

# 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 OCT 05 2009 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 August 20, 2009 the County of Waller caused notice to be published, in a newspaper(s) regularly published and of general circulation, in the County of Waller area of jurisdiction, of a public meeting to be held on Tuesday, August 25, 2009.
3. The County of Waller held a public meeting to discuss its proposed order on August 25, 2009.
4. The County of Waller Order regulating on-site sewage facilities was adopted on August 25, 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 Waller Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

ORDER ADOPTING RULES OF WALLER 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 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 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 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:

## AN ORDER ENTITLED ON SITE-SEWAGE FACILITIES

### SECTION 4. CONFLICTS

This Order repeals and replaces any other On-site Sewage Facility order for Waller County.

### SECTION 5. CHAPTER 366

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 Texas Health and Safety Code (H&SC) 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 area lying in Waller County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.
- (B) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Waller County, Texas.

### 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 of this Order.

### SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality 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 Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules are attached to these Rules as Appendix I.

### SECTION 10. AMENDMENTS

The County of Waller, 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. 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.

#### SECTION 11. DUTIES AND POWERS

The OSSF Inspector of Waller County, Texas must be certified by the Texas Commission on Environmental Quality 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.

#### 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. PENALTIES

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 and 366 of the Texas Health and Safety Code, Chapter 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 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 phase, 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, 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 25 DATE OF August, 2009.

APPROVED:

Owen Ralston  
County Judge

ATTEST:

Cheryl Peters  
County Clerk

STATE OF TEXAS  
COUNTY OF WALLER  
I, CHERYL PETERS, 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



SEP 09 2009

CHERYL PETERS, County Clerk  
Waller County, Texas  
By Cheryl Peters  
Deputy

Candice Adams