

ORDINANCE NO. 2776

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 16, WATER AND LIQUID WASTE, OF THE CODE OF THE CITY OF MESQUITE, TEXAS, BY ADDING A NEW ARTICLE V, ENTITLED "ON-SITE SEWERAGE FACILITIES"; PROVIDING FOR DEFINITIONS; PROVIDING FOR LAWFUL SEWAGE DISCHARGES; PROVIDING FOR PERMITS; PROVIDING FOR RESIDENTIAL LOT SIZING AND SPECIAL REQUIREMENTS; PROVIDING FOR INNOVATIVE DESIGN; PROVIDING FOR CONNECTION TO ORGANIZED WASTE COLLECTION; PROVIDING FOR ENFORCEMENT; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. DEFINITIONS.

1. AEROBIC DIGESTION means the bacterial decomposition and stabilization of sewage in the presence of oxygen.
2. ANAEROBIC DIGESTION means the bacterial decomposition and stabilization of sewage in the absence of oxygen.
3. BLACK WATER means all sewage other than grey water.
4. APPROVED means acceptable to the Health Authority based on his or her determination as to conformance with appropriate standards and recognized public and environmental health practices.
5. CESSPOOL means a non-water tight covered receptacle intended for the receipt and partial treatment of domestic sewage.
6. COLLECTIVE SYSTEM means an on-site sewage collection, treatment and disposal system designed to serve two or more sewage-generating units where the total combined flow from all units does not exceed 5,000 gallons per day.
7. COMMISSION means the Texas Water Commission.
8. EVAPOTRANSPIRATION SYSTEM means a subsurface sewage disposal system which relies on soil capillarity and plant uptake to dispose of treated effluent through surface evaporation.
9. GREY WATER means waste water from clothes washing machines, showers, bath tubs, hand washing lavatories, and sinks that are not used for food preparation or disposal of chemical and biological ingredients.

10. **HEALTH AUTHORITY** means the Health Official of the City of Mesquite or his designated representative.
11. **HOLDING TANK** means a water tight container used to receive and store sewage in an anaerobic environment pending it's delivery to, and treatment at, an approved treatment facility.
12. **INNOVATIVE DESIGN** means drawings and specifications describing the construction of on-site sewage facilities that utilize materials and concepts not included in the Texas Department of Health "Construction Standards for On-Site Sewerage Facilities".
13. **LAW** means federal, state and local statutes, ordinances, regulations and rules.
14. **LICENSING AUTHORITY** means the City of Mesquite Environmental Health Department.
15. **MOUND SYSTEM** means a soil absorption system which is installed in or below an artificially created mound of earth.
16. **NATURAL SOIL** means earthen materials deposited into place by natural processes and not disturbed by artificial processes.
17. **ORGANIZED DISPOSAL SYSTEM** means any public or private system for the collection, treatment and disposal of sewage operated in accordance with the terms and conditions of a valid waste control order (permit) issued by the Texas Department of Water Resources.
18. **ON-SITE SEWERAGE FACILITIES** means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities and methods of sewage disposal not operated under a permit issued by the Commission.
19. **PERSON** means any individual, partnership, corporation, association, trustee or other legal entity.
20. **PIT PRIVY** means a vented waterproof vault intended to store human wastes and allow it's decomposition through natural processes with no connected external water source and no direct discharges to the surface.
21. **PRESSURE DOSING** means the use of some form of pumping device and a network of small diameter piping to distribute treated effluent within a subsurface sewage disposal area.
22. **PRIVATE SEWERAGE FACILITIES** means all facilities, systems, and methods used for the disposal of sewage from private dwellings other than disposal systems operated under a permit issued by the Commission.
23. **REGULATING AUTHORITY** means the state and local enforcement authority or authorities having jurisdiction over the construction and operation of on-site sewerage facilities.
24. **SANITARY CONTROL EASEMENT** means a document securing all land within 150 feet of a public or private water well location, from pollution hazards including, but not limited to, solid waste disposal sites, animal pens, improperly sealed or abandoned wells, major sewage pumping and treatment plants, and drainage ditches which contain industrial waste discharges.
25. **SCUM** mean a mass of organic and/or inorganic matter which floats on the surface of sewage.

