TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

On February 7, 2011, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Harris 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 Harris has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Harris Order should be approved.

FINDINGS OF FACT

1. The County of Harris drafted a proposed Order which regulates on-site sewage facilities.

2. On October 3, 2010, the County of Harris caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Harris area of jurisdiction, of a public meeting to be held on October 7, 2010.

3. The County of Harris held a public meeting to discuss its proposed Order on October 7, 2010.

4. The County of Harris Order regulating on-site sewage facilities was adopted on December 21, 2010.

5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.

6. A certified copy of the County of Harris 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 Harris’ 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 Harris agreed to the proposed Order in writing.

5. The proposed Order is uncontested.

6. The County of Harris’ 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 Harris is hereby authorized to implement its new County Order regulating on-site sewage facilities.

2. Any amendments to the County of Harris 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 Harris’ adopted Order, marked as Exhibit A, to the County of Harris 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 7, 2011

[Signature]

Executive Director
Texas Commission on Environmental Quality
THE STATE OF TEXAS  §
COUNTY OF HARRIS  §

AFFIDAVIT

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

BEVERLY B. KAUFMAN

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

I am the custodian of records of the County Clerks Office for the County of Harris, Texas. Attached hereto are ________ (___) pages of records known as (Order) Revised Rules of Harris County, Texas for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Harris, 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 reasonable soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

BEVERLY B. KAUFMAN

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ___ day of Dec., 2019.

(SEAL)

MAUREEN J. MCDONALD
Notary Public, State of Texas
My Commissioner Expires
MARCH 10, 2013

A CERTIFIED COPY

JAN 06 2011

ATTERT:

STAR STUART, County Clerk
Harris County, Texas

Stella M. McCall, Deputy
ORDER ADOPTING RULES OF HARRIS COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES

PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Harris County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Harris, Texas; and

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

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

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

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

A CERTIFIED COPY

[Signature]
Deputy

[Date]

SIGNED:

Stan Stanart, County Clerk
Harris County, Texas
AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) order for Harris County.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The County of Harris, 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 365 of the Texas Health and Safety Code (THSC) and Chapter 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Order.

SECTION 6. AREA OF JURISDICTION.

The Rules shall apply to all the area lying in Harris County, Texas, except for the area regulated under an existing rule and the areas within corporate cities or within 2500 feet of the centerline of the Houston Ship Channel. Additionally, these Rules shall apply to incorporated areas that are not currently TCEQ Authorized Agents and whose city has an inter-local agreement with Harris County to administer an on-site sewage facility program.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Harris 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 Harris 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 of Harris County, Texas for On-Site Sewage Facilities, 30 TAC Chapters 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.

A CERTIFIED COPY

ATTEST:
STAN STANART, County Clerk
Harris County, Texas

[Signature]

Deputy

Stella M. McColl
SECTION 10. AMENDMENTS.

The County of Harris, 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 Harris County, Texas:

A. An "Affidavit to the Public" will be required on all on-site sewage facilities.

B. The County Engineer will not authorize electrical service be provided to a new development utilizing an on-site sewage facility unless all inspections of the on-site sewage facility have passed.

C. On all new plats for residential subdivisions of two or more lots, easements for the proposed wells shall be established by plat unless an alternative strategy is developed in the feasibility study.

D. Easements described in §285.4(b)(2)(C) shall be filed for record in the Harris County Real Property Records.

E. The following additional submittals are required in addition to §285.4(c) for subdivision plat review:

1) A sealed property survey.
2) A topographic map on one-foot (1') contours.
3) A Federal Emergency Management Agency Flood Plain Map with the site delineated to scale.
4) A NRCS-USDA soil survey map with the site located to scale.
5) The plat shall show the locations of soil bore holes.
6) A comprehensive drainage plan complying with the minimum Harris County Flood Control District Criteria or the Harris County Regulations for Approval and Acceptance of Infrastructure as appropriate.
7) If planning material shows that subsurface disposal is proposed then potential replacement areas must be shown located outside the primary disposal area. This is due to poor soil conditions and high ground water tables in Harris County.

F. Discharges of gray water other than washing machines shall be disinfected to the same standard as secondary effluent.
G. All on-site sewage facilities installed along the main body of Lake Houston east of I-45, (the main body being where 100’ or more exist between parallel banks at normal pool elevation shall have the following additional standards.

1) All systems installed within one thousand feet (1000’) of the main body of Lake Houston shall have secondary treated effluent.

2) All systems, installed within one thousand feet (1000’) of the main body of Lake Houston shall incorporate nutrient reduction Best Management Practices (BMP’s) in the treatment or disposal systems.

H. All applications for an on-site sewage facility as well as an Affidavit to the Public shall be executed by the property owner. If the proposed OSSF requires on-going maintenance per §285.91(12) of these Rules, a completed Acknowledgement of Testing must be completed by the owner.

I. All planning material is required to be prepared by a Professional Engineer or Professional Sanitarian authorized to practice in the State of Texas.

J. The installer shall notify Harris County at least 24 hours before the date the OSSF will be ready for inspection.

K. At the completion of an inspection, the installer, owner, or owner’s agent will be given a Notice of Inspection. This will serve as notice of any deficiencies found. If none are found it will be so noted and this will serve as an Authorization to Operate.

L. The following additional requirements apply in the submittal of planning materials:

1) All site plans shall be submitted to a standard engineering scale.

2) A flow diagram of the tank battery shall be prepared.

3) An installation detail for subsurface systems shall be provided.

4) Calculations for hydraulic loading rate, wastewater strength and dosing calculations, if applicable, shall be provided.

5) Grease trap sizing, if applicable, shall be done using the EPA method and the Uniform Plumbing Code method. The larger of the two resulting tank sizes shall be used.

6) All existing and proposed development shall be shown.

7) Plugging reports for any wells proposed to be abandoned shall be provided.

8) Copies of letters authorizing encroachments across, along, under or above any easement where an OSSF component is proposed to be placed.
9) Calculations for hydraulic and organic load for both normal and peak flows on all commercial systems shall be provided showing that both organic and hydraulic overloading of the treatment and/or disposal method is prevented.

10) Proprietary systems must be approved by the County Engineer prior to being allowed in Harris County. A technical review of all material will be conducted with relation to high ground water tables and local soil conditions that occur in Harris County. Approval will be granted, additional data will be requested, or the reason for non-approval will be stated. Harris County will only review proprietary products previously approved by the TCEQ.

11) The County Engineer may require additional planning materials if in his opinion they are warranted for the specific instance.

12) Aerobic plants tested under NSF Standard 40 shall be sized for residential units based on an assumed organic load of 150 GPD per bedroom.

M. The following additional maintenance requirements apply:

1) On non-standard treatment systems as prescribed by §285.32(d), the designer is required to provide Harris County with the maintenance requirements of the system at time of plan approval.

2) The allowable time frame for a maintenance company to respond to a complaint from the property owner or electronic notification shall be no longer than 48 hours.

3) All maintenance contracts shall include the permit number, OSSF or wastewater operator license identification, the printed name and signature of the system owner and maintenance company representative or maintenance provider, the starting and ending dates of the contract with the starting date being the date of the authorization to operate, the physical address and phone number of the system location, the physical address, business address, business phone number and emergency phone number of the maintenance company or maintenance provider.

4) The following electronic monitoring protocol is required:

a) All new OSSF systems requesting a variance and utilizing any pumps or other electrical equipment or commercial systems installed requiring ongoing maintenance by these rules shall be electronically monitored. Other systems may be electronically monitored to reduce the number of required maintenance visits.

b) The electronic monitoring shall be provided by Harris County's contract provider. The contract provider will contract at the County
approved rate for this service in accordance with County procedures.
c) Electronic monitoring must be continuously maintained.
d) Systems electronically monitored will not require the submittal of paper maintenance reports or renewal maintenance contracts to the County unless a major component affecting the design of the system is altered, or the contract for maintenance has not been renewed.

