

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



FEB 21 2014

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

On February 18, 2014, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Hays 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 Hays has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Hays Order should be approved.

FINDINGS OF FACT

1. The County of Hays drafted a proposed Order which regulates on-site sewage facilities.
2. On May 31, 2013, the County of Hays caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Hays' area of jurisdiction, of a public meeting to be held on June 4, 2013.
3. The County of Hays held a public meeting to discuss its proposed Order on June 4, 2013.
4. The County of Hays Order regulating on-site sewage facilities was adopted on June 4, 2013.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Hays Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

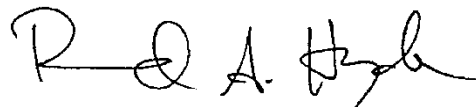
## CONCLUSIONS OF LAW

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 Hays' 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 Hays agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The County of Hays' 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 Hays is hereby authorized to implement its new County Order regulating on-site sewage facilities.
2. Any amendments to the County of Hays 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 Hays' adopted Order, marked as Exhibit "A," to the County of Hays and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: February 18, 2014



Executive Director  
Texas Commission on Environmental Quality

# EXHIBIT A

**ORDER ADOPTING RULES FOR HAYS COUNTY, TEXAS  
FOR ON-SITE SEWAGE FACILITIES**

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

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

**WHEREAS**, the Commissioners Court of Hays 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 Hays County, Texas; **NOW, THEREFORE,**

**BE IT ORDERED BY THE COMMISSIONERS COURT OF HAYS 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 Hays County, Texas is causing, or may cause, pollution or is injuring, or may injure the public health.

**Section 3.** That an Order for Hays 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 (OSSF) Order for Hays County. If there are any conflicts with any phrase, clause, sentence, paragraph, or section of the Hays County Development Regulations, the provisions of this Order shall govern.

**Section 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT.**

The County of Hays, 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. This Order shall apply to all areas lying within Hays County, Texas, except for the areas regulated under an existing Order, Ordinance, or Resolution.

B. Regulated OSSF.

This Order shall apply only to on-site sewage disposal facilities in Hays County that are considered to be regulated OSSFs, meeting the following criteria:

1. The OSSF does not treat or dispose of more than 5,000 gallons of sewage each day; and,
2. The OSSF is used only for the disposal of sewage produced on a site where any part of the system is located.

On-site sewage disposal facilities that do not qualify as regulated OSSFs in Hays County, Texas, are under the exclusive jurisdiction of the Texas Commission on Environmental Quality.

**Section 7. ON-SITE SEWAGE FACILITY RULES.**

Approval of the County is required prior to the construction, alteration, or modification of an OSSF unless excluded or exempted under State law or this Order. Any permit issued for an on-site sewage facility within the jurisdictional area of Hays 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 Hays 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 Hays, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facilities, understands that the more stringent local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements if local rules provide

greater public health and safety protection. Listed below are the more stringent Rules adopted by Hays County, Texas.

**A. Definitions**

The following terms shall have the corresponding meaning:

1. Dwelling Unit Equivalent – An estimated quantity of wastewater from a non-residential source that is equivalent to that generated from a three (3) bedroom residential dwelling unit, or 300 gallons per day, whichever is greater.
2. Department -Hays County Development Services Division
3. Groundwater Supply System -Any water supply system that obtains greater than one-third of its overall supply from Groundwater. This classification of water supply systems is further subdivided into Public Groundwater Supply Systems and Private Groundwater Supply Systems. Public Groundwater Supply Systems are any systems designated a Public Water System by the Texas Commission on Environmental Quality. Private Groundwater Supply Systems are any systems that do not qualify as a Public Groundwater Supply System, including, but not limited to, individual water supply wells.
4. Surface or Rainwater Collection System – A water supply system in which greater than two-thirds of the total water obtained is from a "surface" source, rainwater collection, or groundwater from an aquifer that is located entirely outside of Hays County. In the event any water supply system relies on Groundwater for greater than one-third, but not more than one-half, of its total water supply, the Commissioners Court may, on a case-by-case basis, approve an application to consider such water supply system to be a "Surface or Rainwater Collection System."
5. Private Well - Any water well other than a Public Well. This definition includes Non-Public Local Groundwater Supply Systems which are Local Groundwater Supply Systems that do not qualify as a Public Local Groundwater Supply System, including, but not limited to individual water supply wells.
6. Public Well -A water well providing piped water for human consumption and defined as a "Community Water System" or a "Public Water System" under Chapter 290 of the Texas Administrative Code.
7. Rainwater Harvesting System -An individual potable water supply system approved by the Department and having rainwater as its source and designed to provide for any or all of the domestic water requirements, including irrigation.

**B. On-Site Sewage Facility Classifications**

1. Grandfathered System

A grandfathered system is an OSSF meeting all of the following criteria:

- (A) The OSSF manages no more than 5,000 gallons of sewage per day
- (B) The OSSF was either existing prior to the County's initial regulation of OSSFs or was permitted prior to the effective date of these regulations; and,
- (C) The OSSF is subject only to on-going maintenance as that term is defined in 30 TAC 285.

Any alteration, modification, or change in type of use of the OSSF other than maintenance as that term is defined in 30 TAC 285, shall disqualify an OSSF from classification as a grandfathered system.

2. Conventional System (Hays County definition)

The term "Conventional System" means on-site sewage facilities, including septic tanks, sewage holding tanks, treatment tanks and all other such facilities and systems consisting of a standard treatment system, as defined under 30 TAC §285.32(b), and an effluent dispersal system that does not use a pressurized method to uniformly distribute effluent over the entire disposal/dispersal area, and managing no more than 5,000 gallons of sewage per day.

3. Advanced System (Hays County definition)

The term "Advanced System" means an on-site system of sewage treatment and disposal other than a conventional system, and includes an intermittent sand filter, a proprietary treatment system, as defined under 30 TAC §285.32(c), a non-standard treatment system, as defined under 30 TAC §285.32(d), other secondary treatment systems, or a standard treatment system followed by a dispersal system that uses a pressurized method to uniformly distribute the effluent over the entire disposal/dispersal area.

**C. Wastewater Service Availability**

- 1. Permits. The Department shall issue no On-Site Sewage Facility or development permit on any parcel of land unless that property is in compliance with all the requirements of these Regulations. Only lots platted in accordance with these Regulations or any prior regulations of Hays County or legally in existence prior to the Effective Date of this Order will be eligible for a permit.

**D. Facility Planning**

All of the terms and provisions of 30 TAC §285.4 are incorporated within the Rules of Hays County except as expressly amended below.

1. Land Planning, Site Evaluation and Minimum Lot Sizing. The following requirements shall apply to all lots on which an OSSF is to be utilized:
  - (A) A platted or unplatted single family residential lot shall have a surface area of at least the acreage designated in Table 10-1 below.
  - (B) Small Multi-Unit Residential Developments. Multi-unit residential developments with four or fewer individual dwelling units, including duplexes, may utilize lots smaller than the acreages set forth in Table 10-1, provided:
    - (1) site specific evaluation materials, for a central system or individual systems, are prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian and submitted to the Department for review and approval; and,
    - (2) there is no more than one (1) dwelling unit for each TCEQ minimum lot acreage and no more than two (2) dwelling units for each minimum lot size as designated in Table 10-1 below.
  - (C) Other Multi-unit Residential Developments and Non-Residential Developments. Platted or unplatted lots used for multi-unit residential developments with more than four dwelling units, including apartment complexes, groups of rental dwelling units and lots used for non-residential purposes (e.g. office, commercial, industrial or institutional uses) producing domestic wastewater:
    - (1) shall have a minimum lot size of 1.0 acres and a total surface acreage of at least one (1) acre for each dwelling unit equivalent (DUE) per day; and,
    - (2) the on-site sewage facilities for these developments shall be designed based on site specific evaluation materials.
  - (D) OSSFs serving Manufactured Home Rental Communities and Recreational Vehicle Parks where spaces are rented or leased and are not subdivided for individual sale may be designed in accordance with Subsection (1)(C) above of this Section D.
  - (E) Condominium Complexes. Condominium complexes utilizing on-site sewage facilities shall meet the following requirements:
    - (1) The Owner applying for the OSSF permit shall identify the person who will be legally responsible for compliance with all applicable OSSF requirements. The application for OSSF permit shall include a sworn (notarized) statement from such legally responsible person



