

RULES OF TOWN OF SAN FELIPE, AUSTIN COUNTY, TEXAS
FOR PRIVATE SEWAGE FACILITIES

SECTION I. AUTHORITY, PURPOSE AND CONSTRUCTION OF RULES

A. AUTHORITY

These Rules are adopted by the Town Council of the Town of San Felipe, located in Austin County, Texas, and hereinafter referred to as the Town of San Felipe acting in its capacity as the governing body of the Town of San Felipe. Authority of the Town of San Felipe to adopt these Rules is Article 1015, Vernon's Texas Civil Statutes Annotated.

B. PURPOSE

The purpose of these Rules is to abate or prevent injury to the public health of Town of San Felipe, Austin County, Texas.

C. CONSTRUCTION OF RULES

These Rules are to be construed liberally to accomplish their purpose. In construing the "Standards" described in Section IIC below, precatory words contained therein shall be deemed mandatory. In the event of any conflict between these Rules and an order, resolution or other rule adopted by the Texas Water Commission, then and in that event, the order, resolution or other rule adopted by the Texas Water Commission shall take precedence. In the event of any conflict between these Rules and the "Standards", then and in that event, these Rules shall take precedence.

D. DEFINITIONS

As used in these Rules, the following words and phrases have the following meanings, unless context clearly demonstrates otherwise:

1. "Town Council" means the Town Council of the Town of San Felipe.
2. "Clerk" means the City Clerk of the Town of San Felipe.
3. "City Sanitarian" means the City Sanitarian of the Town of San Felipe.
4. "Institution" means any establishment other than a single family residence.
5. "Mobile Home Park" means any facility or area developed for the lease or rental of two or more mobile home spaces.
6. "Organized Disposal System" means any publicly or privately owned system for the collection, treatment and disposal of sewage, operated in accordance with the terms and conditions of a valid waste discharge permit issued by the Texas Water Commission.

7. **"Person"** includes an individual, corporation, organization, estate, trust, partnership, association or other entity.

8. **"Private Sewage Facility"** means all systems and methods used for the disposal of sewage, other than organized disposal systems operated under a valid permit issued by the Texas Water Commission, including, but not limited to, septic tanks, absorption beds, pits, privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage.

9. **"Sewage"** means waterborne human waste and waste from domestic activities, such as, washing, bathing, and food preparation.

10. **"Single Family Residence"** means a single family dwelling or mobile home.

11. **"Standards"** means the pamphlet "Construction Standards for Private Sewage Facilities" described in Section II.C.

12. **"State"** means the State of Texas.

13. **"Substantial Modification"** means the alteration of an existing private sewage facility so that the total volume of the facility is increased by 25% or more.

14. **"Subdivision"** means (a) a subdivision which has been platted and recorded with the County Clerk of Austin County, Texas, or which is required by statute to be so platted and recorded; or (b) any four (4) or more adjoining lots or tracts, each of which is less than two (2) acres in size.

SECTION II. GENERAL PROVISIONS

A. ADMINISTRATION BY CITY SANITARIAN

1. The City Sanitarian shall administer these Rules.

2. The City Sanitarian shall:

a. Make appropriate recommendations to proper authorities of the Town of San Felipe when instances of non-compliance with these Rules has been determined.

b. Make inspections of existing private sewage facilities when requested and inspect all new facilities. All Components of the system shall not be covered until an inspection has been made. The absorption trenches or evapotranspiration beds may be partially backfilled but all ends, and other critical areas shall not be backfilled until the City Sanitarian has determined the construction complies with these Rules, Standards or other special conditions specified on the license.

- c. Collect all fees set by the Town Council to recover costs incurred in meeting the requirements of these Rules.
- d. Make semi-annual reports to the Town Council on all legal actions taken concerning these Rules.
- e. Perform all other duties necessary to meet the requirements of these Rules.

B. AREA COVERED BY RULES

These Rules shall apply only to the incorporated area of the Town of San Felipe, and to its extra-territorial jurisdiction.

C. INCORPORATED BY REFERENCE

a. Pursuant to Texas Revised Civil Statutes Annotated article 4477-1, section 23(b), the Texas Board of Health adopted Texas Department of Health Rules 301.79.03.001-.003, which are entitled "Construction Standards for Private Sewage Facilities" and which were published in Texas Register, Volume 2, No. 99, December 23, 1977. A copy of "Construction Standards for Private Sewage Facilities" (sometimes referred to within these county Rules as the "Standards") is attached to these Rules as Appendix 1. The "Standards" and all future amendments to the "Standards" are made a part of these Rules for all intents and purposes as though set forth herein word for word.

b. The City Sanitarian shall interpret and resolve any question regarding any interpretation of the "Standards".

c. All precatory words contained within these Rules shall be deemed mandatory.

