

COURT ORDER ADOPTING RULES OF AUSTIN 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 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 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 Austin County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Austin, 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 Austin County, Texas; and

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

WHEREAS, the Commissioners' Court of Austin County, Texas has considered the matter and deemed it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Austin County, Texas.

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

SECTION 3. THAT an Order for Austin 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of the Orders of Austin County, Texas not consistent with or in conflict with the provisions of this Order are hereby repealed.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 Austin, Texas clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage 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 Austin County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.
- (b) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts for On-Site Sewage Facilities with Austin County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of Austin 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 Austin 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 apart of these Rules. A copy of the current Design Criteria is attached to these Rules as Appendix I.

*** SECTION 10. AMENDMENTS.

The County of Austin, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order, thus providing greater public health and safety protection, understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements per Health and Safety Code 366.032. Due to the increasing number of OSSF applications and the development of property into small rural homesites, Austin County seeks to provide consistent health and safety protection. Listed below are the more stringent Rules adopted by Austin County, Texas:

- (a) Every on-site sewage facility to be constructed, repaired, extended or altered, must obtain a permit prior to construction regardless of the size of the tract of land.
- (b) Site evaluations may be performed by either:
 - 1. A Registered Installer II and have successfully completed a site evaluation training course approved by TCEQ. The individual doing site evaluations must be in good standing with their respective licensing program. or
 - 2. A Registered Professional Engineer and have successfully completed a site evaluation training course approved by TCEQ. The individual doing site evaluations must be in good standing with their respective licensing program. Or
 - 3. A Registered Professional Sanitarian and have successfully completed a site evaluation

training course approved by TCEQ. The individual doing site evaluations must be in good standing with their respective licensing program.

- (c) Site evaluations must be done on Austin County's form.
- (d) Boring/Back-hoe pit requirement whereby Austin County's Designated Representative is authorized to require any necessary excavation if two different site evaluations have been submitted on the same property and flagged for County Inspector to find.
- (e) Installation of Systems:
 - 1. A property owner can only install an: On-Site Sewage Facility that does not require an Professional Sanitarian or Professional Engineer planning materials.
- (f) Registered Installer must be present at the Final Inspection.
- (g) Property owners only to submit application, fee, and planning material.
- (h) All residential lots must be one acre minimum regardless whether served by private water well or community/public water system.
- (i) Property owner/homeowner maintenance of any secondary treatment system shall not be allowed unless the property owner/homeowner has proof that he/she has been trained by the manufacturer/installer or is a Registered/Certified Maintenance Provider.
- (j) The authorized agent may periodically inspect the on-site disposal system using aerobic treatment, regardless of when the authorized agent conducted the last inspection.

SECTION 11. DUTIES AND POWERS.

The Environmental Protection Inspector(s) and the Environmental Protection Coordinator of Austin County, Texas are herewith declared the designated representatives for the enforcement of these Rules within its jurisdictional area. The appointed individual(s) must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Austin County, Texas.

SECTION 12. COLLECTION OF FEES.

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

SECTION 14. PENALTIES.

This order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, including, but not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety code, Chapters 7 & 26 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 Austin County, Texas that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, 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 phrase, clause, sentence, paragraph, or section.

SECTION 16. RELINQUISHMENT OF ORDINANCE.

If the Commissioners' Court of Austin 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 inform the Texas Commission on Environmental Quality by certified mail at least thirty (30) days before the published date of public hearing notice that it wished 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 thirty (30) days prior to the anticipation date of action by the authorized agent.
- (c) 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 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 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 be law and upon the approval of the Texas Commission on Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 8th DAY OF October, 2007.

APPROVE:

Carolyn Bilski
AUSTIN COUNTY JUDGE

ATTEST:

Ireneia E. Heron
COUNTY CLERK

*(Revised 12/6/96 alp)
**(Revised 9/15/99 sjv)
*** (Revised 6/13/01 sjv)
**** (Revised 2/23/07 sjv)

Received from TNRCC Region 12 (11/4/96)
(Revised 11/8/99 sjv)
(Revised 8/27/01 sjv)
**** (Revised 10/08/07 sjv)

COUNTY OF AUSTIN

STATE OF TEXAS

AFFIDAVIT

Before me, the undersigned authority, personally appeared who, being by me duly sworn, deposed as follows:

My name is BRENDA ETHIER, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

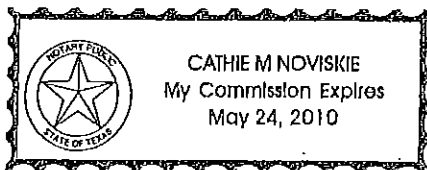
I am the custodian of the records of the County Clerk's Office for the County of Austin, Texas. Attached hereto are 5 () pages of records known as Order 07-418. The records are kept by me as County Clerk, County of Austin, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

CARRIE GREGOR COUNTY CLERK
BY Brenda Ethier Deputy

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared BRENDA ETHIER known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 16th day of November, 2007.

(SEAL)



Cathie M. Noviskie
Notary Public, State of Texas
My commission expires:

