

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

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 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 Washington County, Texas should enact an Order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Washington, Texas; and

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

WHEREAS, the Commissioners Court of Washington 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 Washington County, Texas

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

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

RULES OF WASHINGTON COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS

This Order repeals and replaces any other On-Site Sewage Facility Order for Washington County, Texas.

SECTION 5. CHAPTERS 366, 7 and 37 ADOPTED

The County of Washington, 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 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

The Rules shall apply to all the area lying in Washington County, Texas, except for areas regulated under an existing Rule and areas lying within incorporated cities. However, the Rules shall apply to those incorporated cities or towns that have executed intergovernmental agreements with Washington County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES

Any structure discharging sewage within the jurisdictional area of Washington County, Texas must comply with the Rules adopted in this Order.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED

The Rules, Title 30 Texas Administrative Code Chapter 30 and Chapter 285, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Washington 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, Title 30 Texas Administrative Code Chapter 30 and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. The County Environmental Director shall make available a copy of the Rules along with Washington County's amendments after the effective date of these Rules.

SECTION 10. AMENDMENTS

The County of Washington, 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 after the effective date of these rules. Listed below are the more stringent Rules adopted by Washington County, Texas:

- A. Each new, altered, repaired, or enlarged on-site sewage facility shall require a permit, whether the work is to be performed by the resident property owner or a licensed installer, and regardless of acreage, except that emergency repairs meeting the requirements of §285.35, and system maintenance do not require a permit. Permit application fees shall be non-refundable and charged in accordance with the current fee schedule adopted by Commissioners Court.
- B. The property owner shall contact the permitting authority prior to submittal of a permit application to receive on-site sewage facility information. If the property owner has a contract for sale of the property, the purchaser shall contact the permitting authority prior to submittal of a permit application to receive on-site sewage facility information.
- C. A resident property owner of a single-family dwelling may install, alter, repair, or enlarge a standard on-site sewage facility consisting of septic tanks with an absorptive drainfield or an unlined evapotranspiration bed themselves. A licensed installer shall install, alter, repair, or enlarge all other types of on-site sewage facilities, except that owners of systems requiring ongoing testing and/or reporting who are approved to maintain their own system may repair their system.
- D. Permit applications shall expire one year from the date of application if authorization to construct has not been issued during that time. Once expired, the owner will be required to submit a new application and application fee before an on-site sewage facility may be installed.
- E. The term Public Water Supply, as used in 30 TAC, Chapter 285, is equivalent to a Public Water System, as defined in 30 TAC, Chapter 290. Either term shall be defined by 30 TAC, Chapter 290 and all future amendments and revisions thereto.
- F. Parcels, lots, or tracts of land subdivided or created on or after the effective date of this Order that will utilize an on-site sewage facility shall be subject to the following acreage requirements.
 - 1. Each parcel, lot, or tract of land not having nor proposing to have an on-site water well, and served by a Public Water Supply, shall be at least one (1) acre.

2. Each parcel, lot, or tract of land having or proposing to have an on-site water well, whether or not it is served by a Public Water Supply, shall be at least one and one-half (1.5) acres.
- G. Parcels, lots, or tracts of land subdivided or created between January 1, 1988 and the effective date of this Order not having nor proposing to have an on-site water well, served by a Public Water Supply, and being less than one-half (0.5) acre, or having or proposing to have an on-site water well, whether or not it is served by a Public Water Supply, and being less than one (1) acre, may be approved for an on-site sewage facility provided a professional engineer or professional sanitarian prepares the planning materials.
 - H. Several on-site sewage facilities to serve separate residential structures may be permitted on each parcel, lot, or tract of land not having nor proposing to have an on-site water well, and served by a Public Water Supply. The acreage shall be equal to or greater than the number of dwelling units on that parcel, lot, or tract of land times one (1) acre, and the landowner shall own all on-site sewage facilities.
 - I. Several on-site sewage facilities to serve separate residential structures may be permitted on each parcel, lot, or tract of land having or proposing to have an on-site water well, whether or not it is served by a Public Water Supply. The acreage shall be equal to or greater than the number of dwelling units on that parcel, lot, or tract of land times one and one-half (1.5) acres, and the landowner shall own all on-site sewage facilities.
 - J. Pump tanks shall be sized for at least one-day of storage between the alarm-on level and the inlet to the pump tank.
 - K. Grease traps shall be sized according to the Environmental Protection Agency Onsite Wastewater Systems Design Manual 1980.
 - L. When previously existing tanks will be used as components in a newly permitted on-site sewage facility, they must have been emptied within the previous twelve (12) months before final inspection. The sludge transporter who emptied the tanks must be registered by the TCEQ and a copy of the waste manifest shall be provided to the permitting authority prior to final inspection.
 - M. In addition to the requirements of §285.36. When any septic tank, borehole, cesspool, seepage pit, holding tank, pump tank, or grease trap is abandoned, it shall be emptied by a TCEQ registered sludge transporter and a copy of the waste manifest shall be submitted to the permitting authority.
 - N. All perforated pipe used for drainfield construction shall be at least 3,000-pound crush rated.

- O. Leaching chambers shall not be used when the soil analysis indicates that Class III or IV soil is present within the first five (5) feet of the soil profile.
- P. Gravel-less drainfield piping shall not be used when the soil analysis indicates that Class III or IV soil is present within the first five (5) feet of the soil profile.
- Q. Lined evapotranspiration beds shall be lined with rubber, plastic, reinforced concrete, or gunite only. Clay liners shall not be used.
- R. Aerobic / surface disposal on-site sewage facilities and any other systems that are required to meet secondary quality effluent standards shall be subject to the following requirements.
 - 1. Surface spray disposal systems shall be operated only as originally designed, and not modified to dispose of effluent in other ways.
 - 2. There shall be nothing within the surface spray disposal area that would interfere with the uniform application of effluent, including but not limited to trees and shrubs.
 - 3. Disinfection equipment shall be commercially manufactured and shall be tested and certified under NSF International Standard 46.
 - 4. Chlorine residual testing shall be performed using a chlorine meter that displays the reading digitally.
 - 5. Each such surface spray disposal and drip emitter on-site sewage facility must be equipped with an effluent filtering device capable of filtering particles larger than 100 microns.
 - 6. A commercial irrigation timer shall control all surface spray disposal on-site sewage facilities. Spray disposal shall occur between midnight and 5:00 a.m. only. Existing on-site sewage facilities not equipped with a commercial irrigation timer shall be brought into compliance with this rule within one hundred-eighty (180) days after the effective date of this Order.
 - 7. Each such on-site sewage facility shall be subject to testing, reporting, and fees, whether the owner or a maintenance provider maintains it.
 - 8. Each such on-site sewage facility shall be subject to testing, reporting, and fees, whether or not the system is in use.

9. Each maintenance provider having contracts in Washington County shall register with the Washington County Environmental Department. Maintenance provider registrations shall be effective from the date of registration to December 31st of the same year. Renewal maintenance provider registrations for the next year shall not be accepted before December 1st of the current year. New and renewal maintenance contracts will only be accepted from maintenance providers whose registration is current and in good standing. Maintenance provider registration shall be free of charge.
10. Maintenance frequency shall follow the below schedule:
 - a. Single-family residential systems maintained by a maintenance provider shall be tested and submit reports every three (3) months. The first maintenance testing and report submittal of each contract period shall be completed no later than fourteen (14) days from the start date of the contract. Subsequent testing and report submittal due dates shall be determined from the start date of the contract.
 - b. Single-family residential systems maintained by the owner shall be tested and submit reports within fourteen (14) days of January 1st, April 1st, July 1st, and October 1st.
 - c. All other systems shall be tested and submit reports monthly.
11. When an on-site sewage facility maintenance report is received by Washington County that indicates the system has less than the required chlorine residual, or is in any other way not functioning properly, the owner of the system shall insure that the system is brought into compliance, retested, and that another report is submitted to the owner and Washington County within ten (10) days of the previous report. Such extra reports shall not alter or postpone the regular maintenance schedule.
12. Maintenance providers who fail to perform maintenance testing at the required intervals, or who fail to submit a report on time, two (2) or more times during any twelve (12) month period may have their registration suspended for up to one (1) year in addition to any other penalties that may apply. No new or renewal maintenance contracts will be accepted from a maintenance provider during the time their registration is suspended.

13. Renewal maintenance contracts received by Washington County less than thirty (30) days before the expiration date of the previous contract shall pay late renewal fees in accordance with the current fee schedule adopted by Commissioners Court.
14. After expiration of the initial two (2) year maintenance contract, the resident property owner of a single-family dwelling may maintain their system personally instead of contracting with a maintenance provider if the owner submits verification to Washington County of successful completion of an approved aerobic OSSF maintenance course. Owners who were approved to maintain their own system prior to the effective date of these Rules are exempt from this Rule as long as they remain current and in good standing.
15. Homeowners maintaining their own on-site sewage facility shall be required to contract with a maintenance provider for the maintenance of the system if the owner fails to pay fees on time, or fails to perform maintenance testing at the required intervals, or fails to submit reports on time, or has confirmed nuisance complaints, two (2) or more times during any twelve (12) month period.
16. Each such on-site sewage facility shall be subject to a maintenance-tracking fee. The fee amount shall be in accordance with the current fee schedule adopted by Commissioners Court.
 - a. For systems maintained by a maintenance provider the fee shall be paid by the maintenance provider at the time of contract submittal; prior to the commencement of the initial maintenance contract, and prior to the commencement of each subsequent maintenance contract.
 - b. For systems maintained by the owner, the owner shall pay the fee, the fee shall be due annually on January 1st, and shall be late if paid on or after February 1st. Fees for partial years shall be prorated.
 - c. Maintenance-tracking fees received late shall pay late renewal fees in accordance with the current fee schedule adopted by Commissioners Court.
17. Surface disposal shall not spray effluent closer than two hundred twenty five (225) feet from any public water well.
18. Surface disposal shall not spray effluent closer than one hundred fifty (150) feet from any private water well or underground cistern.

19. Surface disposal shall not spray effluent closer than fifteen (15) feet from any water line or the edge of any right-of-way or easement; except that no setback is required for an overhead easement if written permission is granted by the easement holder.
20. Surface disposal shall not spray effluent closer than seventy-five (75) feet from any private water well that is completed in accordance with 16 TAC § 76.1000(a)(1).
21. Surface disposal shall not spray effluent closer than one hundred thirteen (113) feet from any streams, ponds, lakes, rivers, creeks, or other waterways (measured from normal elevation). Retention ponds and basins shall be measured from spillway elevation.
22. Surface disposal shall not spray effluent closer than seventy-five (75) feet from any foundations, buildings, surface improvements, property lines, swimming pools, or other structures.
23. Surface disposal shall not spray effluent closer than thirty-eight (38) feet from any slopes where seeps may occur.

SECTION 11. DUTIES AND POWERS

The Washington County Environmental Department shall have administrative authority over these Rules. Individuals must be licensed by the Texas Commission on Environmental Quality as a Designated Representative before assuming the duties and responsibilities of a Designated Representative.

SECTION 12. COLLECTION OF FEES

All fees collected shall be made payable to Washington County, Texas. Fees shall be charged in accordance with the current fee schedule adopted by Commissioners Court.

SECTION 13. APPEALS

Persons aggrieved by an action or decision of a Designated Representative may appeal such action or decision to the Commissioners Court of Washington 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 Title 30 Texas Administrative Code Chapters 30 and 285.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Washington 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 phrase, 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 28th DAY OF April, 2009

APPROVED:


DOROTHY MORGAN,
COUNTY JUDGE

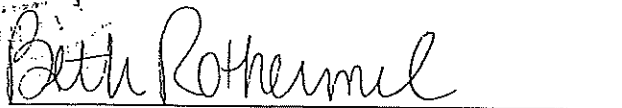
Absent
ZEB HECKMANN
COMMISSIONER PCT. 1

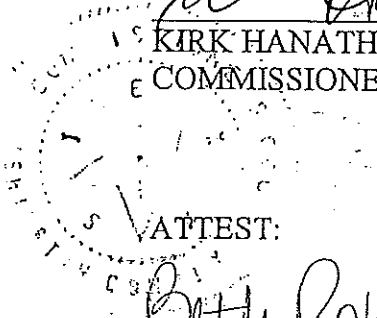

DONALD AHRENS
COMMISSIONER PCT. 2


KIRK HANATH
COMMISSIONER PCT. 3


JOY FUCHS
COMMISSIONER PCT. 4

ATTEST:


BETH ROTHERMEL,
COUNTY CLERK



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

LaDonna Castanuela JUN 18 2009

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

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

On JUN 15 2009 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Washington 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 Washington has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Washington Order should be approved.

FINDINGS OF FACT

1. The County of Washington drafted a proposed Order which regulates on-site sewage facilities.
2. On April 24, 2009 the County of Washington caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Washington area of jurisdiction, of a public meeting to be held on April 28, 2009.
3. The County of Washington held a public meeting to discuss its proposed order on April 28, 2009.
4. The County of Washington Order regulating on-site sewage facilities was adopted on April 28, 2009.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Washington Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.