SECTION III. LAWFUL DISCHARGE OF SEWAGE

After the effective date of these Rules, only the following types of sewage discharges shall be lawful:

- 1. Sewage discharged into an organized disposal system.
- 2. Sewage discharged into a private sewage facility licensed and maintained in accordance with these Rules.
- 3. Sewage discharged into a private sewage facility existing and in use on the effective date of these Rules, which has not been substantially modified since the effective date of these Rules, and which is used and operated in such a manner as not

to constitute a nuisance as defined in Section XII of these Rules, and which has not had a substantial increase in the sewage flow rate since the effective date of these Rules. For the purpose of this provision, any private sewage facility which has been actually used at any time during the twelve (12) month period immediately preceding the effective date of these Rules, shall be conclusively presumed to have been in use on the effective date of these Rules.

SECTION IV. EXISTING RESIDENTIAL LOT SIZING

On existing lots with less than 15,000 square feet a private sewage facility may be licensed provided the soil conditions will support an absorption or evapotranspiration system, or other system allowed in the "Standard", after it has been demonstrated by a thorough subsurface soils investigation that any proposed and/or existing water supply systems within 100 feet of the effluent treatment area will not be contaminated.

SECTION V. PRIVATE SEWAGE FACILITY INSTALLATION, MODIFICATION AND MAINTENANCE

A. No person may install or substantially modify a private sewage facility unless a license therefor has first been obtained from the City Sanitarian.

B. Injection wells, pit privies and cesspools are specifically prohibited from being installed and licensed.

C. The design and maintenance of a private sewage facility shall, as a minimum, meet the requirements set forth in the "Standards".

D. No person may install a private sewage facility on a lot or tract smaller than that required to meet the requirements set forth in the "Standards", except as noted in Section IV above.

E. No person may install a private sewage facility within 300 feet (measured on the closest practicable access route) of a publicly owned organized disposal system unless service by said organized disposal system has been formally requested and has been denied by the governing body thereof. The failure of such governing body to act upon such request, by granting or denying same within 30 days of receipt thereof, shall be deemed to be a denial of the request.

F. Percolation tests as provided by the "Standards" shall be performed in accordance with the "Standards" by a registered Professional Sanitarian or registered Professional Engineer.

G. The installation and construction of private sewage facilities shall be made in accordance with the approved design and requirement of the license issued therefor.

II. The effluent from an individual home aerobic wastewater disposal unit must be discharged into a properly designed and constructed soil absorption or evapotranspiration system. No discharges to the ground surface or into the waters in the State are authorized.

SECTION VI. ADDITIONAL DESIGN REQUIREMENTS - INSTITUTIONS

A. For establishments other than those set forth in Table IV of the "Standards" (Individual Usage Rate), with a sewage flow rate less than 500 gallons per day, the City Sanitarian will calculate the daily sewage flow per person upon written request.

B. For institutions which have a sewage flow rate of more than 500 gallons per day (as herein calculated), a registered professional engineer or registered professional sanitarian shall design all private sewage facilities serving the institution. Said designs shall be made in accordance with Section V of these Rules and the "Standards", except that single compartment septic tanks shall not be utilized, but instead, septic tanks with two or more compartments or two or more septic tanks connected in series shall be utilized.

SECTION VII. SUBSTANTIAL INCREASE IN FLOW

No person shall cause or allow a substantial increase in the sewage flow rate of a private sewage facility, without first obtaining from the City Sanitarian a license or amendment of an existing license. The application for such license shall reflect the increased sewage flow rate. The sewage flow rate shall be considered to be substantially increased when the flow rate, calculated in the manner provided herein, is increased by more than 25%.

SECTION VIII. ISSUANCE OF LICENSES

A. Only the person owning, or having the right to possession of, the parcel of land upon which a proposed private sewage facility is to be located, may apply for a private sewage facility license. To make application for a private sewage facility license, the applicant shall submit to the City Sanitarian the following:

1. The completed application form.
2. The required fee.
3. The results of the percolation tests, if already performed by a registered Professional Engineer or Professional Sanitarian.