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26. **SEEPAGE PIT** means an unlined covered excavation in the ground which is designed to operate in essentially the same manner as a cesspool.
27. **SEPTIC TANK** means a watertight covered receptacle designed to receive, store and provide treatment to domestic sewage received from a building sewer. Its function is to separate solids from the liquid, digest organic matter under anaerobic conditions, store the digested solids through a period of detention and allow the clarified liquid to be disposed of in a subsurface disposal system.
28. **SEWAGE** means water which contains, or which has been in contact with, organic and inorganic contaminants such as human or animal wastes, vegetable matter, cooking fats and greases, laundry and dish washing detergents and other chemical compounds and waste products.
29. **SLUDGE** means a semi-liquid mass of partially decomposed organic matter which settles at or near the bottom of a receptacle containing sewage.
30. **SOIL ABSORPTION SYSTEM** means a subsurface sewage disposal system which relies on the soil's ability to absorb moisture and allow its dispersal by lateral and vertical movement through and between individual soil particles.
31. **SPLIT SYSTEM** means a waste water disposal system that treats and disposes of black water and grey water separately.
32. **SURFACE SEWAGE DISPOSAL SYSTEM** means a network of perforated piping installed below ground level which is used to distribute pretreated sewage effluent over a given disposal area.

SECTION 2. LAWFUL SEWAGE DISCHARGES.

- A. After the effective date of this ordinance, only the following types of sewage discharge shall be lawful.
 1. Sewage discharged into an organized disposal system.
 2. Sewage discharged into a private sewerage facility permitted in accordance with the provisions of this ordinance.
 3. Sewage discharged into a private sewerage facility in existence at or before the effective date of this ordinance and not found to be endangering the public or environmental health.

SECTION 3. PERMITS.

- A. All new private sewerage facilities installed and operated within the City of Mesquite after the effective date of this ordinance shall first be approved by the Health Authority and operated under a permit issued by the Environmental Health Department.
- B. The owner of the private sewerage facility shall be responsible for obtaining this permit.

- C. Said permit shall be transferrable and remain in effect until such time as the permitted system fails so as to create a public or environmental health hazard, or until such time as an organized system is extended to within a horizontal distance of one hundred feet of the property line upon which said system is located.
- D. Private sewerage facility permits shall be transferable with change of ownership.
- E. No private sewerage facility operating under a permit may be modified from the original approved design without written approval of the Health Official.
- F. The Health Authority may require reinspection at any time should the conditions existing at the time the permit is issued be changed, or upon a valid complaint, or at any other time after notification of the owner, if there exists reason to suspect a system failure.
- G. A private sewerage facility permit may be revoked or suspended upon determination by the Health Authority that the system is operating in violation of the standards as established by this ordinance.
- H. To obtain a permit, the applicant must first demonstrate that the proposed private sewerage facility will accommodate the anticipated waste loading in a manner that will conform to the standards of the Texas Department of Health and pay the appropriate fees. Such fees will be determined by the City Council.
- I. Prior to receipt of a permit, a detailed drawing of the proposed system depicting its components and their exact location in the lot or tract must be submitted for the record.
- J. Upon application for a permit the results of a valid percolation test performed by a registered professional engineer, a certified soil testing laboratory, or a registered professional sanitarian and at least one sub-soil test to a depth of at least six feet shall be submitted to the Health Authority. The presence or absence of ground water will be indicated on the test results. The results will be used to determine the suitability of the site for an on-site sewerage facility and the type of system required.
- Certain other adverse soil conditions which may not be detected by percolation and sub-soil test such as poor drainage, seasonal presence of ground water, proximity to streams, wells, (etc...) will be considered in evaluating a site for an on-site sewerage facility.
- K. Minimum requirements will be enforced as contained in the latest edition of the Texas Department of Health "Construction Standards for On-Site Sewerage Facilities", provided however, that a permit will not be issued for a system with less than the equivalent square footage of trench/bed bottom required for a three bedroom home. A private sewerage facility shall not service more than one residence.
- L. Prior to the issuance of a permit the Health Authority shall inspect and approve the private sewerage facility. This inspection will be done when the construction of the facility is completed except for the placement of backfill. The applicant shall make available at the site an engineer's level or transit and an individual familiar with the installation of said system to answer any questions and assist in making measurements. A request for inspection shall be made to the Health Authority not less than 48 hours of the time an inspection is needed.
- M. A properly designed and constructed system, in suitable soil can and will malfunction if abused or not maintained. It shall be the responsibility of the permittee to operate and maintain a permitted system within the requirements and limitations of its design, and to prevent a system malfunction which threatens adjacent properties, the environment or the public health.

N. Permit and Inspection fees.

1. Permit Fees

- a. On-site sewerage facility
Private residence \$100.00
- b. Commercial sewerage facility \$150.00

2. Plan review and inspection.

- a. New facility at private residence \$100.00
- b. New facility commercial \$150.00

3. Requested inspection of existing facility. \$ 25.00

4. Texas Department of Health Fee \$ 10.00

5. No fee shall be charged of any governmental agency, independent school district, institution of purely public charity, or church; however such establishments shall comply with all other provisions of this ordinance.

