

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF THE
APPLICATION OF
WILLIAMSON COUNTY
FOR A TEXAS HEALTH AND SAFETY
CODE §366.031 ORDER

§ BEFORE THE EXECUTIVE
§ DIRECTOR OF THE TEXAS
§ COMMISSION ON
§ ENVIRONMENTAL
§ QUALITY

On May 7, 2021, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Williamson County 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 Williamson County has satisfied the requirements of §366.031, THSC. The Commission finds that the Williamson County Order should be approved.

FINDINGS OF FACT

1. Williamson County drafted a proposed Order which regulates on-site sewage facilities.
2. On January 6, 2021, Williamson County caused notice to be published, in a newspaper regularly published and of general circulation, in the Williamson County's area of jurisdiction, of a public meeting to be held on January 12, 2021.
3. Williamson County held a public meeting to discuss its proposed Order on January 12, 2021.
4. The Williamson County Order regulating on-site sewage facilities was adopted on January 12, 2021.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Williamson County 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 Williamson County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Williamson County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Williamson County'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. Williamson County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Williamson County 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 Williamson County's adopted Order, marked as Exhibit "A," to Williamson County and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: May 7, 2021



Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

COUNTY OF WILLIAMSON

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§
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STATE OF TEXAS

AFFIDAVIT

Before me, the undersigned authority, personally appeared who, being by me duly sworn, deposited as follows:

My name is Nancy E. Rister, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

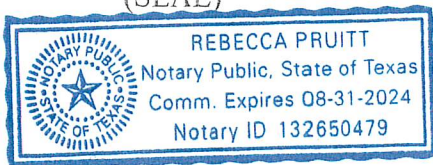
I am the custodian of the records of the County Clerk's Office for the County of Williamson, Texas. Attached hereto are Ten (10) pages of records known as Order Adopting First Amended Rules of Williamson County, Texas for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Williamson, Texas, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

Nancy E. Rister

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Nancy E. Rister, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22nd day of January, 20 21.

(SEAL)



Rebecca Pruitt

Notary Public - State of Texas

My commission expires: 08-31-2024

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

WHEREAS, the Commissioners Court of Williamson County, Texas finds that the Edwards Aquifer is a vital source of drinking water for residents of Williamson County and the Edwards Aquifer has been identified as being susceptible to groundwater pollution; and

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

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

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

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

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) Order for Williamson County, Texas.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The County of Williamson, 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 (the "Rules").

SECTION 6. AREA OF JURISDICTION.

The Rules shall apply to all the areas lying within Williamson County, Texas, except for 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 Williamson County, Texas must comply with the Rules adopted in Section 8 of 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 Williamson 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.

SECTION 10. AMENDMENTS.

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

(A) DEFINITIONS

1. Bedroom -A living area which has privacy by a door and has a built-in closet.
2. Kitchen – An area used for food preparation which has any of the following: a range, a full-size refrigerator or a dishwasher.
3. Living unit —A structure on a residential lot is considered a living unit if it can be used as a separate residence. This structure will include either a bathtub or shower and a kitchen. Independent living units, both attached or detached, will be classified as separate residences for design and density calculations.

(B) RULE CONTROLLING SEWAGE DISCHARGES

After September 27, 1999, each new or altered single family dwelling, multi-family dwelling, business, commercial, or industrial structure, regardless of the size or acreage of the tract of land on which the dwelling or structure is located, must be connected to an approved On-Site Sewage Facility ("OSSF") or be connected to an authorized wastewater disposal system. Tracts of land that are ten acres or larger are not exempted and must comply with these Rules.

(C) LICENSING OF ON-SITE SEWAGE FACILITIES

No person, except the person owning or having the right of possession and use of the parcel of land upon which a proposed OSSF is to be located, may apply for an OSSF permit to construct unless written authorization from such person is provided to the County.

1. The license application shall automatically expire if the OSSF is not completed within one year from the date of application. An application may be extended for up to one additional year from "authorization to construct" date with a written request before the expiration date and payment of the appropriate fee.
2. The County shall inspect the installation of the OSSF facility as deemed necessary for verification of compliance with these and State Rules.
3. Unless otherwise excepted upon issuance, the license shall be valid and continue in force until the license is canceled or revised and the license shall be transferable if the property is sold.