4. A drawing or drawings reflecting that the proposed private sewage facility will comply with these Rules and demonstrating that the lot or tract is large enough for the private sewage facility to be constructed thereon.

5. Any additional information that the City Sanitarian may require. The completed application and all of its appurtenances shall not contain any false information nor conceal any material facts.

B. Based upon the information contained in the completed application, and other information available to the City Sanitarian, the City Sanitarian shall:

1. Issue a license to the applicant, such license to be effective for an indefinite period of time, or

2. Within 15 days after receipt of the application and appurtenances, give written notice to the applicant that the application is denied, stating the reason(s) which prevent licensing. Said notice shall be considered given by depositing the same in the U.S. Mail, postage prepaid, addressed in accordance with the application.

C. The applicant may appeal a denial in accordance with the procedure set forth in Section XI of these Rules.

SECTION IX. PRIVATE SEWAGE FACILITIES IN SUBDIVISIONS

A. Any person desiring to create a subdivision using private sewage facilities must obtain approval from the City Sanitarian. The following plat information is required for review in order to determine that a subdivision, when developed, using septic tank systems for sewage disposal will not become a public health hazard or pollute area water supplies, streams and lakes as set forth herein.

1. An accurate plat showing the proposed number and lot sizes. If not for single family dwellings, the planned use and number of living units.

2. The geographic location of the proposed subdivision and its proximity to watersheds, streams and lakes.

3. Availability of utilities and the distance to and location of nearest city sewer and area water wells.

4. Topographic contours on two (2) foot intervals for the proposed subdivision and seventy-five (75) feet of the adjacent area.

5. Whether or not the water supply and distribution system has been approved by the State Health Department.

6. The Developer's Engineer shall be required to certify that an acceptable septic tank system can be constructed on each lot.

7. Identify the areas on the plat that are subject to flooding based on 100 year flood plain and areas where the water table will be within 4 feet of the bottom of the proposed absorption systems.

B. Lot sizes - The use of septic tanks in a subdivision has a bearing on the ultimate lot size. In determining the minimum lot size for platting purposes, size will be determined by the suitability of the soil to function without creating a nuisance or health hazard. The lot must contain an adequate area to provide for expansion to twice the original size of the absorption field.

C. Septic Tank Design - The City Sanitarian shall require the developer to perform soil profiles and percolation tests in order to determine that each lot in the proposed subdivision meets the requirements of this Order. The City Sanitarian will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the developer will be notified of any areas not suitable for the use of private sewage facilities. Such percolation test data, soil profile, and engineering design for each individual lot private sewage disposal facility shall be filed as a deed record for the lot. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

SECTION X. EXCEPTIONS

A. A person desiring an exception to any requirement of these Rules shall file a written request with the City Sanitarian stating:

1. The nature of the exception requested; and
2. The reason the exception should be granted.

B. Within thirty (30) days after receipt of said request, the City Sanitarian shall review the request and reply to the applicant in writing either granting or denying the request.

C. If the request is denied, the City Sanitarian shall include in its reply the reasons for denial.

D. The applicant may appeal a denial in accordance with the procedure set forth in XI of these Rules.

SECTION XI. APPEALS

A. Any person aggrieved by an action or decision of the City Sanitarian hereunder may, within thirty days of the date on the document giving notice of the action or decision, appeal to the City Hearing Examiner appointed by the Town Council.

B. The appeal to the Hearing Examiner shall be initiated by filing a written objection with the Hearing Examiner. The written objections shall state what the action or decision of the City Sanitarian should have been and why. A copy of the document containing the notice of the action or decision complained of shall be attached to said written objection. Upon receipt of said written objection and attachment the Hearing Examiner shall set the same down for a hearing to be held within the next fifteen (15) days and advise all parties of the date, time and place of hearing.

C. At hearings before the Hearing Examiner all witnesses will be sworn. The Hearing Examiner will hear the testimony of the City Sanitarian and/or each person as will be called by the City Sanitarian, and additionally, the Hearing Examiner will hear the testimony of the complainant along with any witnesses the complainant may call. Additionally, the Hearing Examiner will review all documents and exhibits submitted to him by the parties. The Hearing Examiner will not be bound by formal rules of evidence and will control the evidence, reserving to himself the power to exclude testimony or exhibits he does not consider relevant.