5) The maintenance frequency shall follow the schedule below:
   Residential-4 visits a year
   Residential Electronically Monitored -- 2 visits a year
   Commercial-12 visits a year unless the system is essentially a residential system.

Requests for quarterly maintenance visits for commercial systems will be considered on a case-by-case basis.

6) Reports shall be submitted using the County’s automated systems. Reports submitted on paper to the County shall include a processing fee to off-set the cost of manually entering the data.

7) Homeowners may maintain their own aerobic unit if they have obtained a Class "D" Wastewater license in addition to any other state requirements. A homeowner conducting their own maintenance shall submit the same reports maintenance providers are required to submit.

8) A permittee who fails to provide the County with a copy of a contract with a valid maintenance company or maintenance provider, and allows the onsite system to miss two or more maintenance report periods shall be required to enroll in the County’s electronic maintenance monitoring system.

9) Systems at locations where hard wire phone service does not exist, are exempt from electronic monitoring until such time as the County monitoring system has an approved cellular monitoring system or hard wire phone services become available. Once available the permittee has ninety days to install said system and begin monitoring.

N. Site evaluations shall be submitted on a form provided by Harris County or in a format with all the same information as the Harris County form. The location of the soil borings shall be denoted on the site evaluation or the site plan.

O. A restrictive horizon includes subsoil that has higher clay content than the preceding layer which impedes downward movement of water.
P. For structures with more than one sewer stub-out or other such instances, all sewer lines shall have a common connection prior to entering the main tank battery.

Q. Any outlet device other than a "T", such as an effluent filter, must be listed under ANSI/NSF Standard 46.

R. Only septic and pump tanks that appear on the Harris County list of approved tanks shall be utilized on the systems installed under these rules. The following additional standards apply:

1) Concrete tank manufacturers must demonstrate through the submittal of drawings and specifications that the tanks meet the structural portion of ASTM C1227. Drawings must be sealed by a Professional Engineer and the tanks are subject to inspection and verification for compliance to the standard.

2) Glass fiber reinforced polyester tanks shall meet the applicable provisions of ASTM D4021-81 and applicable provisions of IAPMO/ANSI Z 1000-2007.

3) Polyethylene tanks must meet the applicable provisions of IAPMO/ANSI Z 1000-2007.

4) At a minimum, a Professional Engineer’s Certification of product and process is required, as well as a sealed drawing and specifications of the completed product. The County Engineer may randomly inspect the product and compare it to submitted data.

S. All proprietary aerobic plants must meet the requirements of these rules as well as being approved by the TCEQ and NSF. The County Engineer will review the report and determine if the unit meets the requirements of NSF Standard 40 and the additional Harris County requirements. Approval by the TCEQ and/or NSF does not ensure approval by the County Engineer. All aerobic treatment units shall use a pretreatment tank of a minimum of 500 gallons if required to have one by the testing protocol and it is not manufactured as part of the plant.

Any testing entity wishing to submit data for approval by Harris County other than NSF shall meet the criteria above as well as the following additional criteria:

1) The testing entity must be ANSI accredited laboratory.

2) The testing entity must have a minimum of five years of verifiable testing experience in certification of aerobic units.

3) The testing entity must maintain an independent third party status. No aerobic manufacturer, supplier or distributor may have any direct or indirect financial interest in the testing entity. A sworn affidavit verifying this fact may be required to be submitted.

T. Owner compliance history may be used as a reason on to deny a permit for an on-site sewage facility.
U. After October 1, 2006 all disinfection devices approved for use in Harris County must be listed by the National Sanitation Foundation as having passed ANSI/NSF Standard 46 for effluent disinfection devices. Any upgrade or alteration of a system equipped with a disinfection device after October 1, 2006 shall have the disinfection device upgraded to one meeting these requirements.