SECTION 4. RESIDENTIAL LOT SIZING AND SPECIAL REQUIREMENTS:

A. Subdivisions of single family residences platted after the effective date of this ordinance, and served by a public water supply, but utilizing subsurface absorptive methods of sewage disposal shall provide for individual lots or tracts of not less than one half acre or large enough to accommodate a duplicate system, which ever is greater.

B. In subdivisions platted after the effective date of this ordinance for single family residences, where each lot or tract maintains an individual water supply well and sewerage treatment system utilizing soil absorption methods for sewage disposal, the plat shall show the approved well location and a sanitary control easement around the well within a 150 foot radius in which no absorptive type sewage system may be constructed. To minimize the possibility of the transmission of water borne disease due to the pollution of the domestic water supply, each lot or tract in said subdivision shall be at least one acre or be large enough to accommodate a duplicate system, which ever is greater.

C. The construction or installation of an on-site sewerage facility on any lot or tract that is smaller than the size required in Section 4, A and B of this ordinance shall not be allowed except as follows:

- 1. On such smaller lots or tracts, recorded with the county in it's official plat record prior to January 1, 1988, an on-site sewerage facility may be permitted for construction and operation if it can be demonstrated to the satisfaction of the Health Authority, through investigation by a registered professional sanitarian or registered professional engineer (either having demonstrated expertise in on-site sewerage system design), that an on-site sewerage facility can be installed and operated on said lot or tract without harm to an existing or proposed water supply system or to the public or environmental health, and/or without creating the threat of pollution or nuisance conditions.

- D. No permit shall be issued for the construction or operation of any private sewerage facility on any lot or tract with a property line that extends to within one hundred feet in horizontal distance to an organized disposal system or to within one hundred feet of a proposed extension of an organized disposal system when the proposed extension is planned for construction within one year.
- E. No part of any private sewerage facility shall be installed or generated within a minimum horizontal distance of ten feet from any property line or public road. Greater distances may be required based on results of percolation tests.

SECTION 5. INNOVATIVE DESIGNS.

- A. Feasible innovative designs for on-site sewerage facilities may be considered for construction and operation within the City of Mesquite under the following conditions:
 - 1. Plans for innovative systems must be submitted through the Health Official to the Texas Department of Health for review and evaluation.
 - 2. A system found to be designed in accordance with good engineering practice will be approved by the Texas Department of Health for the one installation for which the design was intended.
 - 3. A twelve month trial operational period shall be required prior to any final approval by the Texas Department of Health of any innovative design.
 - 4. Subsequent similar designs for other installations will be reviewed by the City Health Authority.
 - 5. At the discretion of the Texas Department of Health, local regulatory authorities having qualified technical expertise will be assigned authority to review each design and administer a program to evaluate the design's in-place performance.
 - 6. Submissions of innovative systems for review must include:
 - a. Detailed plans sealed by a registered professional engineer or signed by a registered professional sanitarian;
 - b. Necessary research data to establish the validity of the process, including set up of the proposed system;
 - c. Development of operational data and maintenance instructions;
 - d. All research development data that has been verified by published results of a recognized college, university or research organization.
 - 7. Notice of disapproval by either the Texas Department of Health or the City of Mesquite Health Official shall prevent such systems from being installed. Categorical approval of such systems shall not be granted.

SECTION 6. REQUIREMENTS FOR CONNECTION OF PRIVATE SEWAGE FACILITIES AND COMMERCIAL SYSTEMS TO ORGANIZED WASTE COLLECTION, TREATMENT, AND DISPOSAL SYSTEMS.

- A. Whenever an organized system with service capability is developed within 100 feet of the property line of any lot or tract upon which a private sewage facility or commercial system is located, that facility or system shall be connected to the organized system within 30 days of receiving notification to do so from the Health Official, unless the Health Official determines that it is not technically or economically feasible to do so, or that water quality protection would be better served by the private sewage facility or commercial system.

SECTION 7. ENFORCEMENT PROVISIONS.

