



Travis County Commissioners Court Agenda Request

Meeting Date: October 28, 2014

Prepared By: Stacey Scheffel, Permit Program Manager **Phone #:** (512) 854-7565

Division Director/Manager: Anna Bowlin, Division Director Development Services
Long Range Planning

Department Head/Title:  Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: County Judge Samuel T. Biscoe

AGENDA LANGUAGE:

Consider and take appropriate action on the following requests:

- A) Public involvement process for the proposed Chapter 48, Rules of Travis County, Texas for On-Site Sewage Facilities; and
- B) Approve the setting of a public hearing on Tuesday, December 2, 2014 regarding the proposed Chapter 48, Rules of Travis County, Texas for On-Site Sewage Facilities.

BACKGROUND/SUMMARY OF REQUEST:

The State of Texas has adopted basic statewide rules for the installation and maintenance of On-Site Sewage Facilities (OSSFs). Travis County is an Authorized Agent of the state for OSSFs and as such is required to enforce the state rules. The county can adopt more stringent rules in order to protect public health and the environment. In fact, the county adopted more stringent rules in 2000, but the rules are in need of updating.

In order to adopt more stringent requirements, the state requires that a public hearing be held, but not before they approve a draft of the proposed rule. TNR and County Attorney staff prepared a draft based on what we have heard from our customers over the years on what they would like to see in our rules. The state has approved the draft. While staff believes it has done a good job listening to our customers, it is customary for the Court to allow the public a period of time to comment on draft regulations prior to a public hearing and eventual adoption. Staff recommends allowing the month of November as the public comment period ending with an official public hearing on December 2, 2014. Staff will post the proposed rules on the County web site and notify customers of the draft via e-mail. Written comments can be sent to OSSF@traviscountytexas.gov or Travis County TNR, Attention OSSF Program, P.O. Box 1748, Austin TX 78767. Citizens can also contact Stacey Scheffel, Permit Program Manager, at (512) 854-7565 with any question or concerns.

STAFF RECOMMENDATIONS:

Staff recommends allowing the month of November as the public comment period ending with an official public hearing held on December 2, 2014.

ISSUES AND OPPORTUNITIES:

Although staff incorporated many suggestions of our customers into the draft, we anticipate that there will be some comments that will require revising the draft and getting the state to approve the revisions prior to adoption. As such, staff does not recommend posting the proposed rule for action on the date of the public hearing. Staff will request that the Court take action once a revised draft is approved by the state.

Although not required in order to adopt new OSSF rules, the County Attorney’s Office completed a Takings Impact Analysis for the proposed rules. The analysis found that the rules do not constitute a taking.

FISCAL IMPACT AND SOURCE OF FUNDING:

None

EXHIBITS/ATTACHMENTS:

Proposed Chapter 48, Rules of Travis County, Texas for On-Site Sewage Facilities More Stringent Requirements Justification Memo
TCEQ Approval Letter
Takings Impact Analysis

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	(512) 854-4239
Steven M. Manilla	County Executive	TNR	(512) 854-9429

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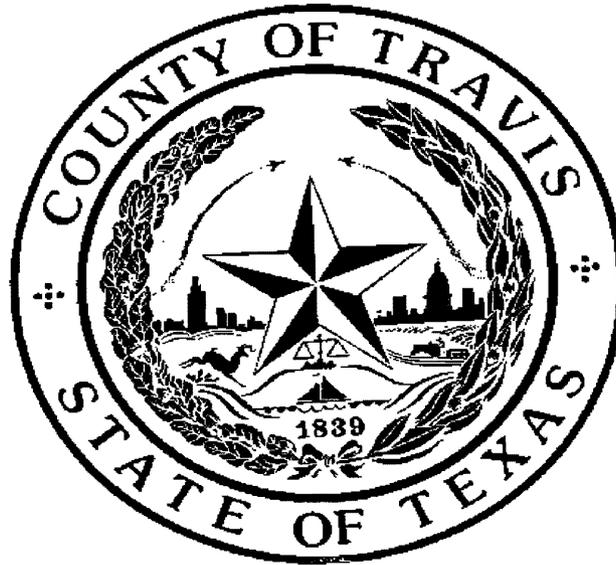
Rodney Sherrill	Engineer	TNR	(512) 854-7581
Brandon Couch	Engineer Associate	TNR	(512) 854-6435
Julie Joe	Assistant County Attorney	County Attorney	(512) 854-9415

SM:AB:ss

1701 - Private Sewage Facilities- 1705

**TRAVIS
CODE
48**

**COUNTY
CHAPTER**



Chapter 48. Rules of Travis County, Texas for On-Site Sewage Facilities

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CHAPTER 48. RULES OF TRAVIS COUNTY, TEXAS FOR ON-SITE SEWAGE FACILITIES

Subchapter A

48.001 Policy and Purpose

(a) Background and Policy.

- (1) 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 to minimize environmental pollution.
- (2) The Legislature has enacted legislation, codified as Texas Health and Safety Code Chapter 366, which authorizes a local governmental entity 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.
- (3) Due notice was given of a public meeting to determine whether the Commissioners Court of Travis County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in Travis County, Texas.
- (4) The Commissioners Court of Travis County, Texas finds that the use of on-site sewage facilities in Travis County, Texas is causing or may cause pollution, and is injuring or may injure the public health.
- (5) The Commissioners Court of Travis 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 Travis County, Texas.

(b) Findings and Adoption of Rules. The Commissioners Court of Travis County, Texas finds that:

- (1) The matters and facts recited in subsection (a) are true and correct;
- (2) The use of on-site sewage facilities in Travis County, Texas, is causing or may cause pollution and is injuring or may injure the public health; and
- (3) It is necessary and appropriate to adopt this chapter of the Travis County Code, which is to be entitled "Rules of Travis County, Texas for On-Site Sewage Facilities.

48.002. Definitions and Acronyms.

Words and phrases in this chapter have the same meaning they have in Chapter 366 (On-Site Sewage Disposal Systems) of the Texas Health and Safety Code and Chapter 285 (On-Site Sewage Facilities) of Title 30 of the Texas Administrative Code. The following words and terms in this section, when used in this chapter, have the following meanings:

- (1) "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
- (2) "Accessory structure" means a structure which is on the same parcel of property as the principal structure to be insured and which is incidental to the use of the principal structure.
- (3) "Authorized Agent" means the Travis County Commissioners Court or its designee, the Travis County Transportation and Natural Resources Department.
- (4) "Commissioners Court" means the Travis County Commissioners Court.
- (5) "County Executive" means the county executive of the Travis County Transportation and Natural Resources Department or his designee.
- (6) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures, a change in the use of improved or unimproved real estate, mining, dredging, filling, grading, paving, surfacing, excavation operations, drilling operations, the storage of equipment or materials, and the clearing of land for the purpose of preparing a site for any man-made change to improved or unimproved real estate.
- (7) "License to Operate" means written permission from the Permitting Authority to operate an on-site sewage facility.
- (8) "Lot" or "site" means the unit of land area served by an on-site sewage facility.
- (9) "Maintenance" means required or routine performance checks, examinations, upkeep, cleaning, or mechanical adjustments to an on-site sewage facility, including replacement of pumps, filters, aerator lines, valves, or electrical components. Maintenance does not include alterations.
- (10) "On-site sewage facility" or "OSSF" means a system that:
 - (a) does not treat or dispose of more than 5,000 gallons of sewage each day; and
 - (b) is used only for disposal of sewage produced on a site where any part of the system is located.
- (11) "Permit to Construct" means written permission from the Permitting Authority to construct an on-site sewage facility showing the date the permission was granted.

- (12) "Permitting Authority" means the Travis County Commissioners Court or its designee, the Travis County Transportation and Natural Resources Department.
- (13) "Person" means an individual, association, partnership, corporation, organization, business trust, political subdivision, state or federal agency, or an agent or employee thereof.
- (14) "Repair" means to replace any components of an on-site sewage facility in situations not included under emergency repairs according to 30 TAC § 285.35 (relating to emergency repairs), excluding maintenance. The replacement of tanks or drainfields is considered a repair and requires a permit for the entire OSSF system.
- (15) "Residential unit" means a structure that is used for habitation.
- (16) "Sewage" means waste that:
 - (a) is primarily organic and biodegradable or decomposable; and
 - (b) generally originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.
- (17) "TAC" means the Texas Administrative Code.
- (18) "TCEQ" means the Texas Commission for Environmental Quality or its successive agencies.
- (19) "TCEQ Rules" means the rules promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities in Title 30 Texas Administrative Code Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions to those rules.

48.003 Conflicts

- (a) This chapter repeals and replaces any other on-site sewage facility orders or parts of orders of Travis County, Texas.
- (b) All Codes or policies, or parts of Codes or policies of Travis County related to this chapter that are in conflict with the provisions of this chapter are hereby repealed.

48.004 On-Site Sewage Facility Regulation and Enforcement

Travis County, Texas clearly understands 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, Chapters 7 and 37 of the Texas Water Code, and associated rules referenced in section 48.006 of this chapter.