attesting that such person accepts full legal responsibility for compliance with all applicable OSSF requirements. In the event the designated legally responsible party fails or refuses to comply with any applicable OSSF requirements, the Department may institute appropriate enforcement action against that person, or against one or more of the following parties who the Department determines to be responsible for the noncompliance: (i) the owner or manager of the condominium complex; (ii) the owner of one or more individual condominium units; (iii) the legally constituted condominium owners association for that condominium; (iv) a maintenance company/provider contracted to provide maintenance for the noncompliant OSSF.

- (2) All requirements set forth in this Section D apply to condominium complexes.
- (3) Each individual condominium unit shall be equipped with a flow meter capable of measuring the wastewater flow from that unit or a flow meter capable of measuring the water usage for that unit.
- (4) Maintenance of the OSSF for a condominium complex is subject to the applicable maintenance, testing and reporting requirements of TCEQ's Chapter 285 Rules and all maintenance shall be provided by a Maintenance Company/Provider registered with TCEQ under such rules.

(F) Where multiple sources of water apply to one lot, the larger of the two (2) minimum lot sizes shall govern.

(G) In instances where the actual design of the OSSF system proposed for use dictates a larger minimum lot size required, such larger minimum lot size shall apply.

2. Lot Size Averaging. Only platted development may take advantage of these averaging provisions. The minimum acreage requirements set forth in Table 10-1 below may be obtained by averaging the size of all Lots within a platted development so long as the only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be:

- (A) Lots reserved by plat note for use as parkland or open space, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use; or,
- (B) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the

Edwards Aquifer Rules of the TCEQ (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs.

3. Notwithstanding the averaging allowed above or anything else to the contrary in this Order, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the TCEQ Regulations promulgated thereunder (30 TAC Chapter 285).

Table 10-1 – Minimum Lot Sizes (in Acres) for OSSFs

Location	Water Service	Advanced	Conventional	TCEQ Min.
EARZ [1]	Surface or Rainwater Collection System	1.50	2.00	1.00 [4]
EARZ	Public Groundwater Supply System[2,8]	2.50	4.50	1.00 [4]
EARZ	Private Well	3.00	5.00	1.00 [4,6]
EACZ [3]	Surface or Rainwater Collection System	1.00	1.50	0.50 [5]
EACZ	Public Groundwater Supply System	1.50	2.50	0.50 [5]
EACZ	Private Well	2.00 6.00[8]	3.00 6.00[8]	1.00 [6]
Any Other	Surface or Rainwater Collection System	0.50 1.00 [7]	1.00	0.50 [5] 1.00 [6]
Any Other	Public Groundwater Supply System	1.00	1.50	0.50 [5]
Any Other	Private Well	1.50 6.00[8]	2.00 6.00[8]	1.00 [6]

Notes:

1. Edwards Aquifer Recharge Zone as defined in 30 TAC §213
2. A Public System is a Public Water System as defined in 30 TAC §290
3. Edwards Aquifer Contributing Zone as defined in 30 TAC §213
4. TCEQ Minimum lot size as per 30 TAC §285.40(c)
5. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(A)
6. TCEQ Minimum lot size as per 30 TAC §285.4(a)(1)(B)
7. Minimum lot size for use of surface application system as per 30 TAC §285.33(d)(2)
8. Applicable to new subdivisions and Manufactured Home Rental Communities served by individual private water wells located within the Priority Groundwater Management Area as defined by Texas Commission on Environmental Quality and required to demonstrate water availability as required by Hays County under the authority granted to the County under the Texas Water Code and the Texas Local Government Code.

