

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On FEB 02 2009 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Van Zandt, ("Applicant" or "Van Zandt"), 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 Van Zandt County Order should be approved.

FINDINGS OF FACT

1. The County of Van Zandt drafted a proposed amended order which regulates on-site sewage facilities.
2. On December 14, 2008 the County of Van Zandt 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 Tuesday, December 23, 2008.
3. The County of Van Zandt held a public meeting to discuss its proposed order on December 23, 2008.
4. Van Zandt County's amended Order regulating on-site sewage facilities was adopted on December 23, 2008.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Van Zandt 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 Van Zandt is hereby authorized to implement its Order which regulates on-site sewage facilities.
2. Any amendments to the Van Zandt 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 and the Applicant's adopted order, ordinance, or resolution, marked as Exhibit "A", 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: **FEB 02 2009**



Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

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

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof, and the evidence and arguments there presented were considered by the Commissioners Court of Van Zandt County, Texas; and

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

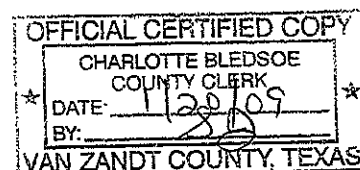
WHEREAS, the Commissioners Court of Van Zandt County, Texas has considered the matter and deems it appropriate to enact an Order adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Van Zandt County, Texas.

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

SECTION 3. THAT an Order for Van Zandt 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 Van Zandt County.

SECTION 5. CHAPTER 366.

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

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

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

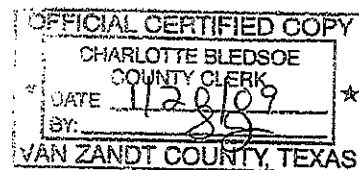
Any permit issued for an on-site sewage facility within the jurisdictional area of Van Zandt County, Texas must comply with the Rules adopted in Section 8 of this Order.

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 Van Zandt 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.

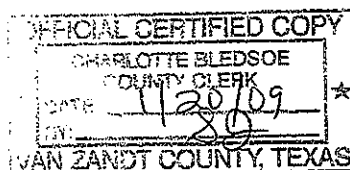
The Rules, 30 TAC Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules is attached to these Rules as Appendix I.



SECTION 10. AMENDMENTS.

The County of Van Zandt, Texas wishing to adopt more stringent Rule 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 is the more stringent Rule adopted by Van Zandt County, Texas:

- A. Van Zandt County, shall require an application, permit, and inspection for construction, alteration, extension or repair to a residential or commercial (OSSF) on-site sewage facility, regardless of the size of the tract of land.
- B. Subdivision of land for single family residence, multi-family dwelling sites or commercial using OSSF systems must have a minimum of one acre lot or tract.
- C. Each single family residence using OSSF systems must be located on a minimum one acre lot or tract, unless lot or tract platted and recorded prior to the adoption of this order.
- D. Property owners of OSSF systems subject to required maintenance and reporting must register annually. Registration is subject to a fee, which is set by commissioners court.
- E. All contracted maintenance of an on-site sewage disposal system using aerobic treatment shall be conducted by individuals licensed or registered by TCEQ to perform maintenance. There shall be no homeowner/property owner maintenance of an aerobic sewage disposal system using aerobic treatment unless:
 - (1) the homeowner is certified by completing and passing a basic maintenance course, approved by TCEQ for aerobic treatment units and the property is the personal residence of the homeowner.
- F. All home owner inspection reports shall be submitted as required by Title 30 TAC, Chapter 285.
- G. All construction, alteration or installation of an on-site sewage facility must be conducted by a installer licensed by TCEQ.



SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Van Zandt 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 shall be made payable to Van Zandt 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 Van Zandt 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 Van Zandt 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 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 23rd DATE OF December, 2008.

APPROVED:



County Judge

ATTEST:


County Clerk



I do hereby certify that this is a true and correct copy as same appears of record in my custody. SSN may have been redacted in compliance with Govt. Code 552.147. Witness my hand and seal of office on January 20, 2009.
Charlotte Bledsoe, County Clerk, Van Zandt County, Texas

By 
Deputy