

ORDER ADOPTING RULES OF
COMAL COUNTY, TEXAS
FOR
ON-SITE SEWAGE
FACILITIES



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 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, the Commissioners Court of Comal County, being in a priority groundwater management area, has adopted Subdivision Rules and Regulations defining minimum lot sizes; and

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

WHEREAS, the Commissioners Court of Comal 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 Comal County, Texas.

200.00 ORDER



NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF COMAL 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 Comal County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for Comal County, Texas be adopted entitled,

"ORDER ADOPTING RULES OF COMAL COUNTY, TEXAS FOR ON-SITE SEWAGE DISPOSAL",

said Order shall read as follows:

SECTION 4. CONFLICTS

All Orders or parts of the Orders of Comal County, Texas not consistent with or in conflict with the provisions of this Order are hereby repealed.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 Comal, Texas clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewerage facilities, and 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 Comal County, Texas, except for the areas within incorporated cities.
- b) These rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Comal County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES

Any structure discharging sewage into an on-site sewage facility within the jurisdiction area of Comal 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, Texas Administrative Code 30 TAC 285.1 – 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 Comal County, 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 (30 TAC 285.1 – 285.91) and all future amendments and revisions thereto are incorporated by reference and are thus made apart of these Rules. A copy of the current Design Criteria is attached to these Rules.

SECTION 10. AMENDMENTS

The County of Comal, Texas wishing to adopt more stringent Rules for its On-site Sewerage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Natural Resource Conservation Commission requirements if local rules provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Comal County, Texas.

10.1 Definition:

Public Water Supply Line - a water pipe connected to a public water supply system and not separated from the public water supply system by a backflow prevention device.

10.2 Platted or unplatted subdivisions served by a public water supply: Subdivisions of land created after January 1, 1988, and served by a public water supply but utilizing individual OSSF methods of sewage disposal, shall provide for individual lots having surface areas of at least 1 acre, thus being in agreement with Comal County Subdivision Rules and Regulations concerning water availability. Subdivision plats approved by the Comal County Commissioners Court prior to the adoption of this order are exempt from this lot size requirement. The location of an OSSF under this paragraph shall be in accordance with 285.91(10).

10.3 Platted or unplatted subdivisions served by individual water systems: In subdivisions of land created after January 1, 1988, and where each lot is not served by a public water supply but utilizing individual OSSF methods for sewage disposal, shall provide for individual lots having surface areas of at least 5.01 acres, thus being in agreement with Comal County Subdivision Rules and Regulations concerning water availability. Subdivision plats approved by the Comal County Commissioners Court prior to the adoption of this order are exempt from this lot size requirement. The location of an OSSF under this paragraph shall be in accordance with 285.91(10).

- 10.4 A permit shall be required for all On-Site Sewage Facilities within Comal County's area of jurisdiction regardless of acreage.
- 10.5 To ensure floodplain issues are addressed a determination must be made by the Comal County Flood Plain Administrator if the property is in compliance with the Comal County Flood Damage Prevention Order.
- 10.6 Installers and apprentices shall be able to present documentation at the job-site verifying their valid certification or registration.
- 10.7 A reinspection fee shall be assessed to the Installer of record each time a reinspection is required. The reinspection fee shall be set by the County and the County may revise this fee from time to time.
- 10.8 In no case shall the sewer line diameter be reduced to a size smaller than the building's sewer stubout.
- 10.9 No man-made items such as, but not limited to, picnic tables, play equipment, or BBQ pits shall be placed within the surface application spray area.

SECTION 11. DUTIES AND POWERS

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

SECTION 12. COLLECTION OF FEES

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

SECTION 14. PENALTIES

This order adopts and incorporates all applicable penalty provisions related to on-site sewerage facilities, including, but not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 26 and Chapter 7 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 Comal County, Texas that the phrases, clauses, sentences, paragraphs, and sections of this Order are able to be severed, 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 Comal County, Texas decides that it no longer wishes to regulate on-site sewerage facilities in its area of jurisdiction, the Commissioners Court shall follow the procedures outlined below:

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 sewerage facility order.

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.

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.

The executive director shall process the request for relinquishment and may issue an order relinquishing the authority to regulate On-Site Sewage Facility's within the authorized agent's jurisdiction or may refer the request to relinquish to the commission.

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.

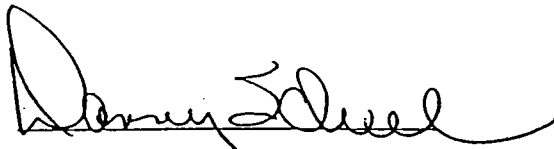
SECTION 17. EFFECTIVE DATE

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:

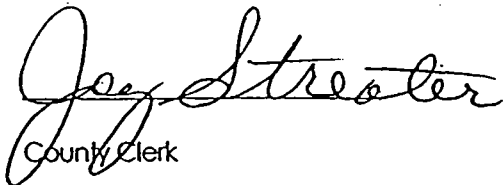
PASSED AND APPROVED THIS 25th DAY OF October, 2001.

APPROVED:

A handwritten signature in cursive script, appearing to read "Denny Steel".

County Judge

ATTEST:

A handwritten signature in cursive script, appearing to read "Jay Streater".

County Clerk

RECEIVED

JUL 29 2002

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

COUNTY ENGINEER



THE STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this is a true and correct copy of a Texas Natural Resource Conservation Commission document, which is filed in the permanent records of the Commission.
Given under my hand and the seal of office on:

Ladonna Castañuela

JUL 24 2002

Ladonna Castañuela, Chief Clerk
Texas Natural Resource
Conservation Commission

IN THE MATTER OF THE APPLICATION
OF THE COUNTY OF COMAL
FOR A TEXAS HEALTH AND SAFETY
CODE §366.031 ORDER

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BEFORE THE EXECUTIVE
DIRECTOR OF THE TEXAS
NATURAL RESOURCE
CONSERVATION COMMISSION

On JUL 09 2002 the Executive Director of the Texas Natural Resource Conservation Commission ("Commission" or "TNRCC"), considered the application of the County of Comal, ("Applicant" or "Comal"), for an Order pursuant to §366.031, Texas Health and Safety Code ("Code"), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that the Applicant has satisfied the requirements of §366.031 of the Code and, therefore, the Commission finds that the Comal County Order should be approved.

FINDINGS OF FACT

1. The County of Comal drafted a proposed amendment to the current order which regulates on-site sewage facilities.
2. On August 10, 2000, the County of Comal caused notice to be published, in a newspaper regularly published and of general circulation, in Comal's area of jurisdiction, of a public meeting to be held on Tuesday, August 15, 2000.
3. The County of Comal held a public meeting to discuss the proposed amendment on August 15, 2000.
4. Comal County Order regulating on-site sewage facilities was adopted on October 11, 2001.
5. A certified copy of the minutes was submitted to the Texas Natural Resource Conservation Commission.
6. A certified copy of Comal County Order was submitted to the Texas Natural Resource Conservation Commission.