(D) REQUIREMENTS FOR NEWLY PLATTED OR UNPLATTED LOTS UTILIZING ON-SITE SEWAGE FACILITIES

After September 27, 1999, it shall be a violation for any person to create lots that will use, wholly or in part, On-Site Sewage Facilities without compliance in full with the requirements of the following:

1. Planning material must identify the source of the potable water for each lot and whether the potable water distribution system has been approved by TCEQ. Lots in which a private well is to be used must identify the proposed location of such well and show an area of one hundred (100) foot radius around the well in which no OSSF disposal unit may be located. A 150' radius is required for public water wells. This area shall be designated as a private well sanitary easement.
2. All tracts and lots in subdivisions utilizing an OSSF for wastewater disposal shall comply with the minimum size requirements of this subsection. In no case shall the minimum required lot size be smaller than that specified by the provisions of 30 TAC Section 285.

- a. For properties where each lot maintains an individual water supply or is otherwise not served by a public water supply, each lot shall contain at least two (2) acres in surface area. This requirement includes single and multi-family residential lots, non-residential lots, and manufactured housing community lots. Each living unit of a multi-family residence, including duplexes, shall be considered a single-family residence for the purpose of determining lot size. Non-residential lots may require additional acreage depending on specific uses. The required minimum acreage for manufactured housing communities shall equal the number of houses in the tract times the minimum lot size for each house.
 - b. For properties receiving potable water from a public water supply and an individual water supply is not present, each lot shall contain at least one (1) acre in surface area. This requirement includes single and multi-family residential lots, non-residential lots, and manufactured housing community lots. Each living unit of a multi-family residence, including duplexes, shall be considered a single-family residence for the purpose of determining lot size. Non-residential lots may require additional acreage depending on specific uses. The required minimum acreage for manufactured housing communities shall equal the number of houses in the tract times the minimum lot size for each house.
 - c. In calculating minimum lot sizes for compliance with these Rules, recognizable bed and banks of wet weather creeks, bodies of water and dedicated public road easements shall be excluded from the overall square footage of the lot and the remaining square footage of the lot shall be the sole basis for determining minimum lot size.
3. A tract that has been subdivided without compliance with the Williamson County Subdivision regulations will be ineligible to obtain an authorization to construct an on-site sewage facility.
 4. Properties platted before September 27, 1999 will follow minimum lot sizing standards specified in 30 TAC 285.4.

(E) SPECIAL RESTRICTIONS AND CONDITIONS

1. Lot Size: No OSSF may be licensed to serve a lot or tract created after September 27, 1999, if it fails to meet the minimum size requirements set out in Section 10. (D) 2. of these Rules. Facilities may be permitted, installed and licensed to operate on lots smaller than the minimum only if it met the lot sizing requirements in place at the time of the lot's creation, and it is demonstrated by a thorough investigation that an On-Site Sewage Facility can be operated without causing a threat of harm to an existing or proposed water supply system or to the public health, without the threat of pollution or nuisance conditions, and without violating any prescribed setback.

2. Field monitoring: For monitoring purposes in gravity flow systems, a threaded capped riser with cleanout equal to the size of the outlet pipe shall be provided on the outlet of the tank between the tank and the drainfield(s). Additional capped pipes shall be provided in the drainfield(s) to allow for easy monitoring of liquid depths.
3. Pump Tank: In order to provide reserve capacity in the pump tank in the event of a pump failure, pump tanks shall be sized for one-day flow reserve above the alarm on level.
4. Electronic Monitoring: Surface irrigation systems, systems that use special treatment technologies for high strength waste and other systems that are required to meet secondary treatment shall have the option of utilizing electronic monitoring. Systems equipped with electronic monitoring systems that will notify the maintenance company of systems or components failure and will monitor the amount of disinfection will not be required to undergo routine inspections by the maintenance company more often than every 6 months. Systems not currently equipped with electronic monitoring systems shall be required to submit maintenance inspection reports at least once every 4 months.
5. Secondary Treatment Requirements: In addition to 30 TAC Chapter 285 requirements, surface irrigation systems and any other systems that are required to meet secondary quality effluent standards must comply with the requirements of these Rules.
 - a. All surface application systems shall be required to have a secure audible and visible alarm for aeration malfunction or lack of disinfection.
 - b. Surface irrigation shall be limited to spray application only.
 - c. Irrigation shall not spray closer than twenty (20) feet to any property line. Irrigation shall not spray closer than ten (10) feet to any part of a residence or occupied place of business.
 - d. Spray irrigation shall be conducted during nighttime hours (after midnight and before 5:00 AM), preferably just before sunrise.
 - e. Surface application systems shall not be equipped with an automatic override below the alarm level.
6. Maintenance Requirements: In order to provide greater public health and safety protection, the maintenance for all aerobic treatment units shall be performed by a TCEQ registered maintenance company unless:
 - a. The homeowner is a TCEQ registered maintenance provider for his/her aerobic treatment unit; or