4. A lot may contain multiple habitable structures and qualify as a single family residential lot if it meets the following criteria:

- (A) In addition to the primary dwelling unit, the lot may be occupied by additional habitable structures or dwelling units (e.g. garage apartments, pool houses, guest cottages, etc.) with useable floor space less than fifty percent (50%) of the floor space of the primary dwelling unit;
  - (B) The additional habitable structures are not offered for public use or rental; and,
  - (C) All such additional habitable structures are precluded from sale or transfer separate from the primary dwelling unit.
5. Existing small lots or tracts that do not meet the minimum lot size requirements of this section and will serve one single family dwelling may be approved for an OSSF in accordance with the following requirements:
- (A) Any lot, regardless of the date of platting or subdivision, must be of adequate size to accommodate the proposed system, including an effluent dispersal area that complies with effluent loading requirements of 30 TAC §285.91, Table I, and the system must be designed and operated in accordance with the remaining requirements of 30 TAC §285.
  - (B) For lots or tracts platted or subdivided before March 14, 1977, an OSSF may be permitted on a lot of any size.
  - (C) For lots or tracts platted or subdivided on or after March 14, 1977, but before June 14, 1984, an OSSF may be permitted on a lot of at least twenty thousand (20,000) square feet in size;
  - (D) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997;
    - (1) If the lot has a soil depth of less than four (4) feet to bedrock or to groundwater or if the percolation rate exceeds forty five (45) minutes per one (1) inch, the minimum lot size shall be thirty thousand (30,000) square feet; or,
    - (2) If the lot has both a soil depth of less than four (4) feet to bedrock or to groundwater and a percolation rate exceeding forty five (45) minutes per one (1) inch, the minimum lot size shall be forty thousand (40,000) square feet.
  - (E) For lots or tracts platted or subdivided on or after June 15, 1984, but before August 29, 1997, an OSSF may be permitted on a lot with a minimum size in compliance with 30 TAC §285.4 or §285.40, as applicable, which meets the requirements of 30 TAC §285.31 and the Hays County Regulations that were in effect at the time.

- (F) For lots or tracts platted or subdivided on or after August 29, 1997, and before the effective date of this Order, an OSSF may be permitted on a lot with a minimum size in compliance with Table 10-1 above, which meets the requirements of 30 TAC §285.31. An exception is the Edwards Aquifer Contributing Zone which only applies to the Barton Springs Segment of the Contributing Zone.

**E. Minimum Required Separation Distances for On-Site Sewage Facilities**

The minimum separation distances set forth in Table X of the TCEQ Rules (specifically 30 TAC §285.91) are supplemented as follows for lots created after the effective date of these Regulations:

**Table 10-2 - Minimum Receptor Separation Distances (in Feet)**

Features/Receptors	OSSF Component	Distance (ft)
Barton Creek, Bear Creek, Blanco River, Cottonwood Creek, Cypress Creek, Little Bear Creek, Lone Man Creek, Long Branch, Onion Creek, Purgatory Creek, Roy Creek, San Marcos River, Sink Creek, Smith Creek, Willow Creek, and Wilson Creek (measured from the bank at average pool height)	Effluent dispersal areas	150
Property lines, habitable structures, and vegetable gardens or orchards producing food intended for sale and human consumption	Surface Application Areas	40 (See Table 10-3)
Property lines, habitable structures and vegetable gardens or orchards producing food intended for sale and human consumption	Individual Sprinkler Heads of Surface Application Areas	60 (See Table 10-3)
Property lines	Effluent dispersal areas*	20
Any public or private water wells	Sewer Pipe with water-tight joints	20
Any public or private water wells	Tanks	50
Any public water wells	Effluent dispersal areas	150
* Drip irrigation dispersal areas with :S.1 Ra will have separation distances as set forth in Table X of the TCEQ Rules (specifically 30 TAC §285.91).		
<b>NOTE:</b> Lots platted prior to the effective date of these regulations shall comply with either the minimum separation distances that were in effect at the time the lot was created or the minimum separate distances contained in the TCEQ Rules, whichever is more stringent.		

**F. Water Well Sanitary Easements**

- Private Wells are to be located with a one hundred (100) foot radius around the well in which no on-site sewage effluent dispersal facility may be located. This area shall be designated as a private water well setback and shall be clearly shown and labeled on any planning material submitted to the Department in support of

an application for an on-site sewage facility permit. If the well is located within the jurisdiction of a groundwater conservation district that requires greater than a 100 foot separation, the Private Well setback distance must be increased to the distance required by that groundwater conservation district. This setback distance shall also be shown for existing water wells in or adjacent to subdivision proposals. Variances from the Private Well setback requirement will be considered if the Private Well has been or will be completed in accordance with requirements outlined in the Water Well Drillers and Water Well Pump Installers Rules under 16 TAC Chapter 76, or the applicable rules of the groundwater conservation district that has jurisdiction over the area where the Private Well and the on-site sewage facility are located. In no case shall the Private Well setback distance be less than 50 feet.

