

Order approving Rules and Regulations for on-site sewage facility systems for Matagorda County

BE IT REMEMBERED, that on this 25th day of September, 2006, the Commissioner's Court of Matagorda County, Texas met in **Regular Session**, with a quorum in attendance, and upon motion duly made by Commissioner Carroll and seconded by Commissioner Gibson, with all others concurring, to approve Rules and Regulations for on-site sewage facility systems for Matagorda County as presented by Ed Schulze and strike Option B in Section 6, per order attached hereto and made a part hereof.

PASSED IN OPEN COURT this 25th day of September, 2006.



GREG B. WESTMORELAND, County Judge
Matagorda County, Texas

I, Gail Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006




Gail Denn County Clerk

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On **November 3, 2006** the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Matagorda, ("Applicant" or "Matagorda"), for an Order pursuant to §366.031, Texas Health and Safety Code ("Code"), 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 Applicant has satisfied the requirements of §366.031 of the Code and, therefore, the Commission finds that the Matagorda County Order should be approved.

FINDINGS OF FACT

1. The County of Matagorda drafted a proposed amendment to the current order which regulates on-site sewage facilities.
2. On September 17, 2006 the County of Matagorda caused notice to be published, in a newspaper regularly published and of general circulation, in the Applicant's area of jurisdiction, of a public meeting to be held on Monday, September 25, 2006.
3. The County of Matagorda held a public meeting to discuss the proposed amendment on September 25, 2006.
4. Matagorda County's Order regulating on-site sewage facilities was adopted on September 25, 2006.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Matagorda County Order was submitted to the Texas Commission on Environmental Quality.

7. The order is at least equivalent to the standards of the Texas Commission on Environmental Quality.

CONCLUSIONS OF LAW

1. The above facts are conditions sufficient to issue this order pursuant to §366.031 of the Code.
2. Section 5.102 of the Texas Water Code authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of Chapter 366 of the Health and Safety Code and / or within the Commission's jurisdiction and who provides no comment on other statutory authority.
3. Issuance of this order will effectuate the purposes of Chapter 366 of the Code.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The County of Matagorda is hereby authorized to implement Matagorda County Order which regulates on-site sewage facilities.
2. Any amendments to Matagorda County Order must be approved by the Texas Commission on Environmental Quality.
3. The Chief Clerk of the Commission is directed to forward a copy of this Order to the Applicant and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: November 3, 2006



Executive Director
Texas Commission on Environmental Quality

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

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

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

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

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

I, Gall Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006



Gall Denn County Clerk
By *[Signature]* Deputy

AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-Site Sewage Facility order for Matagorda County.

SECTION 5. CHAPTER 366.

The County of Matagorda, 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 Matagorda 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 Matagorda County, Texas.~~

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdiction area of Matagorda 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 Matagorda 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 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.

I, Gail Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006



By Gail Denn County Clerk
[Signature] Deputy

ADDENDUM:

SECTION 10. JUSTIFICATION

- a. To better protect the waters in the State, the regulatory authority must be aware of all OSSF's being installed on all tracts of land. There are problems with improperly designed and non-approved systems for the site conditions being installed on properties ten acres or larger. This amendment would provide the requirement of permitting and inspecting all OSSF's, regardless of the size of land.
- b. A trained and licensed individual should perform the installation of an on-site sewage facility. The complexity and technology of construction requirements, rules and regulations, as well as, the protection of the local and environmental conditions, command that the individual installing an OSSF needs training before construction. Homeowners whom have attempted to install their own OSSF have resulted in non-compliance, thus costing more money and causing Problems for the homeowner.
- c. To protect the environment, a Registered/Certified maintenance provider will be required. Due to the technology and design of aerobic on-site septic systems, and necessary parts for repair will prove difficult for most property owners/homeowners to perform their own maintenance, testing, and reporting. Maintenance providers must be certified by the system manufacturer.

I, Gall Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006



By Gall Denn County Clerk
Gall Denn Deputy

SECTION 10. AMENDMENTS.

The County of Matagorda, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that 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 Matagorda County, Texas:

SECTION 10. AMENDMENTS.

- a. A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which they are installed.
- b. All construction of any type of on-site sewage facility shall be by a Registered Installer. There shall be no property owner/homeowner installation unless The property owner/homeowner is also a Registered Installer.
- c. Testing and reporting of On-Site Sewage Facilities must be performed by an approved maintenance company, regardless of population.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Matagorda 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 Matagorda 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 Matagorda 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.

I, Gail Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006



By *Gail Denn* County Clerk
[Signature] Deputy

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Matagorda 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, cluses, sentences, paragraphs, or sections of this Order, since the same would have been enacted by commissioners Court without incorporation in this Order such unconstitutional phrases, clause, sentence, paragraph, or section.

I, Gall Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006



By Gall Denn County Clerk
Gall Denn Deputy


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 DAY OF SEPT, 2006.

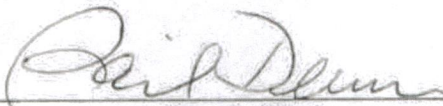
APPROVED:



County Judge



ATTEST:



County Clerk

I, Gail Denn, County Clerk, Matagorda County, Texas, do hereby certify that this is a true and correct copy as the same appears of record in my office. Witness my hand and Seal of Office on

OCT - 9 2006



By  County Clerk
 Deputy