48.005 Jurisdictional Area/Applicability

This chapter applies to:

- (a) the unincorporated areas of Travis County, Texas except:
 - (1) the areas regulated under an order adopted by a local governmental entity other than Travis County; and
 - (2) the areas have been annexed by the City of Austin for the limited purpose of public health;
- (b) areas within the corporate limits of Webberville and San Leanna;
- (c) areas within the corporate limits of Leander located within Travis County; and
- (d) areas within the territorial limits of a local governmental entity located in whole or in part in Travis County that:
 - (1) has been delegated the authority by the TCEQ executive director to implement and enforce the rules adopted under Texas Health and Safety Code, Chapter 366; and
 - (2) has entered into an interlocal agreement with Travis County for the enforcement of that local governmental entity's OSSF rules.

48.006 Compliance with On-Site Sewage Facility Rules

- (a) Any person who has an ownership interest in an on-site sewage facility or who participates in any activity relating to the development of planning materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, inspection, or investigation of an on-site sewage facility within the jurisdictional area of Travis County, Texas must comply with the TCEQ Rules and all applicable provisions of this chapter.
- (b) A person must obtain a Permit to Construct from the County in accordance with this chapter before the person constructs, installs, alters, repairs, extends, or modifies an OSSF unless the OSSF is excluded or exempted under State law or this chapter.
- (c) Any person who has an ownership interest in an on-site sewage facility within the jurisdictional area of Travis County must obtain a License to Operate from the County before the person operates or allows any person to operate the on-site sewage facility.

48.007 TCEQ Rules Adopted; Incorporation by Reference

- (a) Travis County adopts the rules promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities in Title 30 Texas Administrative Code Chapter 30, Subchapters A and G, and Chapter 285.
- (b) The TCEQ Rules and all future amendments and revisions to them are incorporated by reference and made a part of this chapter.

48.008 Authority to Act

All officials and employees of Travis County, Texas who have duties under the TCEQ Rules are authorized to perform those duties as are required of them under the TCEQ Rules and the provisions of this chapter.

48.009 Adoption of Rules that are More Stringent

- (a) Travis County, Texas adopts certain OSSF rules that are more stringent than those adopted by the TCEQ.
- (b) The more stringent rules adopted by the Travis County Commissioners Court shall take precedence over any less stringent rules adopted by TCEQ.
- (c) Travis County's more stringent rules are set forth in subchapter B.

48.010 Additional Findings

The Travis County Commissioners Court finds that it is proper and necessary to adopt OSSF standards that are more stringent than the standards adopted by TCEQ because:

- (a) Protecting water resources is vital to human health, and some residents within Travis County depend heavily upon groundwater for their drinking water;
- (b) The population of Travis County is projected to double by the year 2050;
- (c) A significant amount of the projected future growth within the unincorporated areas of Travis County is expected to rely on on-site sewage facilities;
- (d) The adoption of OSSF regulations that are more stringent within the Recharge Zone of the Edwards Aquifer (including those land areas situated above the Trinity Aquifer Recharge Zones) and other aquifers which have environmentally sensitive rapid recharge conditions is necessary and appropriate to avert public health hazards resulting from the projected increased use of on-site sewage facilities and the increased usage of water; and
- (e) The more stringent rules will provide greater public health and safety protection for the residents of Travis County.

48.011 Local Administrative Procedures

The County's local administrative procedures are set forth in subchapter C.

48.012 Duties and Powers of Designated Representatives

- (a) The Transportation and Natural Resources Department of Travis County, Texas will ensure that each individual who acts as a designated representative for Travis County within Travis County's jurisdictional area is certified by the Texas

Commission on Environmental Quality before that individual assumes duties and responsibilities as a designated representative of Travis County, Texas.

- (b) Each of Travis County's designated representatives is authorized to review permit applications, site evaluations, and planning materials and to conduct inspections of on-site sewage facilities.

48.013 Collection of Fees

- (a) All fees collected under this chapter must be made payable to Travis County, Texas and must be paid in accordance with fee schedules adopted by the Commissioners Court as authorized by law.
- (b) Each fee collected by Travis County for an application for a Permit to Construct must include a fee of \$10 that Travis County must forward to the TCEQ Water Resources Management Account in accordance with Chapter 367 of the Texas Health and Safety Code.

48.014 Appeals

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision by mailing, within 30 days of the action or decision, a written appeal to the Travis County Commissioners Court.

