

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF THE APPLICATION	§	BEFORE THE EXECUTIVE
OF THE COUNTY OF JEFFERSON	§	DIRECTOR OF THE TEXAS
FOR A TEXAS HEALTH AND SAFETY	§	COMMISSION ON
CODE §366.031 ORDER	§	ENVIRONMENTAL
		QUALITY

On DEC 17 2007 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Jefferson, ("Applicant" or "Jefferson"), 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 Jefferson County Order should be approved.

## FINDINGS OF FACT

1. The County of Jefferson drafted a proposed amendment to its order which regulates on-site sewage facilities.
2. On September 25, 2007 the County of Jefferson caused notice to be published, in a newspaper regularly published and of general circulation, in the Applicant's area of jurisdiction, of a public meeting to be held on Monday, October 1, 2007.
3. The County of Jefferson held a public meeting to discuss the proposed amendment to its order on October 1, 2007.
4. Jefferson County's Order regulating on-site sewage facilities was adopted on October 8, 2007.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Jefferson County Order was submitted to the Texas Commission on Environmental Quality.
7. The order is at least equivalent to the standards of the Texas Commission on Environmental Quality.

## CONCLUSIONS OF LAW

1. The above facts are conditions sufficient to issue this order pursuant to §366.031 of the Code.
2. Section 5.102 of the Texas Water Code authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of Chapter 366 of the Health and Safety Code and / or within the Commission's jurisdiction and who provides no comment on other statutory authority.
3. Issuance of this order will effectuate the purposes of Chapter 366 of the Code.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The County of Jefferson is hereby authorized to implement its Order which regulates on-site sewage facilities.
2. Any amendments to the Jefferson County Order must be approved by the Texas Commission on Environmental Quality.
3. The Chief Clerk of the Commission is directed to forward a copy of this Order and the Applicant's adopted order, ordinance, or resolution, marked as Exhibit "A", to the Applicant and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: **DEC 17 2007**



Executive Director  
Texas Commission on Environmental Quality

## EXHIBIT “A”

Meeting Date:

OCT 08 2007 **ORDER ADOPTING RULES OF JEFFERSON COUNTY, TEXAS  
FOR ON-SITE SEWAGE FACILITIES**

Agenda Item No. 29

PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality 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 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 public meeting to determine whether the Commissioners Court of Jefferson County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Jefferson, Texas; and

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

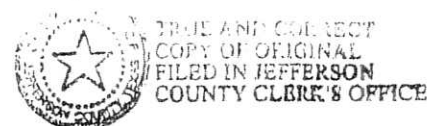
WHEREAS, the Commissioners Court of Jefferson County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Jefferson County, Texas.

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

SECTION 3. THAT an Order for Jefferson County, Texas be adopted entitled "On-Site Sewage Facilities", which is set forth in the following sections.



## AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

### SECTION 4. CONFLICTS.

This order repeals and replaces any other On-site Sewage Facility order for Jefferson County.

### SECTION 5. CHAPTER 366.

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

### SECTION 6. AREA OF JURISDICTION.

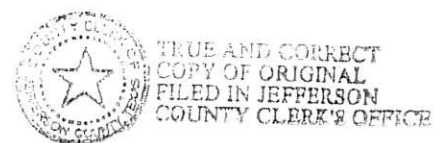
- (A) The Rules shall apply to all the area lying in Jefferson County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.
- (B) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Jefferson County, Texas.

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

Any permit issued for an on-site sewage facility within the jurisdictional area of Jefferson County, Texas must comply with the Rules adopted in Section 8 of this Order.

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

The Rules, Title 30 Texas Administrative code (TAC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Jefferson 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 rules, 30 TAC Chapters 30 and 285 and all future amendment and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules is attached to these Rules as Appendix I.

## SECTION 10. AMENDMENTS.

The County of Jefferson, 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 requirement. Listed below are the more stringent Rules adopted by Jefferson County, Texas:

- (A) Jefferson County will permit and inspect all on-site systems regardless of the size of the tract of land upon which the on-site system is installed.
- (B) In order to provide greater public health and safety protection, Jefferson County shall require the maintenance for all on-site sewage facility's (OSSF) identified in 285.91(12) to be performed by a TCEQ registered maintenance company unless:
  - (1) the homeowner/property owner is a TCEQ registered maintenance provider for their aerobic treatment unit; or
  - (2) The homeowner/property owner was trained by an installer or manufacturer according to the requirements of HB 2510(79®) prior to adoption of HB 2482 (80®); or
  - (3) The homeowner/property owner holds a valid wastewater Class D license or higher wastewater treatment license, and is certified by the manufacturer for the brand of OSSF that they own.
- (C) Maintenance Inspections and Reports:
  - (1) Inspections, at a minimum, must meet all inspection requirements contained in Chapters 30 and 285, of Title 30, Texas Administrative Codes (as such may from time to time be amended) and as may from time to time be required by Jefferson County. In addition, such inspections must be in conformity with the inspection and maintenance requirements of the manufacturer of the brand of system being inspected.



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FILED IN JEFFERSON  
COUNTY CLERK'S OFFICE

- (2) Inspection reports shall address all inspection and testing requirements as set by the Rules, Jefferson County, as well as, the testing requirements outlined by the manufacturer for the brand being inspected.
- (3) Jefferson County shall require the reporting of the sludge levels in the pump tank, and the condition of the spray area to be included on each required testing report specified by the Rules.

#### SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Jefferson County, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

#### SECTION 12. COLLECTION OF FEES.

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

#### SECTION 13. APPEALS.

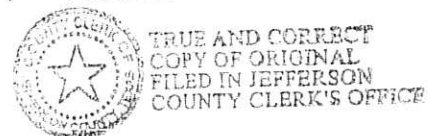
Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Jefferson County, Texas.

#### 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, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

#### SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Jefferson 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 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. 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 IT IS SO ORDERED:

PASSED AND APPROVED THIS 8<sup>TH</sup> DATE OF OCTOBER, 2007.

APPROVED:

County Judge

(SEAL)

ATTEST:

County Clerk



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