2. Individual Lots where there is a known or recorded public water supply well or individual lots which adjoin a lot or tract containing a public water supply well shall provide, within the boundary of the Lot on which the OSSF is to be placed, adequate separation to ensure a minimum of a one hundred fifty (150) foot radius around the water supply well in which no OSSF effluent disposal facilities may be located. This area shall be designated as a water well sanitary control easement. For private water supply wells, this distance can be the same as the separation distances required in Section 10.F (1).
3. Public Water Wells shall comply with the sanitary control easements required under 30 TAC Chapter 290, as amended.

#### **G. Innovative Development**

Innovative development, such as "planned unit development" style developments, are encouraged and will be considered on a case by case basis, upon the submission of the following with a preliminary plan application for subdivision approval:

1. Site Evaluation Materials demonstrating that such an innovative development is appropriate in light of lot sizes, soil or other conditions;
2. Site Specific Materials; and,
3. Site Plan to be recorded with Record Plat, which shall state the future development of the Property shall be in accordance with the Site Plan. The Site Plan shall designate the type of development permitted on each Lot, the location of buildings, paved areas, green belts and on-site sewage facilities (including drainage fields) on each Lot; and all other materials required under 285.30 of the Rules, as applicable. As provided in Section 285.6 of the Rules, cluster systems are not authorized.

The Commissioners Court may approve an application for innovative development permitting minimum lot acreage below those required in Table 10-1 upon a finding that the proposed

development will provide equivalent protection of the public health and environment as development in accordance with these Regulations and that the lot acreage meet the TCEQ minimum.

#### **H. Variances**

Requests for variances from the requirements of these rules shall be considered in accordance with the criteria specified in 30 TAC §285.3(h) of the TCEQ's Rules and the following additional criteria:

1. The Commissioners Court may delegate to the Department the discretion to approve or deny an application for a variance. Within that discretion, the Department may approve an application for a variance only upon a finding that development pursuant to the proposed variance will provide equivalent protection of the public health and environment as development in strict accordance with these Regulations in general.

#### **I. Permitting Procedures and Additional Requirements**

The Hays County Commissioners Court and/or the Department may from time to time adopt local procedural requirements for applications, permitting and inspections for On-Site Sewage Facilities.

#### **J. Amendment to Section 285.5 (Submittal Requirements for Planning Materials)**

The following requirements for the submission of planning materials are imposed in addition to those set forth in Section 30 TAC §285.5:

1. All site plans shall be submitted to a standard engineering scale and shall include an overall site plan drawn on a single sheet of paper, providing the exact placement of all existing and proposed development, wells (including wells on adjacent property), driveways, and all wastewater system components and showing features that require minimum separation distances and topographic lines at one foot intervals in the area of the proposed OSSF and extending twenty five (25) feet past OSSF location.
2. A flow diagram of the tank battery shall be prepared.
3. An installation detail for subsurface systems shall be provided.
4. Detail all calculations for determining hydraulic loading, wastewater strength, sizing of system components, total head, dosing volume, pump tank sizing and reserve capacity.
5. The disposal method for any OSSF designed for multi-family residences or for commercial/ institutional or nonresidential uses with wastewater flows over 500

gallons per day must include properly designed pressurized distribution that assures uniform distribution of effluent.

6. Plugging reports for any wells proposed to be abandoned shall be provided.
7. The OSSF designer shall establish the design flow for all OSSFs based on the information contained in Table III from 30 TAC §285.91(3), or other valid technical sources acceptable to the Department.
8. The Department may require additional planning materials if in its opinion they are warranted for the specific instance.