48.015 Enforcement Plan

- (a) Travis County, Texas clearly understands that, as a minimum, it must follow the requirements in 30 TAC Section 285.71 (Authorized Agent Enforcement of OSSFs).
- (b) This chapter 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 Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code, 30 TAC Chapter 30, Subchapters A and G, and 30 TAC Chapter 285.
- (c) At the request of the Commissioners Court, the County Attorney or other prosecuting attorney for the County may file an action in a court of competent jurisdiction to do one or more of the following:
 - (1) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under this chapter;
 - (2) Seek civil or criminal penalties as provided by law; and
 - (3) Take all actions or seek any penalty authorized under law, including the penalties and enforcement provisions of Chapters 341 and 366 of the Texas Health and Safety Codes, Chapters 7 and 26 of the Texas Water Code, 30 TAC Chapter 285, and the provisions of this chapter.

48.016 Severability

It is the intention of the Commissioners Court of Travis County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter is 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 chapter, since the same would have been enacted by the Commissioners Court without incorporation in this chapter of such unconstitutional phrases, clause, sentence, paragraph, or section. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and the application thereof to other persons and circumstances shall not be affected.

48.017 Relinquishment of Order

- (a) If the Commissioners Court of Travis 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 Section 285.10 (d) (1) through (4).
- (b) After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC Section 285.10(d)(5) and Section 285.14 after the date that delegation has been relinquished.

48.018 Effective Date

This chapter 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.

Subchapter B

48.031 Travis County's More Stringent Rules

This subchapter sets forth the more stringent rules adopted by Travis County, Texas.

48.032 Facility Planning [285.4]

- (a) All property that will use an on-site sewage facility for sewage disposal must be evaluated for overall site suitability.
- (b) Unless the lot or tract is exempted under 30 TAC Section 285.4(b)(1), the minimum lot size for a structure served by an OSSF, regardless of whether the lot or tract is served by a public water supply, is one acre.
- (c) Residential Structures Served by OSSFs.
 - (1) Each residential unit served by an OSSF is considered a separate structure. Except as provided in Paragraph (2), multiple residential units may be on a single lot or site only if the lot or site contains at least one acre of land for each residential unit.
 - (2) A lot or site of at least one acre in size that was created before TCEQ's approval of this chapter and that has a single-family dwelling located on it may have one additional residential unit placed on the lot or site as an accessory structure for accessory use if:
 - (A) having more than one residential unit on the lot or site does not violate restrictions in a plat, deed, or restrictive covenant for the lot;
 - (B) all other requirements of Chapter 285 of Title 30 of the Texas Administrative Code and the Travis County Code are met; and
 - (C) the lot or site owner files a restrictive covenant in the Official Public Records of Travis County, Texas that:
 - (i) prohibits the addition of any more habitable structures on the lot or site without approval by the local entity having OSSF jurisdiction over the lot;
 - (ii) prohibits the residential units from being conveyed or transferred to separate owners without approval by the local entity having OSSF jurisdiction over the lot;
 - (iii) prohibits any further subdivision of the lot or site without approval by the local entity having OSSF jurisdiction over the lot; and
 - (iv) provides that the restrictive covenant is enforceable by the owners of adjacent land, TCEQ, and the local governmental entity having OSSF jurisdiction over the lot.

- (3) If the County Executive determines that having more than one residential unit on the lot or site will not adversely affect public health, safety, or welfare, the County Executive may waive the requirement that a plat be approved for structures and a lot or site meeting the requirements of this subsection.
- (d) **Review of Planning Materials.** Persons proposing single-family residential developments, condominium developments, multi-unit residential developments, manufactured housing communities, commercial developments, or any other type of development with structures served by OSSFs must submit planning materials for these developments to the Permitting Authority as set forth in Subchapter C, Travis County Local Administrative Procedures, and obtain the Permitting Authority's written approval of the planning materials before submitting an OSSF application.
- (e) **Notice in Deed and Plat Records.**
 - (1) Where approval of on-site sewage facilities in a development will be granted based on conditions that restrict lots with regard to on-site sewage facilities, those conditions shall be reflected by appropriate plat notes or restrictive covenants filed in the Official Public Records of Travis County, Texas. The County will not issue a Permit to Construct or a License to Operate unless a property owner has recorded all plat notes and restrictive covenants required by the County.
 - (2) In addition to the requirements set forth in 30 TAC Chapter 285, on each new plat, the following note shall be included (along with any specific restrictions imposed):
 - This subdivision is subject to all the terms and conditions of Chapter 48, Travis County Code, Rules of Travis County, Texas for On-Site Sewage Facilities. These rules require, among other things, that a construction permit be obtained from Travis County before an on-site sewage facility can be constructed, altered, modified, or repaired in the subdivision and that a license to operate be obtained from Travis County before an on-site sewage facility can be operated in the subdivision.

