shall be by a TCEQ licensed installer.
- 4.9. **Permitting Procedures**
The City Council may from time to time adopt local procedural requirements for applications, permitting and inspection procedures for OSSFs.
- 4.10. **Duties and Powers**
The OSSF Inspector of Dripping Springs, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.
- 4.11. **Collection of Fees**
All fees collected for permits and/or inspections shall be made payable to Dripping Springs, Texas.

SECTION 5. ENFORCEMENT

5.1. Appeals

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the City Council of Dripping Springs, Texas.

5.2. Variances

5.2.1. Requests for variances from these Rules shall be considered in accordance with the criteria specified in Section 285.3 of the TCEQ Rules and the following additional criteria:

5.2.1.1. Only lots platted in accordance with the Dripping Springs Subdivision and Development Regulations or that were otherwise legally in existence prior to the Effective Date of the OSSF Rules will be eligible for a variance.

5.2.1.2. Site Specific Materials and Site Evaluation Materials must be submitted with the preliminary plat application for each lot for which a variance is sought, with detailed soil profile analysis of the proposed absorption field site demonstrating soil characteristics that meet or exceed the criteria for suitable soils set forth in Table V of the TCEQ Rules.

5.2.1.3. Existing and new businesses that elect to pump, haul, and properly dispose of wastewater effluent and sewage produced at the business on a temporary, interim basis while awaiting hookup to a sanitary sewer system will be eligible for a variance.

5.2.2. The City Council shall have discretion to approve or deny an application for a variance and may approve an application for a variance only upon a finding that:

5.2.2.1. Development pursuant to the proposed variance will provide equivalent protection of the public health and environment as development in strict accordance with TCEQ Rules, including Section 8 of the TCEQ Rules; and

5.2.2.2. There are special circumstances or conditions affecting the land involved such that strict application of the provisions of the TCEQ Rules would deprive the applicant of the reasonable use of his land and that failure to approve the variance would result in undue hardship to the applicant. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship.

5.3. Penalties

This Chapter adopts and incorporates all applicable penalty provisions related to OSSFs, including, but not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code, and 30 TAC Chapter 285.

5.3.1. A person commits an offense if the person violates a requirement of the OSSF Rules. An offense under this provision is a misdemeanor punishable by fine of up to two thousand dollars (\$2,000.00) per offense.

5.3.2. At the request of the City Council, the City Attorney or other prosecuting attorney for the City may file an action in a court of competent jurisdiction to seek one or all of the following remedies:

5.3.2.1. To enjoin the violation or threatened violation of a requirement established by the OSSF Rules;

5.3.2.2. To assess civil or criminal penalties as provided by law; and/or

5.3.2.3. To take any or all other actions or to seek any or all other penalties authorized under law, including the penalties and enforcement provisions of Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code, and 30 TAC Chapter 285.