

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify that this is a true and correct copy of a Texas Commission on Environmental Quality document, which is filed in the permanent records of the Commission. Given under my hand and the seal of office on

LaDonna Castanuela SEP 09 2010

LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality

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

BEFORE THE EXECUTIVE
DIRECTOR OF THE TEXAS
COMMISSION ON
ENVIRONMENTAL
QUALITY

On SEP 03 2010 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Gonzales 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 Gonzales has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Gonzales Order should be approved.

FINDINGS OF FACT

1. The County of Gonzales drafted a proposed Order which regulates on-site sewage facilities.
2. On July 20, 2010, the County of Gonzales caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Gonzales area of jurisdiction, of a public meeting to be held on July 26, 2010.
3. The County of Gonzales held a public meeting to discuss its proposed Order on July 26, 2010.
4. The County of Gonzales Order regulating on-site sewage facilities was adopted on July 26, 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 Gonzales Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

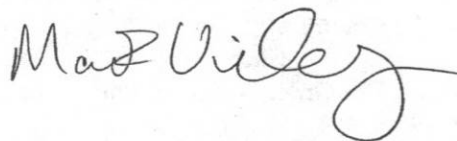
CONCLUSIONS OF LAW

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

Issued this date: **SEP 03 2010**



Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

COUNTY OF §

STATE OF TEXAS §

AFFIDAVIT

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

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

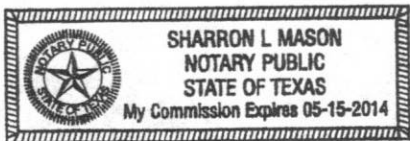
I am the custodian of the records of the County Clerks Office for the County of Gonzales, Texas. Attached hereto are five (5) pages of records known as (Order) OSSF. The records are kept by me as County Clerk, County of Gonzales, in the regular course of business with knowledge of the act, event, condition, 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.

Lee Riedel

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Lee Riedel, 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 26 day of July, 2010.

(SEAL)



Sharron L. Mason
Notary/Public, State of Texas
My commission expires:

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

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

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

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

SECTION 3. THAT an Order for Gonzales 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 Gonzales County.

SECTION 5. CHAPTER 366.

The County of Gonzales, 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 the area lying in Gonzales County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

(B) (OPTIONAL) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Gonzales County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Gonzales 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 Gonzales 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 Gonzales, 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 Gonzales County, Texas:

(A) Platted or unplatted subdivisions served by a public water supply. Subdivisions of single family dwellings platted or created after the effective date of this order, served by a public water supply and using individual on-site sewage facilities for sewage disposal, shall have lots of at least 1.5 acres.

(B) Individual lots created after the effective date of this order, served by a public water supply and using an on-site sewage facility for sewage disposal, shall be a least 1.5 acre.

(C) Platted or unplatted subdivisions not served by a public water supply. Subdivisions of single family dwellings platted or created after the effective date of this order, not served by a public water supply and using individual on-site sewage facilities shall have lots of at least 2.0 acres.

(D) Individual lots created after the effective date of this order, not served by a public water supply and using an on-site sewage facility for sewage disposal, shall be a least 2.0 acres.

(E) On-site sewage facilities serving lots which were platted or created prior to the effective date of this order and which do not meet the lot size requirements described in sections A,B,C and D of this order must be designed by a Professional Engineer or Registered Sanitarian.

(F) All On-Site Sewage Facilities must be permitted regardless of property size. Any repairs to a system which has failed must be permitted.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Gonzales 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 Gonzales 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 Gonzales County, Texas.

SECTION 14. PENALTIES.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health

and Safety Code, Chapters 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 Gonzales 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 judgement 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.

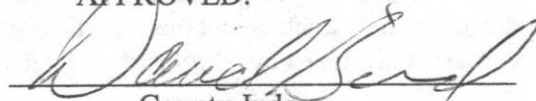
SECTION 16. EFFECTIVE DATE

This Order shall be in full force and effective from and after its date of approval as required by law and upon the approval of the Texas Commission on Environmental Quality.

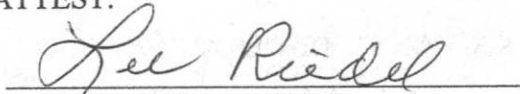
AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 26 DAY OF July, 2010.

APPROVED:


County Judge

ATTEST:


County Clerk

(SEAL)

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

September 9, 2010

The Honorable David Bird
County Judge
Gonzales County
414 St. Joseph Street, Suite 200
Gonzales, Texas 78629

Re: On-Site Sewage Facilities Order for the County of Gonzales

Dear Judge Bird:

Enclosed is a certified copy of an order issued by the Commission regarding the referenced matter.

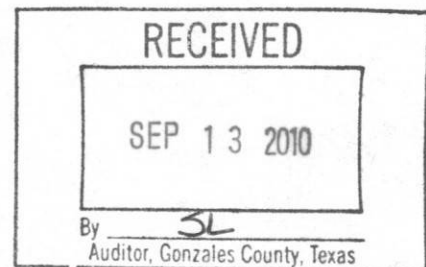
Should you have any questions, please contact Mr. Agustin Chavez, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program, MC-235 at 512-239-4775.

Sincerely,

A handwritten signature in cursive script that reads "Tracy Miller".

Tracy Miller, Water Team Leader
Program Support Section
Field Operations Support Division

Enclosures: Certified Order
Recipient Mail List



APPLICATION BY GONZALES COUNTY
TO AMEND THEIR ON-SITE SEWAGE FACILITY ORDER

The Honorable David Bird
County Judge
Gonzales County
414 St. Joseph Street, Suite 200
Gonzales, Texas 78629

Mr. Jimmy Harless, CFM, DR
414 St. Joseph Street, Suite 100
Gonzales, Texas 78629

TCEQ - Region 14

Agustin Chavez, PE, OSSF Program, Field Operations Support Division, MC- 235