D. The Hearing Examiner will maintain an accurate record of the evidence adduced at the hearing.

E. Within forty-eight (48) hours of the close of the hearing the Hearing Examiner will notify the City Sanitarian and the complainant of his decision. Within three (3) days of the close of the hearing the Hearing Examiner will reduce to writing his report, which will consist of a finding of facts and his decision. The Hearing Examiner will file the original of his report with the City Clerk, will keep one copy for himself, will send one copy to the complainant and will send one copy to the City Sanitarian.

F. If the City Sanitarian or the complainant is dissatisfied with the Hearing Examiner's decision, he may, within five (5) days from the date the Hearing Examiner

filed his report, file a written objection with the Clerk. When such an objection is filed, the Clerk will notify the Mayor of the Town of San Felipe, Austin County, Texas who will place the matter on the Agenda of the Town Council for review at the next meeting of the Town Council which is at least five (5) days after the date of the filing of the objection. If the objection is filed by the City Sanitarian, notice that the matter is on the Agenda will be sent to the complainant by mail. When the matter comes before the Town Council, the Town Council will review the matter, considering such information as is in the Hearing Examiner's file and report along with such other evidence as the Town Council may deem relevant and as may be offered by the City Sanitarian or the complainant. The Town Council will either affirm, reverse, or modify the decision of the Hearing Examiner.

G. These provisions for appeal are not exclusive, but are cumulative of any other remedies at law or in equity.

SECTION XII. NUISANCES

No person shall maintain a private sewage facility in such a manner as to be, or as may tend to be, injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

SECTION XIII. FEES

To defray the cost of administering these Rules, the City Sanitarian will require fees to be paid in accordance with the following schedule which will be paid with the filing of application for license and/or with a written request for inspection.

A. License Fees:

1. \$40.00 for any commercial institution or mobile home park or substantial modification thereof.
2. \$25.00 for any private sewage facility, or substantial modification thereof.

B. Inspections: \$20.00 for each visit to the job site.

SECTION XIV. ENFORCEMENT

(a) A person who violates any one of these Rules, is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10.00 nor more than \$200.00. Each day that a violation occurs constitutes a separate offense.

(b) Jurisdiction for prosecution of a suit under this provision is in the Municipal Court of the Town of San Felipe.

SECTION XV. EFFECTIVE DATE

These Rules shall become effective on the ^{ninth} first day of August, 1983.

SECTION XVI. SEVERABILITY

If any provision of these Rules or the application thereof to any person or circumstances is held invalid, the validity of the remainder of these Rules and the application thereof to other persons and circumstances shall not be affected.

NOTICE TO ALL PERSONS OF THE TOWNSHIP OF SAN FELIPE, COUNTY OF AUSTIN, STATE OF TEXAS

An Ordinance entitled as follows was adopted by the Town Council of the Town of San Felipe, County of Austin, State of Texas, on the 9th day of August, 1983, to-wit:

AN ORDINANCE ADOPTING RULES OF TOWN OF SAN FELIPE, COUNTY OF AUSTIN, STATE OF TEXAS, FOR PRIVATE SEWAGE FACILITIES (SAID RULES PROVIDING FOR, AMONG OTHER THINGS, A PENALTY FOR A PERSON WHO VIOLATES THE RULES, SAID PENALTY BEING THAT THE PERSON WHO VIOLATES SUCH RULES IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$10.00 NOR MORE THAN \$200.00); AUTHORIZING ALL OFFICIALS AND EMPLOYEES OF THE TOWN OF SAN FELIPE, COUNTY OF AUSTIN, STATE OF TEXAS, HAVING DUTIES UNDER THE ADOPTED RULES TO PERFORM SUCH DUTIES AS REQUIRED OF THEM UNDER SAID RULES; AND PROVIDING A SAVING CLAUSE, REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT THEREIN.

The Ordinance adopts rules for the Town of San Felipe, County of Austin, State of Texas for the construction of private sewage facilities in the Town of San Felipe, County of Austin, State of Texas and includes construction standards for private sewage facilities. Section XIV of the Ordinance provides that a person who violates any one of the rules for private sewage facilities which have been adopted is guilty of a misdemeanor and on conviction is punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars, and that each day that a violation occurs constitutes a separate offense. The ordinance was passed and approved on the 9th day of August, 1983.

SIGNED on the 9th day of August, 1983.

Joan Dinger
Town Secretary of the
Town of San Felipe, Texas