

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On December 21, 2017 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Waller for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), 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 County of Waller has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Waller Order should be approved.

FINDINGS OF FACT

1. The County of Waller drafted a proposed Order which regulates on-site sewage facilities.
2. On October 26, 2017 the County of Waller caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Waller area of jurisdiction, of a public meeting to be held on November 1, 2017.
3. The County of Waller held a public meeting to discuss its proposed Order on November 1, 2017.
4. The County of Waller Order regulating on-site sewage facilities was adopted on November 1, 2017.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Waller Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction to issue Orders designating local governmental entities as authorized agents. TEXAS WATER CODE ch. 5 and TEXAS HEALTH & SAFETY CODE ch. 366.
2. The Commission may delegate uncontested matters to the Executive Director provided the required notice was given, the applicant agrees to the action and the application is uncontested. TEXAS WATER CODE § 5.122.
3. Notice of the County of Waller's intent to adopt a new County Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. The County of Waller agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The County of Waller's proposed Order incorporates the Commission's rules on abatement or prevention of pollution and prevention of injury to the public health; meets the Commission's minimum requirements for on-site sewage disposal systems. TEXAS HEALTH & SAFETY CODE § 366.032.

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

1. The County of Waller is hereby authorized to implement its new County Order regulating on-site sewage facilities.
2. Any amendments to the County of Waller Order must be approved by the Commission.
3. The Office of Chief Clerk of the Commission is directed to forward a copy of this Order and the County of Waller's adopted Order, marked as Exhibit "A," to the County of Waller and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: December 21, 2017



Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

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

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

WHEREAS, the Commissioners Court of Waller 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 Waller County, Texas.

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

SECTION 3. THAT an Order for Waller County, Texas be adopted entitled "On-Site Sewage Facilities," which shall read as follows:

STATE OF TEXAS
COUNTY OF WALLER
I, DEBBIE HOLLAN, County Clerk, Waller County, Texas
do hereby certify that this is a true and correct copy
as same appears of record in my office. Witness my hand
and seal of office on NOV 08 2017



DEBBIE HOLLAN, County Clerk
Waller County, Texas
By Daisy Metcalf
Deputy
Daisy Metcalf

AN ORDER ENTITLED ON SITE-SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) order for Waller County.

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

The County of Waller, 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 Section 8 of this Order.

SECTION 6. AREA OF JURISDICTION.

(A) The Rules shall apply to all areas lying in Waller County, Texas, except for the areas regulated under an existing Order, Ordinance or Resolution.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

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

SECTION 8. 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 Waller 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 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

STATE OF TEXAS
COUNTY OF WALLER
I, DEBBIE HOLLAN, County Clerk, Waller County, Texas
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and seal of office on

NOV 08 2017



DEBBIE HOLLAN, County Clerk
Waller County, Texas

By Daisy Metcalf
Deputy

Daisy Metcalf

SECTION 10. AMENDMENTS.

The County of Waller, Texas wishing to adopt more stringent Rules for its OSSF Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by Waller County, Texas:

- (A) All On-Site sewage facilities, regardless of acreage, will be required to meet all State and County Standards and be permitted.
- (B) Homeowner maintenance of any secondary treatment system shall not be allowed unless the homeowner has proof that he/she has been trained by the manufacturer/installer or is a maintenance provider that is licensed/certified or has taken a training course approved by Waller County under TCEQ guidelines.
- (C) Homeowner shall test and report as per 30 TAC § 285.91 (4).
- (D) Permits for "all other types of OSSF's" will be conditioned to require testing monthly per 30 TAC § 285.3 (a) (4).
- (E) On-site sewage facilities will not be installed in the floodway. Only aerobic treatment systems with surface application will be installed in the floodplain.
- (F) The allowable time frame for a maintenance company/maintenance provider to respond to complaint from the property owner shall be no longer than 48 hours.
- (G) All disinfection devices approved for use in Waller County must be listed by the National Sanitation Foundation as having passed ANSI/NSF standard 46 for effluent disinfection devices.
- (H) The scale for an OSSF drawing shall be no smaller than 1 in. for 60 ft. Drawings will show property and detail use.
- (I) Maintenance provider shall submit renewal contracts within fourteen (14) days of signing.
- (J) Maintenance Providers signing new contracts on existing aerobic systems will do an inspection within 14 days of signing new contract.
- (K) The installer of new OSSF's that have failed to pass a final inspection will be required to be re-inspected within ten (10) days of failed final inspection.
- (L) Surface improvements, as listed in the TCA § 285.91 (X), will be defined as "anything" that has replaced the natural dirt surface area. Including risers, riser lids, slabs, air compressor units, control panels, etc.
- (M) The installer of record, on the permit application, must be present at the final inspection.

STATE OF TEXAS
COUNTY OF WALLER

I, DEBBIE HOLLAN, County Clerk, Waller County, Texas do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on

NOV 08 2017

DEBBIE HOLLAN, County Clerk
Waller County, Texas

By Daisy Metcalf
Daisy Metcalf Deputy



SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC§ 285.2(17)) of Waller 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/or inspections shall be made payable to Waller County, Texas. A fee of \$10.00 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the THSC, 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 Waller County, Texas.

SECTION 14. ENFORCEMENT PLAN.

The County of Waller, Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC§ 285.71 Authorized Agent Enforcement of OSSFs.

This Order adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341, 343 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapters 30, Subchapters A and G, and Chapter 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Waller 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, clauses, sentences, paragraphs, or sections.

SECTION 16. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Waller 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 TAC § 285.10 (d) (1) through (4).

STATE OF TEXAS
COUNTY OF WALLER

I, DEBBIE HOLLAN, County Clerk, Waller County, Texas do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on

NOV 08 2017



DEBBIE HOLLAN, County Clerk
Waller County, Texas

By Daisy Metcalf
Deputy

Daisy Metcalf

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back feeds in accordance with 30 TAC § 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 THIS 1st DATE OF November, 2017.

APPROVED:



County Judge

ATTEST:



County Clerk



STATE OF TEXAS
COUNTY OF WALLER

I, DEBBIE HOLLAN, County Clerk, Waller County, Texas
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DEBBIE HOLLAN, County Clerk
Waller County, Texas

By Daisy Metcalf
Deputy

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