

WHEN ADOPTED THIS ORDER EFFECTIVELY CANCELS AND SUPERCEDES
ALL PREVIOUS ORDERS FOR ON SITE SEWAGE FACILITIES IN **FAYETTE COUNTY, TEXAS**
ORDER ADOPTING RULES OF **FAYETTE COUNTY, TEXAS**
FOR ON SITE SEWAGE FACILITIES
PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality has established Design Criteria for on-site sewage facilities to provide the citizens of the State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as the Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of 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 **Fayette County, Texas** should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in **Fayette County, 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 **Fayette County, Texas**; and

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

WHEREAS, the Commissioners Court of **Fayette 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 **Fayette County, Texas**.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF **FAYETTE COUNTY, TEXAS**:

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

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

SECTION 3. THAT and Order for **FAYETTE** County, Texas **BE** adopted entitled "On-Site Sewage Disposal," which shall read as follows:

AN ORDER ENTITLED ON-SITE SEWAGE DISPOSAL

SECTION 4. CONFLICTS.

All Orders or parts of Orders of **Fayette County, Texas** not consistent with or in conflict with the provisions of the Order are hereby repealed.

SECTION 5. ADOPTING CHAPTER 366

The County of **Fayette 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.

SECTION 6. AREA OF JURISDICTION

- (a) The Rules shall apply to all of the area lying in **Fayette County, Texas**, except for the area regulated under an existing rule and the areas within incorporated cities.
- (b) These Rules shall also apply to those incorporated cities or towns that have executed interlocal agreements with **Fayette County, Texas**.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of **Fayette 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" and Administrative Rules 30 TAC 285.1-285.91, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage systems are hereby adopted, and all officials and employees of **Fayette County, Texas** 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 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 Design Criteria is attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS. (OPTIONAL)

The County of **Fayette, 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. Listed below are the more stringent Rules adopted by **Fayette County, Texas**

(a) **ALL** OSSF's(On Site Sewage Facilities) installed in Fayette County **MUST** be permitted, inspected and approved regardless of acreage or tract size.

(b) All state mandated maintenance on OSSF's in Fayette County, Texas must be performed by the installer of the OSSF or by a licenced, manufacturer certified maintenance provider. Homeowner performed maintenance will **NOT** be allowed except by those OSSF owners that have been certified to perform said maintenance prior to the adoption of this rule.

(c) A **minimum** of two acres of land is required for the installation of an OSSF unless a variance is granted by the county environmental inspectors office.

SECTION 11. DUTIES AND POWERS

The **OSSF Inspector of Fayette County, Texas** is herewith declared the designated representative for the enforcement of these Rules within its jurisdictional area. The appointed individuals(s) must be approved and certified by The Texas Commission on Environmental Quality before assuming the duties and responsibilities of the designated representative of **Fayette County, Texas**

SECTION 12. COLLECTION OF FEES

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

SECTION 13. APPEALS

Person aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioner's Court of **Fayette County, Texas**.

SECTION 14. PENALTIES.

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

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioner's Court of Fayette County, Texas that the phrases, clauses, sentences, paragraphs and sections of this Order are severable, and if any 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 effect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Order, since the same would have been enacted by the Commissioner's 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 **Fayette 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 in form 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 publishers affidavit of public notice and a 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 to the commission.
- (e) Prior to the issuance of a relinquishment order the local government entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designated 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 Commission on Environmental Quality.

AND SO IT IS ORDERED: