

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On APR 16 2008 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Trinity, ("Applicant" or "Trinity"), 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 Trinity County Order should be approved.

FINDINGS OF FACT

1. The County of Trinity drafted a proposed amendment to its order which regulates on-site sewage facilities.
2. On October 25, 2007 the County of Trinity 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 Tuesday, November 13, 2007.
3. The County of Trinity held a public meeting to discuss the proposed amendment to its order on November 13, 2007.
4. Trinity County's Order regulating on-site sewage facilities was adopted on November 13, 2007.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Trinity 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 Trinity is hereby authorized to implement its Order which regulates on-site sewage facilities.
2. Any amendments to the Trinity 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: **APR 16 2008**



Executive Director
Texas Commission on Environmental Quality

EXHIBIT "A"

DDDD

0726

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

WHEREAS, the Texas Commission on Environmental Quality has established Design Criteria 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 a Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage disposal 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 meeting and public hearing to determine whether the Commissioners' Court of Trinity County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Trinity, Texas; and,

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof and the evidence and arguments there presented were considered by the Commissioners' Court of Trinity County, Texas; and,

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

WHEREAS, the Commissioners' Court of Trinity 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 Trinity County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS' COURT OF TRINITY COUNTY, TEXAS:

Section I

That the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct.

Section II

That the use of on-site sewage facilities in Trinity County, Texas is causing or may cause pollution or is injuring or may injure public health;

Section III

That an Order for Trinity County, Texas be adopted entitled "On-Site Sewage Disposal", which shall read as follows:

A CERTIFIED COPY
ATTEST: JAN 07 2008
DIANE McCORRY, COUNTY CLERK
TRINITY COUNTY, TEXAS
BY Dme DEPUTY

AN ORDER ENTITLED ON-SITE SEWAGE DISPOSAL

Section IV
CONFLICTS

All Orders or parts of the Orders of Trinity County, Texas not consistent with or in conflict with the provisions of this Order are hereby repealed.

Section V
ADOPTING CHAPTER 366

The County of Trinity, Texas clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

Section VI
AREA OF JURISDICTION

These Rules shall apply to all the area lying in Trinity County, Texas, except the area regulated under an existing Rule and the areas within incorporated cities.

Section VII
ON-SITE SEWAGE FACILITY RULES

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of Trinity County, Texas must comply with the rules adopted in Section VIII of this order.

Section VIII
ON-SITE SEWAGE FACILITY RULES ADOPTED

The Rules "Design Criteria for On-Site Sewage Facilities" and Administrative Rules 30 TAC 285.1-285.91, promulgated by the Texas Commission on Environmental Quality for on-site sewage systems are hereby adopted, and all officials and employees of Trinity County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

Section IX
INCORPORATION BY REFERENCE

The Design Criteria and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

Section X
DUTIES AND POWERS

The Designated Representative of Trinity County, Texas is herewith declared the designated representative for the enforcement of these Rules within its jurisdictional area. The appointed individual(s) must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Trinity County, Texas.

A CERTIFIED COPY
ATTEST: JAN 07 2008
DIANE McCORRY, COUNTY CLERK
TRINITY COUNTY, TEXAS
BY Dmc DEPUTY

0728

Section XI
AMENDMENT

The county of Trinity, Texas wishing to adopt more stringent rules for its On-Site Sewage Facility order, understands that more stringent conflicting local rule 20 shall take precedence over the corresponding Texas Commission on Environment Quality requirement. Listed below are the more stringent rules adopted by Trinity County, Texas:

(A) In order to provide greater public health and safety protection, Trinity County shall require the maintenance for all OSSF's identified in 285.91 (12) to be performed by a registered maintenance company for a period of two years from the installation date.

(1) Exception to maintenance contract. At the end of the initial two-year maintenance period, the owner of an aerobic treatment system for a single family residence shall either maintain the system personally or obtain a new maintenance contract with a TCEQ registered maintenance company

(a) If the owner of an OSSF using aerobic treatment for a single-family residence elects to maintain the system directly the owner must obtain maintenance training for the system from either the manufacturer or an installer or maintenance company who has been certified by the manufacturer.

(1) Testing and reporting. If the owner elects to maintain the system directly, the owner must submit to the permitting authority a maintenance report every four months as prescribed by the permitting authority.

Section XII
COLLECTION OF FEES

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

Section XIII
APPEALS

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

Section XIV
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, Chapter 26 of the Texas Water Code and 30 TAC Chapter 285.

A CERTIFIED COPY
ATTEST: JAN 07 2008
DIANE MCKRORY, COUNTY CLERK
TRINITY COUNTY, TEXAS
BY DMC DEPUTY

Section XV
SEVERABILITY

It is hereby declared to be the intention of the Commissioners' Court of Trinity County, Texas that the phrases, clauses, sentences, paragraphs and sections of this Order are severable, and if any phrase (clause, sentence, paragraph, or section) to this Order should be declared unconstitutional by the valid judgement of 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 the Commissioners' Court without incorporation in this Order of such unconstitutional phrase, clause, sentence, paragraph, or section.

Section XVI
RELINQUISHMENT OF ORDER

If the Commissioners' Court of Trinity County, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction the Commissioners' Court shall follow the procedures out line below:

The Commissioners' Court shall inform the Texas Commission on Environmental Quality by certified mail at least 30 days before the published date of the public hearing notice that it wishes to relinquish its On-Site Sewage Facility Order.

The authorized agent shall post the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least 30 days prior to the anticipated date of action by the authorized agent.

The authorized agent shall send a copy of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes to the Texas Commission on Environmental Quality.

The executive director shall process the request for relinquishment and may issue an order relinquishing the authority to regulate On-Site Sewage Facilities within the authorized agent's jurisdiction or may refer the request to relinquish to the Commission.

Prior to issuance of a relinquishment order the local governmental entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designation to the executive director.

A CERTIFIED COPY
ATTEST: JAN 07 2008
DIANE McCORRY, COUNTY CLERK
TRINITY COUNTY, TEXAS
BY DMC DEPUTY

0730

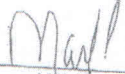
Section XX
RELINQUISHMENT OF AN ORDER

An 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.

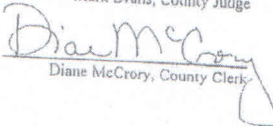
AND IT IS SO ORDERED

PASSED AND APPROVED THIS 13th DAY OF November, 2006.

APPROVED:



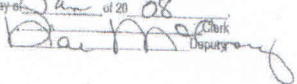
Mark Evans, County Judge



Diane McCrory, County Clerk

STATE OF TEXAS
COUNTY OF TRINITY

I, Diane McCrory, Clerk of the County Court of Trinity County, Texas, do hereby certify that the foregoing is a true and correct copy of the original Order as the same appears of record in my office in volume 72 page 72 given under my hand and seal of said County of office in Groveton this

7 day of June of 2006


Diane McCrory, Clerk
Deputy