48.033 Application and Permitting Procedures (§§285.3, 285.5 and 285.6)

- (a) **No Exemptions.** All OSSFs in the jurisdictional area of Travis County are subject to the provisions of this chapter regardless of the size of the lot on which the OSSF is located.
 - (1) Except for emergency repairs that are authorized by 30 TAC Section 285.35, a person must obtain a Permit to Construct from the County before constructing, installing, altering, extending, or repairing an OSSF.

- (2) An individual who makes an emergency repair to an OSSF must notify the Permitting Authority, in writing, within 72 hours after starting the emergency repair. The notice must include a detailed description of the methods and materials used in the repairs.
 - (3) The Permitting Authority has discretion to require an inspection of the emergency repairs.
- (b) Local Procedures. Local Administrative Procedures to be used in Travis County in administering 30 TAC Section 285.5 are set forth in Subchapter C.
 - (c) Time Limit on Applications. An application for an OSSF Permit to Construct expires one year after the date the application fee is paid for if the applicant has been unable to obtain an OSSF Permit to Construct from the County during that one-year period. After an application has expired, an applicant for an OSSF Permit to Construct must submit a new application and pay a new application fee.
 - (d) Permit to Construct/License to Operate. Under Travis County procedures, the licensing of an on-site sewage facility is separated into two parts: the Permit to Construct, which is a permit that is issued by Travis County for construction of an onsite wastewater system specifically designed for a specific use, and the License to Operate, which is a license that is issued by Travis County that allows an onsite wastewater system constructed in accordance with the Permit to Construct to be operated as designed, to actively put through, treat, and dispose of sewage waste being generated by the use for which the system is designed.
 - (1) A Permit to Construct expires 12 months from the date of issuance, or upon completion of construction, whichever is sooner. The County may grant a 30-day permit extension if there have been no changes to the design plan approved by the Permitting Authority and the owner applies for the extension at least 30 days prior to the expiration of the Permit to Construct. A fee will be charged towards the cost of the extension and re-issuance of permits. After a Permit to Construct has expired, a person who seeks to construct an OSSF must submit a new application and pay a new application fee in order to obtain a new Permit to Construct.
 - (2) Certification by Designer. The Permitting Authority will not issue a License to Operate for an OSSF that was designed by a professional engineer or registered sanitarian until the owner provides the Permitting Authority with:
 - (A) the engineer or sanitarian's written assurance that the engineer or sanitarian has inspected the OSSF and determined that it has been installed as designed and specified; and
 - (B) an accurate as-built drawing of the OSSF.
 - (3) A License to Operate is limited to authorization to operate an OSSF in accordance with the design and use approved by the Permitting Authority.

- (4) Termination of License to Operate. A License to Operate issued under this chapter or previous OSSF rules adopted by the County may be revoked by the Permitting Authority if:
 - (A) the OSSF fails;
 - (B) the OSSF receives more sewage than the amount for which it was approved;
 - (C) the OSSF receives non-sewage wastewater;
 - (D) a structure connected to the OSSF exceeds or violates the terms of the License to Operate;
 - (E) the property on which the OSSF is located is used for a purpose other than that described in the original application for the Permit to Construct the OSSF; or
 - (F) the OSSF is operated in a manner that does not conform to the design and use approved by the Permitting Authority.
- (5) It is a violation of this Chapter for any person to operate or allow any person to operate an OSSF for which the License to Operate has been terminated or for which a License to Operate has not been issued by the Permitting Authority.
- (6) An owner of an OSSF for which a License to Operate has been terminated may apply in writing to the Permitting Authority to have the License to Operate re-instated. The Permitting Authority may re-instate a License to Operate if the owner of the OSSF has paid all applicable fees, and the Permitting Authority determines, after conducting an inspection of the OSSF, that the OSSF is functioning properly and that the owner of the OSSF has taken affirmative steps to ensure that the OSSF will be operated only in accordance with the design and use previously approved by the Permitting Authority.
- (e) The County will not issue a suitability letter for a TCEQ stormwater pollution prevention plan permit until the Permitting Authority determines that an application for an OSSF Permit to Construct is administratively complete.