**K. Amendment to Section 285.7 (Additional Requirements for Surface Application Systems)**

1. In addition to the permits issued for installation, annual registration is required to operate an On-Site Sewage Facility utilizing surface application or an OSSF that requires a maintenance contract under TCEQ Regulations (30 TAC §285) or these Regulations. The Owner of the On-Site Sewage Facility shall be responsible the renewal of the registration prior to the expiration date of the current registration. The registration fee amount shall be in accordance with the current fee schedule adopted by Commissioners Court. The fee shall be paid at the time of contract submittal and shall be due annually on the same date.
2. In addition to the maintenance requirements of the TCEQ Regulations (30 TAC §285), the County specifically prescribes that all maintenance activities on OSSFs be performed only by individuals and firms licensed by the TCEQ to perform maintenance on OSSFs, as discussed in this order.
3. The following requirements for all maintenance contracts are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(c)]. All maintenance contracts shall include the following information: permit number; on-site sewage facility maintenance provider/company or wastewater operator license identification; the printed name and signature of the system owner and maintenance company representative; the starting and ending dates of the contract with the starting being the date of the notice of approval to operate; the physical address and phone number of the system location; and the physical address, business address, business phone number and emergency phone number of the maintenance company.

**L. Amendment to Section 285.7(e)(2) (Weather Resistant Tags)**

The following requirements for weather resistant tags are imposed in addition to those set forth in the TCEQ Regulations [specifically 30 TAC §285.7(e)(2)]:

1. The weather resistant tags shall be approved by the Department in advance of their installation;
2. The maintenance company shall be responsible for submitting a sample tag to the Department for approval; and,
3. The tags shall be installed outside the control panel or treatment unit device.

**M. Amendment to Section 285.32 (Criteria for Sewage Treatment Systems)**

1. The following requirements for OSSFs other than residential OSSFs (non-residential OSSFs) are imposed in addition to those set forth in 30 TAC §285.32:
  - (A) For Non-Residential OSSFs, the site specific evaluation materials, prepared by a Texas licensed professional engineer or a Texas registered professional sanitarian, must include hydraulic loading calculations and influent and effluent wastewater strength calculations.
  - (B) Non-Residential OSSFs and multi-family OSSFs shall include a hydraulic equalization tank prior to the treatment system. The hydraulic equalization tank shall be designed with sufficient storage to ensure that there is at least 75% of one day's flow (at the average daily design flow) between the pump-on level and alarm activation level, and one-day's flow above the alarm activation level and below the inlet of the tank, unless duplex pumps are used and designed in accordance with 30 TAC §285.34(b)(3). The rate of flow from the hydraulic equalization tank into the treatment system shall be controlled to uniformly distribute the flow over a twenty four (24) hour period at a rate no greater than the maximum design capacity of the treatment system. In cases where Non-residential OSSFs are expected to have peak flows that exceed the average daily design flow, the Department will require an Applicant to submit calculations of sufficient storage in conjunction with the other Planning Materials required for the design of the system. Hydraulic equalization will not be required prior to standard treatment if the treatment system is at least 25% larger than required in 30 TAC §285.91 Table II.
2. The following requirements for proprietary treatment systems are imposed in addition to those set forth in 30 TAC §285.32(c):
  - (A) Proprietary Treatment Systems (including aerobic treatment units) used under service conditions different than which the approval was obtained shall be considered Non-Standard Treatment Systems.
  - (B) All aerobic treatment units (ATUs) shall be installed with a pre-treatment tank. The pre-treatment tank shall be sized at a capacity of at least one-half the aerobic treatment unit design flow. The pretreatment tank shall be



designed in accordance with the requirements of 30 TAC §285.32(b)(1)(G).

- (C) In order to maintain a stable temperature environment all aerobic treatment units shall be buried in the ground and backfilled to the lid of the tank.

**N. Amendment to Section 285.33 Criteria for Effluent Disposal Systems**

For all effluent disposal systems utilizing trenches or beds containing disposal media, the bottom of the excavation shall be level to within one inch over each 25 feet of excavation, but in no event shall there be more than two inches of fall over the entire length of the excavation. For the purposes of this amendment, gravelless drainpipe shall be required to meet this standard.

**O. Amendment to Section 285.33 (a)(1)(B) (Porous Media)**

Chipped tires or iron slag are not a permitted medium.