- A. The Health Official is hereby designated as the administrator of this ordinance.
- B. In addition to the powers and duties previously prescribed for the Health Official, as administrator of this ordinance he is required to:
1. Administer and enforce all provisions of this ordinance.
 2. Keep records of permitted on-site sewerage facilities.
 3. Adopt rules and regulations consistent with the provisions of this ordinance, with respect to the form and content of application for permits, the investigation of applicants, investigation of complaints, and other matters incidental to his power and duties as may be necessary for the proper administration and enforcement of the provisions of this ordinance.
- C. Suspension of Permits. Permits may be suspended temporarily by the Health Authority for repeated failure of the permit holder to comply with the provisions of this ordinance. The permit holder or operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the Authority by the permit holder. Notwithstanding, the other provisions of the ordinance, whenever the Health Authority finds that a permitted on-site sewerage facility has failed to the extent of creating an immediate and substantial threat to the public and or environmental health, a written notice may issued to the permit holder stating that the permit to operate said facility is immediately discontinued, and specifying the corrective action to be taken. Any person to whom such order is issued shall comply immediately herewith, but upon written request to the Health Authority, shall be afforded a hearing before the Health Committee as soon as possible.
- D. Reinstatement of Suspended Permits. Any person whose permit has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the permit. Within 10 days following the receipt of a request, which shall include a statement signed by the applicant that in his or her opinion, the conditions causing suspension of the permit have been corrected, the Health Authority shall make a reinspection. If upon reinspection the conditions causing the suspension of the permit have been corrected, the permit shall be reinstated.
- E. Revocation of Permits. For serious or repeated violations of any of the requirements of this ordinance which creates a public or environmental health threat or a public nuisance, or when an on-site sewerage system fails beyond repair or for interference with the Health Authority in the performance of his or her duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Health Authority. Prior to such action, the Health Authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless request for a hearing is filed with the Health Authority, by the permit holder, within such 5 day period. A permit may be suspended for cause pending it's revocation or a hearing relative thereto.

- F. Hearings. Health Committee shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Health Authority.
- G. Inspection.
1. Frequency.
 - a. The Health Authority shall inspect each permitted on-site sewerage facility at installation according to Section 3 and at any other time if there be reason to suspect system failure resulting in a threat to the public or environmental health, or the existence of a public nuisance.
 - b. The Health Authority shall inspect any on-site sewerage facility installed prior to the effective date of this ordinance upon request by the owner, or if there be just cause to suspect a system failure.
 2. Access to Facilities.
 - a. Agents of the Health Authority, after proper identification, shall be permitted to enter upon the property and inspect any on-site sewerage facility operating under a permit issued by the Health Authority under provisions of this ordinance.
 - b. Agents of the Health Authority, after proper identification, shall be permitted to enter upon the property and inspect any on-site sewerage facility installed prior to the effective date of this ordinance if there be just cause to suspect failure of said system so as to pose a threat to the public or environmental health, or a public nuisance.
 3. Consent to Inspection.
 - a. Application for permit and operation of an on-site sewerage facility within the City of Mesquite constitutes consent for the Health Authority to inspect the facility to determine compliance with this ordinance. It shall constitute an offense for any person to hinder, prevent, or interfere with, or otherwise obstruct the lawful inspection of any on-site sewerage facility by the Health Authority. Such actions may also constitute reason for suspension or revocation of permit. In addition it shall also constitute an offense if any person willfully provides false information to the Health Authority as it relates to the enforcement of this ordinance.
 4. Report of Inspections.
 - a. Whenever an inspection of an on-site sewerage facility is made, the findings of the inspection shall be furnished to the owner of the facility in writing, and shall constitute written notice of any violation.
 5. Correction of Violation.
 - a. The findings of an inspection shall specify any violation of this ordinance and a reasonable time frame for the correction of the violation. Violations shall be corrected within the specified period.

SECTION 8. It shall be unlawful for any person to violate any provisions of this ordinance, or for any person who owns, installs, or operates an on-site sewerage facility, within the City of Mesquite to allow any other person to violate any provisions of this ordinance. The Health Official and his representatives have the authority to issue citations to persons violating any provisions of this ordinance. It shall be unlawful for any person to interfere with an inspector or the Health Official in the performance of their duties as prescribed by this ordinance.

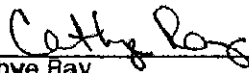
SECTION 9. Any person, firm, company, partnership, corporation, or association violating any provision of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in the sum of not more than TWO THOUSAND DOLLARS (\$2,000.00) for each violation. Each day upon which such violation occurs constitutes a separate violation. In addition thereto, such person(s) may be enjoined from continuing such violations.

SECTION 10. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, or section of this ordinance shall be declared unconstitutional or invalid by the judgement or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining section, paragraph, sentence, clause or phrase of this ordinance.

SECTION 11. That The Code of Ordinances of the City of Mesquite, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.


SECTION 12. This ordinance shall be and become effective on and after it's approval and adoption and it is so ordained.

DULY PASSED AND APPROVED by The City Council of The City of Mesquite, Texas, on the 21st day of October, A.D., 1991.



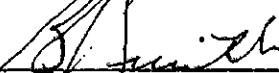
Cathye Ray
Mayor

ATTEST



Lynn Prigel
City Secretary

APPROVED AS TO FORM:



B. J. Smith
City Attorney

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