48.034 Maintenance Requirements (§285.7)

- (a) This section applies to OSSFs for which maintenance is required as specified in Table XII of 30 TAC Section 285.91 and that serve single-family dwellings.
- (b) At the end of the initial two-year service policy, a homeowner may perform maintenance activities for an OSSF that serves the homeowner's single family dwelling only if the homeowner:
 - (1) has taken the training and passed the test required for a TCEQ registered

- maintenance technician, as required in 30 TAC Section 30.245(b), and has provided the results of the test and proof of attendance at the training to the County; or
- (2) has taken equivalent training specifically for homeowners, as determined by the County, has passed any tests that were required as part of the training, and has provided to the County the results of any tests that were part of the training and proof of attendance at the training.
- (c) A homeowner who performs maintenance activities for an OSSF that serves the homeowner's single family dwelling must comply with the testing and reporting requirements set forth in 30 TAC Section 285.7(e)(1)-(3) for maintenance providers.
- (d) Notwithstanding any provision to the contrary, the owner of a single-family dwelling who has been personally maintaining the OSSF for the single-family dwelling must obtain a maintenance contract for the OSSF and provide a copy of the contract to the County within ten days after the County notifies the owner that:
- (1) The owner has violated Texas Health and Safety Code Chapter 366, a rule adopted pursuant to Texas Health and Safety Code Chapter 366, or this chapter, and the owner chooses to enter into a contract for the maintenance of the system instead of personally correcting the violation; or
 - (2) The owner has, within three years of a previous violation, committed another violation of Texas Health and Safety Code Chapter 366, a rule adopted pursuant to Texas Health and Safety Code Chapter 366, or this chapter.
- (e) In addition to the information required by 30 TAC Chapter 285, all maintenance/inspection reports, including reports prepared by homeowners who provide maintenance on their own OSSFs, must include the following:
- (1) the reporting of any alterations to the OSSF that have not been authorized by the County;
 - (2) the condition of the spray area (if applicable);
 - (3) the permit number for the Permit to Construct;
 - (4) the printed name and signature of the maintenance provider or homeowner/property owner if the homeowner is submitting the report;
 - (5) the physical address of the OSSF location; and
 - (6) the physical address, business address, business telephone number, and emergency phone number of the maintenance provider.
- (f) In addition to the information required by 30 TAC Chapter 285, all

maintenance/inspection contracts must include the following:

- (1) the permit number for the Permit to Construct;
- (2) the printed name and signature of the maintenance provider or homeowner if the homeowner is submitting the report;
- (3) the physical address of the OSSF location; and
- (4) the physical address, business address, business telephone number, and emergency phone number of the maintenance provider.

48.035 Site Evaluation (§285.30)

Travis County requires that backhoe pits be excavated to a depth of two feet below the bottom of the proposed excavation or to a restrictive horizon, whichever is less for soil evaluations. Profile holes are required to be excavated and soil analysis reports must be submitted with all applications for Permits to Construct on-site sewage facilities.

48.036 Criteria for Sewage Treatment Systems (§285.32)

- (a) Testing of Tanks. Following installation and prior to final backfilling, all tanks in the system, including but not limited to septic tanks, pump tanks, trash tanks, and aerobic treatment units, shall be tested by being filled to the outlet with clean water and checked 24 hours later for leaks and structural integrity.
- (b) Non-residential Treatment Requirements - Non-residential systems shall have a minimum of six-day retention time in a septic tank, or in a pre-treatment tank prior to a treatment unit; or provide equalization tanks per 30 TAC Section 285.34
(b)(4)

48.037 Criteria for Sewage Disposal Systems (§285.33)

- (a) Limits on Daily Application Rate – Except as provided in Paragraphs (1) and (2), the total daily application of effluent from an OSSF may not exceed 60 gallons per tenth of an acre of the lot or site. Fractional acreage shall be rounded down to the nearest tenth of an acre.
 - (1) For parcels that were legally platted before TCEQ's approval of this chapter and that are less than or equal to four-tenths of an acre, up to 240-gallons per day may be allowed.
 - (2) For proposed developments with less than 50% total impervious cover, including OSSF drainfield as impervious cover, an exemption may be granted to allow a higher effluent application rate.
- (b) Disposal Processes - Proprietary - Drip Irrigation.
 - (1) There shall be a minimum of two feet of soil between the drip emitter and

groundwater; however, only one foot of soil is required where secondary treatment is used.