- b. The homeowner / property owner takes a wastewater D licensing course and passes the examination; or
 - c. On or after September 1, 2007, the homeowner/property owner receives specific has successfully completed the basic on-site sewage homeowner maintenance provider course conducted by a TCEQ approved training provider.
 - d. Homeowners so qualified and choosing to perform their own inspections must submit a County provided "contract form" to the County indicating that they will conduct the required maintenance and provide periodic inspection reports.
 - e. Homeowners failing to submit a completed "contract form", or required testing and timely reporting results, or falsifying the required documents, will be required to contract with a registered maintenance provider.
7. The required maintenance inspection and test report, conducted by the above prescribed qualified homeowner/property owner or the TCEQ registered maintenance company, which must be submitted to the permitting authority shall:
- a. Meet all inspection requirements as set by the order of the County and the TCEQ Rules, as well as, the inspection requirements outlined by the manufacturer for the brand being inspected; and]
 - b. Address all inspection and testing requirements as set by the order of the County and the TCEQ Rules, as well as, the testing requirements as set out by the manufacturer for the brand being inspected.
 - c. Report of the sludge levels in the pump tank and the condition of the spray area to be included on each required testing report specified by the Rules.
8. Permit Revocation: In the event that a system is creating a health nuisance or if system violations such as aeration malfunction or disinfection less than required are not repaired within ten (10) days, its license to operate will be cancelled. The system will not be re-licensed until the nuisance is abated or the system is brought back in compliance, a maintenance report is submitted indicating no violations, and the OSSF renewal fee is paid to the County.
9. License Transfer: A License Transfer Application shall be submitted to the County within thirty (30) days of transfer of the ownership of an OSSF that is required to meet secondary treatment and shall include the required transfer fee. A current maintenance inspection report and a copy of the current maintenance contract or, if qualified pursuant to Subsection 10.E.6 above, a homeowner's real estate purchase contract must accompany the License Transfer Application.

10. A climate controlled structure, which is separated from the main residence, does not have plumbing and is used for storage, exercise space, as a workshop, office space, music space, artistic space, animal sheltering or similar is not considered a part of the single family living space structure for the purpose of wastewater flow design calculations.
11. License expiration: The license to operate OSSF systems required to meet secondary treatment shall be valid for two (2) years. At the end of two (2) years, if the system is receiving the required inspections, is properly operating and a valid maintenance contract or a homeowner's contract pursuant to Subsection 10.E.6 above is in effect, the license may be renewed upon payment of the renewal fee in accordance with a fee schedule adopted by the Commissioners Court.
12. A property owner is allowed to have two recreational vehicles or travel trailers on a lot with an on-site sewage facility that is licensed to operate for a residence. The recreational vehicles or travel trailers may not be connected to the residential on-site sewage facility and they may not be occupied as vacation rentals, temporary homes or domiciles. If a property has more than two recreational vehicles or travel trailers or the property contains more than two recreational vehicles or travel trailers that are being used as a vacation homes, a temporary homes or domiciles, then the property owner must obtain the appropriate OSSF permit.
13. All on-site sewage facility permit applications that include flows from manufactured homes, recreational vehicles, travel trailers or multifamily developments, must comply with the infrastructure requirements in the Williamson County Subdivision Order, the Williamson County Manufactured Home Order and the Emergency Services Department Regulations.
14. OSSF treatment units or disposal fields may not be placed in the regulated FEMA floodway.

SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of Williamson 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 Williamson County, Texas. A fee of \$10 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 Williamson County, Texas.

SECTION 14. ENFORCEMENT PLAN

The County of Williamson, 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 Chapter 30, Subchapters A and G, and Chapter 285.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Williamson 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 Williamson 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).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

SECTION 17. EFFECTIVE DATE.

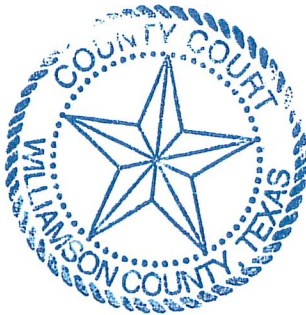
This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 12 DAY OF January, 2021.

APPROVED:

(SEAL)



Valerie Covey
~~Bill Gravel Jr., County Judge~~ *Presiding Officer*
Valerie Covey

ATTEST:

Nancy E. Rister
Nancy E. Rister, County Clerk.