**P. Amendment to Section 285.33(c)(3)(E) (Vertical Separation Distance)**

The following requirement for vertical separation distance is imposed in addition to those set forth in Section 285.33(c)(3)(E): all drip irrigation disposal fields shall be covered with at least eight (8) inches of soil backfill of suitable composition to support vegetative growth.

**Q. Amendment to Section 285.33(d)(2) (Additional Requirements for Surface Application Systems)**

The following requirements are imposed in addition to those set forth in Section 285.33(d)(2) for an On-Site Sewage Facility utilizing surface application systems:

1. Surface application shall be limited to sprinkler application only.
2. All On-Site Sewage Facilities utilizing surface application shall be designed to facilitate periodic sampling.
3. The site for a surface application system shall be cleared of exposed rock, or the exposed rock shall be covered with at least four (4) inches of soil of suitable composition to support vegetative growth. Trees and shrubs must be maintained in order to allow the even distribution of effluent. Sprinklers need to be located at least 15 feet away from trees within the distribution area that are 24 inch or greater in diameter.
4. The individual sprinkler heads installed for a surface application area shall have a maximum operating height of twenty four (24) inches and a maximum operating pressure of forty (40) pounds per square inch. The receptor (property line, habitable structure, or vegetable garden or orchard producing food intended for sale and human consumption) separation distance identified in Table 10-2 shall be modified as shown in Table 10-3.

**Table 10-3 - Receptor Separation Distances (in Feet) for Various Combinations of Application Radius (Reference Table 10-2)**

<b>Operating Radius (ft)</b>	<b>Receptor Distance (ft)</b>
<25	40
>25-<30	75
>30	90

5. The surface application area receiving effluent spray shall have a maximum surface slope of fifteen percent (15%) in any direction. Compliance with this requirement may be achieved through site modification activities such as terracing or grading, provided that the surface is sufficiently stabilized to minimize erosion.
6. Surface application systems shall not be allowed for commercial or institutional operations with a design flow over 300 gallons per day.

**R. Amendment to Section 285.34(a) (Septic Tank Effluent Filters)**

The following requirement for septic tank effluent filters is imposed in addition to those set forth in Section 285.34(a): the outlet pipe from all standard treatment units shall be fitted with an effluent filter.

**S. Amendment to Section 285.34(b)(2) (Pump Tank Sizing)**

Pump tanks shall be sized to contain one day of flow above the alarm-on level.

**T. Amendment to Section 285.38(c) (Prevention of Unauthorized Access to On-Site Sewage Facilities)**

All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.

**U. Amendment to Section 285.70(a) (Duties of Owners With Malfunctioning OSSFs)**

The following requirement for owners with malfunctioning on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.70(a): the owner of a malfunctioning on-site sewage facility can be given a deadline to initiate and complete repairs to the system of less time than stated in 30 TAC §285.70(a) if the Department believes there is an imminent threat to the public health or environment.

**V. Amendment to Section TAC 285.91(12) (OSSF Maintenance Contracts, Affidavit, and Testing/Reporting Requirements)**

1. The following requirement for maintenance by owners of on-site sewage facilities is imposed in addition to those set forth in 30 TAC §285.91(12) and as authorized under House Bill 2482, Texas Legislature, 80<sup>th</sup> Regular Legislative Session: all maintenance, testing and reporting activities conducted on OSSFs under the jurisdiction of Hays County shall be performed by a Maintenance Provider that

possesses a current license with the TCEQ. This requirement is specifically adopted to preclude maintenance, testing, and reporting activities from being performed by an OSSF owner unless that OSSF owner has taken and passed the Texas Commission on Environmental Quality approved Basic Maintenance Provider course and test or other Authorized Agent approved course.

2. Systems maintained by a maintenance provider shall be tested and reports submitted every four (4) months unless otherwise specified on the permit. The first maintenance testing and report submittal of each contract period shall be completed within fourteen (14) days of the start date of the contract. Subsequent testing and report submittal due dates shall be determined from the start date of the contract. The last testing and reporting shall be within 14 days of the end of the contract period.

Renewal contracts that are started with a provider other than the provider on the previous contract shall be for a term of at least one year and include four inspections including the initial inspection.