- (2) Drip irrigation systems shall be designed using a maximum application rate of 0.15 gallon per square foot per day.
 - (3) Drip irrigation systems shall provide a minimum of two feet per second flushing velocity.
 - (4) There shall be a minimum of one foot of soil between the drip emitter and solid or fractured rock.
- (c) Disposal Processes - Non-Standard - Low Pressure Dosed Drainfield - Drainfield Criteria.
- (1) There shall be a minimum of three feet of undisturbed soil between the sidewalls of multiple excavations.
 - (2) Low pressure dose designs shall include consideration for elevation changes between laterals and friction losses in manifold piping between lateral lines.
 - (3) When on sloping ground, supply manifolds shall connect to the highest lateral in a drainfield zone.
- (d) Disposal Processes - Non-standard - Surface Irrigation Systems.
- (1) Surface irrigation shall be conducted during the night-time hours, preferably just before sunrise.
 - (2) Consideration must be given towards controlling run-off from the disposal area during rain events.
 - (3) The minimum setback to a property line is 25 feet.
- (e) Disposal Processes - Non-Standard - Soil Substitution Drainfields. Soil Substitution beds are required to use pressure dose application. Pipe and orifice spacing for the distribution piping is to be the same as for current mound design requirements.
- (f) Pipe Bedding – Pipes such as sewer pipes from the structure to the treatment facility and from the treatment facility to the disposal component shall be bedded with four inches of Class Ib, Class II, or Class III soil with less than 30% gravel. The bedding soil shall be free of organic material and any rocks or grains larger than ½ inch.
- (g) Pump Tank Sizing – Pump tank shall be sized to provide at least one full day of flow above the alarm on setting unless dual pumps are used per requirements of 30 TAC 285.34(b)(3).
- (h) Installations on Slopes Exceeding 10% - Drainfields with finished grades exceeding 10% shall either provide erosion control matting or 80% vegetative cover prior to final inspection.

Subchapter C.

48.051 Local Administrative Procedures

- (a) This Subchapter sets forth procedures that must be followed by persons who are applying for a Permit to Construct or a License to Operate an OSSF. This Subchapter also sets out the County's enforcement authority.
- (b) The Local Administrative Procedures set forth in this Subchapter are designed to further the ability of the Permitting Authority in assuring that a person does not:
 - (1) install, construct, alter, extend, or repair an OSSF without obtaining a Permit to Construct from the Permitting Authority;
 - (2) operate or maintain an OSSF or discharge (includes deposit, conduct, drain, throw or otherwise release or dispose of wastewater or effluent, or to allow any of these acts) sewage or sewage effluent into an OSSF without obtaining a License to Operate from the Permitting Authority; or
 - (3) cause, permit or allow the operation of or the maintenance of an OSSF in a manner that will cause, or may tend to cause pollution, injury to the public health, or nuisance conditions.

48.052 Enforcement

In order to enforce this chapter, the Permitting Authority is authorized to:

- (a) enter private property to inspect or monitor incipient or existing OSSFs at all reasonable times and at any time there is reasonable cause to believe a violation of this chapter has been committed or is being committed. Notwithstanding the foregoing, the Permitting Authority or TCEQ may inspect an on-site sewage system using aerobic treatment at any time.
- (b) order the work being done on an OSSF in violation of this chapter to be stopped by notice in writing of the suspension or revocation of the permit to the person doing or causing the work to be done.
- (c) issue a written order to a person to immediately cease using any OSSF causing pollution or constituting a nuisance, or otherwise operating in violation of this chapter, and may seek legal process to enforce its orders.
- (d) revoke a License to Operate an individual onsite wastewater system if the system for which it has been issued is being operated in violation of this chapter, is not being operated within the manufacturer's specifications, does not have a valid maintenance contract when one is required, or becomes a public nuisance. A Notice of Violation for inappropriate operation shall first be issued by Travis County. If the violation for which the property owner is cited is not corrected within the time specified in the Notice of Violation, Travis County may revoke the

License to Operate.

- (e) take any other action authorized by law to enforce local, state, and federal rules relating to OSSFs within the County's jurisdictional area.

48.053 Notice

- (a) Unless otherwise specified, any notice prepared by the County may be given by hand delivery or by US Mail. Notice by the County may also be accomplished by posting a sign on the property to which the notice refers.
- (b) Any notice that is required to be sent to the County must be given by:
 - (1) hand delivery or overnight courier to the Permitting Authority at 700 Lavaca, Suite 500, Austin, Texas 78701,
 - (2) United States Mail, postage prepaid, return receipt requested, to the following address:
Travis County Transportation and Natural Resources Department
On-Site Wastewater Program
P.O. Box 1748
Austin, Texas 78767

48.054 Permit to Construct and License to Operate.

To facilitate the efficient implementation of this chapter:

- (a) The Permit to Construct is limited to the authorization to install, construct, alter, extend, or repair an OSSF in accordance with the planning materials approved by the Permitting Authority. It does not include authorization to operate the OSSF.
- (b) The License to Operate is not included in the Permit to Construct, but will be issued upon certification by the designer of record and final approval of construction by the Permitting Authority. The License to Operate will allow an OSSF to be operated in accordance with the approved planning materials for the discharging of sewage into the facility for treatment and disposal or reuse.
- (c) Because wastewater collection systems provide greater public health protection than OSSFs, the Permitting Authority may elect to not issue a Permit to Construct if the Permitting Authority determines that any portion of the proposed OSSF is located within 500 feet of the boundary of an area served by a private or public wastewater collection system that would, in the opinion of the Permitting Authority, be legally and technically feasible for the OSSF to connect to.

