

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

PREAMBLE:

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules 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 to abate or to 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 public meeting to determine whether the Commissioners Court of Nueces County, Texas, should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in Nueces County, Texas; and

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

WHEREAS, the Commissioners Court of Nueces County, Texas, has considered the matter and deems it appropriate to enact an Order adopting rules regulating on-site sewage facilities to abate or to prevent pollution or injury to public health in Nueces County, Texas;

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

SECTION 3. THAT the following Order repeals and replaces any other On-Site Sewage Facility (OSSF) Order for Nueces County, Texas; and

SECTION 4. THAT an Order of Nueces County, Texas, be adopted entitled "On-Site Sewage Facilities" which shall read as follows:

## AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

### SECTION 4. CONFLICTS

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) Order for Nueces County, Texas.

### SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

Nueces County, Texas, clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and it will fully enforce Chapter 366 of the Texas Health and Safety Code, and Chapters 7 and 37 of the Texas Water Code, and associated rules referenced in Section 8 of this Order.

### SECTION 6. AREA OF JURISDICTION

These rules shall apply to all the area lying in Nueces County, Texas, except for the area regulated under an existing Rule, and the areas within incorporated cities. These rules also apply to the areas within incorporated cities and towns that have executed intergovernmental contracts with Nueces County, Texas, and for which Nueces County, Texas, is the Authorized Agent.

Nueces County recognizes that there are two Authorized Agents in Nueces County, Texas—the County itself, and the Nueces County Water Control Improvement District #4 (NCWCID#4). The NCWCID#4 has designated the City of Port Aransas as its Designated Representative. Nueces County, Texas, requests all incorporated cities and towns in Nueces County, Texas, except the City of Port Aransas, to enter into interlocal agreements with Nueces County, Texas, in recognition of the County's status as the local Authorized Agent under Texas Administrative Code 285.10.

### SECTION 7. ON-SITE SEWAGE FACILITY RULES

Any permit issued for an on-site sewage facility within the jurisdictional area of these rules must comply with the applicable statutes, and the rules adopted in Section 8 of this order.

### SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED

The Rules, Title 30 Texas Administrative Code Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities, are hereby adopted, and all officials and employees of Nueces County, Texas, having duties under the Rules are authorized to perform such duties as are required of them under said Rules.

## SECTION 9. INCORPORATION BY REFERENCE

The Rules, 30 Texas Administrative Code Chapter 30, Subchapters A and G, and Chapter 285, and all further amendments and revisions thereto, are incorporated by reference and are thus made a part of this Order.

## SECTION 10. AMENDMENTS

Nueces County, Texas, wishing to adopt more stringent Rules for its OSSF Order, understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. These Rules are justified because they provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Nueces County, Texas:

- (A) 48-hour notice must be given by the OSSF installer for each inspection.
- (B) Street Locations on Site Plan must include:
  - 1. All physical address street locations; and
  - 2. Any and all landmarks that can assist with the location of the system.
- (C) All calculations used in the design of the OSSF must be submitted with the application.
- (D) In regards to 30 Texas Administrative Code §285.31, Selection Criteria for Treatment and Disposal Systems-(2) Flood Hazard: All requirements will be adhered to with an addition to (C) non-buried components. All non-buried components (e.g. alarms, junctions boxes, and compressors) shall be elevated to a height of three (3) feet from the ground, to enhance public health and safety. This requirement applies only to OSSF systems installed on or after the effective date of this Order.
- (E) All construction of any type of on-site sewage facility, and all alterations, extensions, and repairs, shall require a permit and inspection, regardless of the size of the tract of land.
- (F) All construction of any type of on-site sewage facility, and all alterations, extensions, and repairs, shall be performed by a licensed installer only. Property owners are not allowed to perform any construction, alterations, extensions, or repairs unless they are licensed installers.
- (G) All maintenance of an on-site sewage disposal system using aerobic treatment shall be performed by a certified maintenance provider only. Property or homeowners are not allowed to perform maintenance of this type of system unless they are certified maintenance providers. In addition, all property owners with an on-site sewage disposal system using aerobic treatment shall be required to have in effect a maintenance contract with a certified maintenance provider.

## SECTION 11. DUTIES AND POWERS

The OSSF Designated Representative (DR) pursuant to 30 Texas Administrative Code 285.2(17) of Nueces County, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.

## SECTION 12. COLLECTION OF FEES

All fees collected for permits and inspections shall be made payable to Nueces County, Texas. A fee of \$10.00 shall also be collected for each on-site sewage facility permit, to be paid to the On-Site Wastewater Treatment Research Council, as required by Texas Health and Safety Code Chapter 367.

## 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 Nueces County, Texas.

## SECTION 14. ENFORCEMENT PLAN

Nueces County, Texas, clearly understands that, at a minimum, it must follow the requirements in 30 Texas Administrative Code 285.71, Authorized Agent Enforcement of OSSF's.

This Order adopts and incorporates all applicable provisions related to on-site sewage facilities, which include, but are not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code, and 30 Texas Administrative Code Chapter 30 (Subchapters A and G) and Chapter 285.

## SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Nueces County Commissioners Court that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of the 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 the Order of such unconstitutional phrases, clauses sentences, paragraphs, or sections.

## SECTION 16. RELINQUISHMENT OF ORDER

If the Commissioners Court of Nueces County, Texas, decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Commissioners Court, as the

Authorized Agent, and the TCEQ, shall follow the procedures outlined in 30 Texas Administrative Code 285.10(d)(1) through (4).

After relinquishing its OSSF authority, the Authorized Agent understands that it may be subject to charge-back fees in accordance with 30 Texas Administrative Code 285.10(d)(5) and 285.14 after the date that delegation has been relinquished.

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 TCEQ.

AND IT IS SO ORDERED.

PASSED AND APPROVED ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

APPROVED:

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Samuel L. Neal, Jr., Nueces County Judge

ATTEST:

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Diana T. Barrera, Nueces County Clerk