3. Each maintenance provider having contracts in Hays County shall register with the Hays County Development Services Division. 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.
4. When an on-site sewage facility maintenance report is received by Hays 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 Hays County within ten (10) days of the previous report. Such extra reports shall not alter or postpone the regular maintenance schedule.
5. Maintenance providers who fail to perform maintenance testing at the required intervals, mark an inspection tag, or 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. Outstanding contracts from a suspended maintenance provider will be void and property owners will need to submit a new contract with a registered maintenance provider.

6. Contract renewals with the same maintenance provider will not be accepted by the Division unless all of the maintenance reports from the previous contract period have been submitted.

**W. Miscellaneous**

1. A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which it is installed. A permit will not be issued for an On-Site Sewage Facility that is on a tract of land that is found to be in violation of the Hays County Development (Subdivision) Regulations. Any structure or property used for residential, institutional, or commercial purposes shall be connected to an On-Site Sewage Facility permitted by the Department or a centralized sewage treatment facility permitted by the Texas Commission on Environmental Quality.
2. A construction inspection of an On-Site Sewage Facility must be completed within 12 months from the date of issuance of an authorization to construct. Construction of an on-site sewage facility must be completed within 14 months of the date of issuance of an authorization to construct and within eighteen (18) months of the date of application for a permit.
3. French drains used to support and protect On-Site Sewage Facilities shall require that a professional engineer or registered sanitarian demonstrate that its use will afford a greater level of public health by diverting groundwater away from the On-Site Sewage Facility.
4. Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.
5. Composting, incinerating, and "no water" toilets shall be permitted by the Department under these Rules. Planning material submitted shall clearly identify the type of toilet that will be installed and the site specific location of the proposed toilet. The permitted location shall be required to have hand-washing facilities utilizing potable water discharging to an OSSF. Public parks owned by a political subdivision shall be exempt from the hand-washing facilities requirement.
6. All commercial, institutional and non-residential on-site sewage facilities shall be equipped with a flow metering device capable of measuring and recording the average daily flow rate.

**X. Grandfathering, Re-authorization and Re-permitting of Existing Systems**

1. Grandfathering. An owner of an OSSF is required to comply with the permitting, installation and operational requirements of this order, or any other applicable

requirements, in effect at the time the OSSF is installed. Routine maintenance and repairs to an OSSF shall be required to bring the OSSF into compliance with all such applicable requirements.

2. Re-Permitting. If an OSSF is replaced or subjected to a major alteration, the OSSF shall be required to be re-permitted and upgraded to meet all applicable requirements of the current OSSF regulations, except for minimum lot acreage requirements.

#### **Section 11. DUTIES AND POWERS.**

Any individual(s) approved by the Commissioners Court, are herewith declared the designated representative(s) (DR) (30 TAC § 285.2(17)), as defined in the regulations of the Texas Commission on Environmental Quality, for the enforcement of this Order within the jurisdictional area of Hays County. 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 Hays County.

#### **Section 12. COLLECTION OF FEES.**

All fees collected for permits and/or inspections shall be made payable to Hays County, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the Texas Commission on Environmental Quality.

Fees for Applications for OSSF approvals shall be based on the type of system proposed and the nature of the development the OSSF will serve. Such fees shall be established by the Commissioners Court. Additional fees for reviews, inspections and related items shall be as established by the Commissioners Court. Fees paid to the County are non-refundable.

#### **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 Hays County, Texas.

#### **Section 14. ENFORCEMENT PLAN**

The County of Hays, 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 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.

An offense under this Order is a Class C misdemeanor punishable by a fine. The County may also seek all other remedies available to it under this Order and all applicable laws of the State of Texas and Rules of the TCEQ, whether referenced herein or not.

#### **Section 15. SEVERABILITY**

It is hereby declared to be the intention of the Commissioners Court of Hays 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 Hays 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:

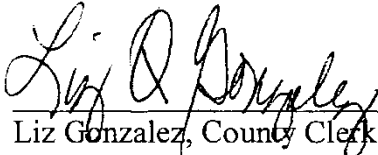
APPROVED: \_

PASSED AND APPROVED THIS 4th DAY OF JUNE, 2013.

(SEAL)

Albert (Bert) Cobb, M.D., County  
Judge

ATTEST:

  
Liz Gonzalez, County Clerk