V. The minimum application area of a surface application system may be reduced, if designed according to all the requirements found in the report Evaluation of Surface Application Rates for Texas OSSF Systems prepared by Clifford B. Fedler PhD, P. E.

W. Installers and their apprentices shall maintain copies of approved plans, contracts, manifests, well data, material data, and component specifications required and specified by the approved plans on the job site and make available to the designated representative until all required inspections are completed.

X. Certain systems may be allowed to direct discharge to the roadside ditch or storm sewer, provided they meet all the provisions of TPDES General Permit No. TXG5300000. Each design for said system shall be reviewed by the TCEQ staff as well as Harris County. Additionally all provisions of the Memorandum of Agreement between Harris County and the TCEQ as approved by Commissioners Court on 25 May 2004 shall be followed.

Y. In watersheds where one or more stream segments are listed as impaired for bacteria on the EPA 303(d) list the following additional requirements apply.
   1) Electronic monitoring as outlined in amendment M(4) shall be required for all new and replacement on-site sewage facilities.
   2) All on-site sewage facilities must use secondary treatment meeting a 30 day average CBOD of 10 mg/L and TSS of 10 mg/L. On NSF Standard 40 units this must be demonstrated by test results. On engineered one of a kind systems, a design parameter of 5 mg/L CBOD and 5 mg/L TSS shall be used.
   3) Pump tanks shall be equipped such that when pumping a portion of the effluent is returned below static water level to insure scour of the pump tank bottom.

Z. Any residential system permitted after January 1, 2011 which utilizes flows lower than those listed on Table III: Wastewater Usage Rate of these regulations, and all commercial systems, and permanent holding tanks shall incorporate the County's electronic monitoring protocol for daily wastewater flows and peak flow measuring. This system will report to the County systems that exceed daily or peak permitted flows. Usage of ULF fixtures is not a trigger to require electronic monitoring.

A CERTIFIED COPY
JAN 9 6 2011

ATTEST:
STEIN STANART, County Clerk
Harris County, Texas

Stella M. McCall, Deputy
SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17))
employed by the Harris County 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 the
Harris County Treasurer. A fee of $10.00 will also be collected for each on-site
sewage facility permit to be paid to the On-site Wastewater Treatment Research council
as required by the THSC, Chapter 367.

Fees shall be charged in accordance with the current fee schedule adopted by
Commissioners Court.

SECTION 13. USE OF SYSTEMS CONSTRUCTED PRIOR TO JULY 1, 1978

Any system constructed and in operation prior to July 1, 1978 may be utilized for
sewage disposal under the Regulations of Harris County for Flood Plain Management,
provided the following conditions apply:

A. The existing system has not been altered or the actual or anticipated flow to the
   system has not been increased.

B. The existing system has not malfunctioned so as to create a nuisance condition.
   The exception to this provision would be a malfunction which was created due to
   an easily identifiable and repairable defect in plumbing such as a sticking toilet
   float.

SECTION 14. APPEALS.

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

SECTION 15. ENFORCEMENT PLAN.

The County of Harris, 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 THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters

A CERTIFIED COPY

ATTEST: JAN 06 2011

STANARD, County Clerk

Harris County, Texas

Deputy

Stella M. McColl
SECTION 16. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Harris 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, clause, sentence, paragraph, or section.

SECTION 17. RELINQUISHMENT OF ORDER

If the Commissioners Court of Harris 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 30 TAC § 285.10 (d) (5) and § 285.14 after the date that delegation has been relinquished.

SECTION 18. 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: DEC 2 1 2010
PASSED AND APPROVED THIS __________ DATE OF ________, 20____.

APPROVED:

(SEAL)

Ed Emmett
COUNTY JUDGE ED EMMETT

ATTEST:

Beverly B. Kaufman
COUNTY CLERK BEVERLY B. KAUFMAN

A CERTIFIED COPY

ATTEST: JAN 06 2011
STAN STARNES, County Clerk
Harris County, Texas

Stella M. McCull
Deputy