

ORDINANCE NO. 6-1992

AN ORDINANCE AMENDING CHAPTER 13, "HEALTH AND SANITATION," OF THE ABILENE CITY CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 13, "Health and Sanitation," of the Abilene City Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.


PART 3: That any person, firm, or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.


PART 4: A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19 day of January, 1992, the same being more than twenty-four (24) hours prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 9:00 a.m., on the 23 day of January, 1992, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 9 day of January,  
A. D. 1992.

PASSED ON SECOND AND FINAL READING this 23 day of  
January, A. D. 1992.

ATTEST:

  
\_\_\_\_\_  
CITY SECRETARY

  
\_\_\_\_\_  
MAYOR

APPROVED:

  
\_\_\_\_\_  
CITY ATTORNEY

ATTACHMENT "A"

The Texas Health and Safety Code Ann. § 366 (Vernon 1991) authorizes cities to implement and enforce on-site sewerage facilities (OSSF) when approved by Texas Department of Health. This ordinance establishes minimally acceptable standards for treatment and disposal of sewage by adapting standards for design of OSSF in order that water supplies not be contaminated or a nuisance be created. It designates the administrative agent, defines terms, authorizes the issuance of permits and provides for enforcement procedures.

SEC 13-70 DEFINITIONS:

For the purpose of this article the following words and terms shall have the meanings respectively ascribed to them:

1. Absorption Unit.

Any subsurface system that primarily relies on soil absorption in an absorption trench or absorption bed to dispose of the effluent from a wastewater treatment unit.

2. Governing Body.

The elected officials of the City of Abilene.

3. Evapotranspiration Unit.

A subsurface sewage disposal facility which relies on soil capillarity and plant uptake to dispose of treated effluent through surface evaporation and plant transpiration.

4. Existing On-Site Sewerage Facilities.

Any on-site sewerage facility that was in use on the effective date of these Rules as set out in Section 13-70.18. Such a facility shall be an existing on-site sewerage facility as long as that facility is not causing pollution, a threat to the public, or nuisance conditions; or is not substantially modified after the effective date of these Rules. Any on-site sewerage facility that has been actually used at any time during the twelve (12) month period immediately preceding the effective date of these Rules, shall be conclusively presumed to have been in use on the effective date of the Rules.

5. Designated Representative.

Any person(s), group, or department authorized by the governing body of a political subdivision and approved by the Texas Department of Health for the administration of the rules, and standards adopted herein within the adopting entity's jurisdiction.

6. Institution.

Any establishment other than a single family residence.

7. Mobile Home Park.

Any facility or area developed for the lease or rental of two or more mobile homes.

8. New On-Site Sewerage Facility.

Any on-site sewerage facility that does not qualify as an existing private sewage facility. Private sewage facility is defined as one intended for use of the sole owner and for which no other co-owners, shareholders or subscribers are or have been entitled to share in its use.

9. Nuisance.

Any activity, or condition that is or tends to be injurious to or adversely affects human health or welfare, animal life, vegetation, or property; or interferes with the normal use and enjoyment of animal life, vegetation, or property.

10. Organized Disposal System.

Any publicly or privately owned system for the collection, treatment, and disposal of sewage that is operated in accordance with the terms and conditions of a valid waste discharge permit issued by the Texas Water Commission.

11. Permit.

A document issued by the Abilene Health Department after a determination that OSSF does not constitute a nuisance, endanger the public health, or interfere with normal use and enjoyment of life.

12. Person.

Any individual, corporation, organization, government or governmental subdivision or agency, business, trust, estate, partnership, and any other legal entity or association, including but not limited to, owners, developers, installers, operators, responsible for the construction, installation, or operation of a private sewage facility.

13. Pollution.

The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the ability of the public to use or enjoy the water for any lawful or reasonable purpose.

14. On-Site Sewerage Facility (OSSF)

All systems and methods used for the disposal of sewage, other than organized disposal systems. On-Site sewerage facility is usually composed of three units -- the generating unit (the residence, the institution, etc.), the treatment unit (septic tank, etc.), and the disposal unit (the drainfield that may be an absorption trench or bed or an evapotranspiration bed).

15. Sewage.

Waterborne wastes that are primarily organic and biodegradable or decomposable and that generally originate as human, animal, or plant wastes from domestic activities, such as toilet facilities, washing, bathing, and food preparation, and certain retail or commercial activities.

16. Single Family Residence or Single Family Dwelling.

A habitat structure constructed on or brought to its site and occupied by one or more persons.

17. Standard.

The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewage Facilities", and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Chapter 366, Health and Safety Code of the Texas Revised Civil Statutes Annotated, as Texas Department of Health Rules 25 TAC 301.11-301.17 and which were originally published 12 Texas Register 2226.

18. Substantial Modification.

An increase in the size or use of an on-site sewerage facility's generating unit (residence or institution) that, based on the considerations, in the Standards, could be expected to result in an increase of twenty-five percent (25%) or more in the average daily volume of sewage generated by that unit; or on action that, based on the consideration in the Standards, could be expected to result in an increase or decrease in the capacity of a private sewage facility's treatment unit (septic tank) or disposal unit (drainfield) by 25% or more.

