

**ORDINANCE NO. 2859**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS, AMENDING CHAPTER 12, UTILITIES, OF THE TERRELL CITY CODE OF ORDINANCES BY THE ADDITION OF SECTION 12-21, ON SITE SEWAGE FACILITIES, PROVIDING FOR SEVERABILITY, PROVIDING AN EFFECTIVE DATE, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS CONSIDERED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**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 (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to the 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 City Council of the City of Terrell, Texas should enact an ordinance controlling or prohibiting the installation or use of on-site sewage facilities in the City of Terrell, Texas; and

**WHEREAS**, the City Council of the City of Terrell, Texas finds that the use of on-site sewage facilities in areas of the City of Terrell, Texas not served by the City of Terrell's sanitary sewage system is causing or may cause pollution, and is injuring or may injure the public health; and

**WHEREAS**, the City Council of the City of Terrell, Texas has considered the matter and deems it appropriate to enact an Ordinance adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in the City of Terrell, Texas.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS;**

**ARTICLE I.**

**THAT** Chapter 12, Utilities, of the Terrell City Code of Ordinances is hereby amended by the addition of Section 12-21, On-Site Sewage Facilities as follows, to-wit:

**Sec. 12-21. On-Site Sewage Facilities.**

- (a) *Conflicts.* – This Section repeals and replaces any other On-Site Sewage Facility (OSSF) Ordinance of the City of Terrell, Texas.
- (b) *On Site Sewage Facility Regulation and Enforcement.* – The City of Terrell, 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 THSC and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Paragraph (e) below.
- (c) *Area of Jurisdiction.* – This section shall apply to all areas lying within the corporate limits of the City of Terrell, Texas.
- (d) *On-Site Sewage Facility Rules.* – Any permit issued for an on-site sewage facility within the jurisdictional area of the City of Terrell, Texas must comply with the Rules adopted in Paragraph (e) below.
- (e) *On-Site Sewage Facility Rules Adopted.* – The Rules, Title 30 Texas Administrative Code (TAC) 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 the City of Terrell, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.
- (f) *Incorporation by Reference.* - The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.
- (g) *Amendments.* – The City of Terrell, Texas wishing to adopt more stringent Rules for this section understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by the City of Terrell, Texas:

The City of Terrell requires a minimum of three-fourth (3/4) of an acre for a property to be served by an on-site sewage facility when served by a public water supply.
- (h) *Duties and Powers.* – The OSSF Designated Representative (DR) (30 TAC §285.2 (17)) of the City of Terrell, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.
- (i) *Collection of Fees.* – All fees collected for permits and/or inspections shall be made payable to the City of Terrell, Texas. An additional fee of ten dollars (\$10.00) shall also

be collected for each on-site sewage facility permit issued to be paid to the credit of the TCEQ Water Resources Management Account as required by THSC, Chapter 367.

- (j) *Appeals.* – Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Municipal Court of the City of Terrell, Texas.
- (k) *Enforcement Plan.* – The City of Terrell, Texas, clearly understands that, at a Minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSF's. This section adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.
- (l) *Relinquishment.* - In the event the City Council of Terrell, Texas, decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the City Council, as authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC § 285.10 (d) (5) and § 285.14 after the date that delegation has been relinquished.

## **ARTICLE II.**

All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

## **ARTICLE III.**

It is hereby declared to be the intention of the City Council of the City of Terrell, Texas, that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall 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 and sections.

## **ARTICLE IV.**

This Ordinance will take effect on October 1, 2021, after the publication of the caption and its approval by the TCEQ as the law in such cases provides.

**PASSED AND APPROVED** this the 16<sup>th</sup> day of March, 2021.

**PASSED AND ADOPTED** this the 20<sup>th</sup> day of April, 2021.



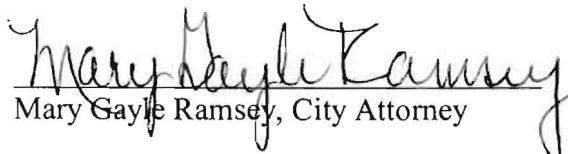
E. Rick Carmona, Mayor

Attest:



Dawn Steil, City Secretary

Approved as to form:



Mary Gayle Ramsey, City Attorney