19. Water or Water In The State.

Groundwater (percolating or otherwise), lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all watercourses and bodies of surface water that are wholly or partially inside or bordering the State or inside the jurisdiction of the State.

SEC 13-71 AUTHORITY:

It shall be the duty of the Health Authority to enforce the provisions of this article, and that authority shall have full power at all times to enter any premises on which an on-site sewerage facility is used, operated, maintained, or proposed for the purpose of inspecting said premises and sewerage systems. No person shall hinder in any manner the Health Authority in making such inspections as may be deemed necessary. The designated representative shall resolve any question regarding any interpretation of this ordinance.

SEC 13-72 PURPOSE:

The purpose of this article is to abate or prevent pollution or injury to the public health in the City of Abilene.

SEC 13-73 AREA OF JURISDICTION:

The Provisions of this article shall apply to all of the area that lies within the city limits of Abilene, Texas.

SEC 13-74 INCORPORATION BY REFERENCE:

The standards and all future amendments and revisions thereto are incorporated by reference and are thus made a part of this ordinance.

SEC 13-75 PRECEDENCE:

In the event of a conflict between this ordinance and an order, resolution or rule adopted by the Texas Department of Health, the order, resolution or rule adopted by the Texas Department of Health shall take precedence.

SEC 13-76 SEVERABILITY:

If any provision of this ordinance application thereof to any person or circumstance is held invalid, the validity of the remainder of these rules and the application thereof to other persons or circumstances shall not be affected.

SEC 13-77 APPEAL:

Any person dissatisfied with an order or ruling of the Health Authority in the enforcement of this article may appeal to the Abilene Board of Health. A person wishing to appeal shall file in the office of the Health Authority within fifteen (15) days of the ruling or order appealed from, a written appeal which shall include a brief statement of the reason therefor, and a detailed statement of the reasons therefor, and a detailed statement of facts supporting the appeal. Failure to file a written appeal within fifteen (15) days with the Health Authority, will cause the order or ruling to become final and nonappealable.

Any person whose application for a permit has been denied or whose permit has been cancelled or revoked may submit a written request to the Board of Health stating the reasons for consideration. He/she shall be granted a hearing on the matter during a regular meeting of the Board within 30 days after receipt of the request. The Board of Health after hearing the appeal of the applicant and the reasons from the Health Official as to why the application was denied shall either affirm, reverse, or modify the action or decision of the designated representative.

DIVISION 2. PERMIT

SEC 13-90 REQUIRED:

After the effective date of this ordinance all new installations of OSSF shall require a permit. Existing systems are not required to be permitted if the facility is not causing pollution or nuisance conditions. Existing systems requiring repairs that involve twenty five percent (25%) or more addition to the system or other substantial modifications shall require a permit.

SEC 13-91 APPLICATION:

Any person interested in securing a permit required by this article shall make application therefor to the Abilene Health Department on a form to be furnished to such department.

SEC 13-92 FEES:

The fees and charges for services furnished by the city shall be determined from time to time and placed on file in the office of the City Secretary. Fees shall be paid at the time application for permit, license, or inspection is made.

SEC 13-93 ISSUANCE:

The Abilene Health Department will cause a permit to be issued under the following conditions:

- a. The applicant has correctly and completely filled out the application form provided by the Abilene Health Department.
- b. The applicant has paid the required fee.
- c. OSSF has been installed in accordance with this article and all rules, orders, or resolutions adopted by the Texas Department of Health.
- d. The applicant or installer has notified the Health Authority that an inspection of system is desired, and the system remains exposed until inspection is completed.
- e. Upon a finding that the OSSF will not cause pollution, injury to the public health, or nuisance conditions, and is not in conflict with the Rules.

SEC 13-94 SPECIAL REQUIREMENTS:

Design for OSSF that require unusual design criteria shall be accomplished by a registered professional engineer, registered sanitarian, or qualified person approved by the designated representative. Said designs shall be in accordance with this article and the standards. Special design will include, but is not limited to:

- a. OSSF serving institutions.
- b. OSSF serving a single family residence situated on less than one (1) acre of land if a water well is located on said property.
- c. OSSF serving a single family residence situated on less than one-half (1/2) acre of land if served by public water system.

SEC 13-95 PENALTY FOR VIOLATION:

Any permit issued under this ordinance may be suspended, revoked, or cancelled for any of the following reasons:

1. The Health Official shall revoke a permit whenever he/she determines that the terms, rules, or regulations under which the permit was issued are being violated.
2. A permit shall be revoked by the Health Official whenever he/she determines that an OSSF is being operated in violation of the intent of legislation expressed in Article 4477-1 (V.T.C.S.)
3. The Health Official shall revoke any permit whenever he/she determines that the OSSF is causing pollution or injury to the public health.

A. Criminal Penalties.

A person who violates any of these Rules is guilty of a class C misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$500. Each day that a violation occurs constitutes a separate offense.

Jurisdiction of prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

B. Civil.

Whenever it appears that a violation or the threat of a violation of any of the terms and conditions of these Rules has occurred or is occurring, the licensing authority may have a suit instituted in a district court through its own attorney for injunctive relief or civil penalties or both against the person who committed, is committing, or is threatening to commit the violation.