48.055 Variance Procedures

Variations from this chapter may be granted as provided in this subsection.

- (a) Requests for variations from this chapter shall be considered on an individual basis in accordance with the criteria specified in 30 TAC Section 285.3(c) and where site conditions (such as lot size, separation distance and setbacks) are such that no alternative that complies with this chapter can be found.
- (b) The Commissioners Court authorizes the Permitting Authority to grant variations involving exceptions to technical construction standards or local setback and separation distances more stringent than State standards as long as the variance granted results in a system which ensures public health protection equivalent to that provided under the TCEQ Rules. The Permitting Authority is authorized to grant administrative variations, including, for example, a variance to allow the construction of an OSSF in a drainage easement if the applicant has taken concrete steps to vacate the easement and there is no known opposition to the vacation of the drainage easement. The Permitting Authority may refer any request for variance to the Commissioners Court for direction.
- (c) A person desiring a variance to any requirement of this chapter shall file a written request with the Permitting Authority, stating the specific provision from which a variance is requested, and including any information which the requestor feels is pertinent to the request.
- (d) In granting a variance, the Commissioners Court or the Permitting Authority may specify terms and conditions determined to be necessary or advisable to ensure equivalent public health protection, such as requiring certain treatment levels, monitoring equipment, and procedures for design and/or operating and/or maintenance. The owner of the property shall allow the Permitting Authority to enter the property for the purpose of inspecting the facility at any reasonable time to ascertain that conditions are met.
- (e) Requests for variations requiring approval by the Commissioners Court will be submitted for Court consideration as follows:
 - (1) The Permitting Authority shall review the request within 30 days of the completed request, formulate a recommendation to the Court, and make a written reply either requesting additional information or notifying the applicant of a Court date and of the Permitting Authority's recommendation to the Court.
 - (2) Notwithstanding any other provision of this chapter, if the variance request is made in conjunction with an application for final plat approval under Chapter 82, Travis County Code, the request must be reviewed, acted on, and appealed within the time periods established under Chapter 82 in lieu of this chapter.

- (f) Procedures for consideration of requests for variances that may be granted by the Permitting Authority will be as follows:
- (1) Not later than 30 days after the receipt of a complete request for variance, the Permitting Authority shall review the request and reply to the applicant in writing, granting or denying the request, or requesting additional information. If the Permitting Authority does not reply in writing to an applicant within 30 days after receiving the applicant's request for variance, the request is denied.
 - (2) A person aggrieved by an action or decision of the Permitting Authority regarding the person's request for a variance may, within 30 days after the date of the document giving notice of the action or decision, or within 30 days after the action if no document is given, appeal to the Commissioners Court. The appeal shall be initiated by filing a written objection with the Permitting Authority. The written objection shall state the specific action or decision being appealed, the relief requested, the person's reasons for requesting the relief, and a copy of the document, if any, giving notice of the action or decision appealed.
 - (3) The Permitting Authority shall notify the County Judge who shall place the matter on the agenda of the Commissioners Court in accordance with usual Court procedures. The Permitting Authority shall provide written notice of the time and place of the hearing before the Court to the person making the appeal.
 - (4) The Commissioners Court shall review the matter in the scheduled hearing, considering the materials submitted by the Permitting Authority and the person seeking the appeal, as well as any information and evidence that it considers relevant. The Commissioners Court shall render its decision no later than ten days after the conclusion of the hearing. If the Commissioners Court does not approve a request for variance within ten days after the hearing, the request is denied unless the Commissioners Court schedules an additional hearing and approves the variance at the subsequent hearing.
- (g) The Permitting Authority shall keep complete records of variances granted. The Permitting Authority shall make periodic reports to the Commissioners Court including locations, descriptions of the variances requested, the reasons for the variances, and Permitting Authority's justifications for the granting of the variances, as specified by the Court.

48.056 Submission of Planning Materials

The following planning materials, which must be prepared by a professional engineer or registered sanitarian, must be submitted with an application for a preliminary plan, final plat, or when proposing a manufactured housing community, condominium

development, multi-unit residential development, business park, or other similar use that will use OSSFs for sewage disposal:

- (a) An accurate plan that complies with all applicable State of Texas and County standards and that shows each existing or proposed lot, its size, source of water, and the area available for disposal fields.
- (b) The geographic location of the development or subdivision and its proximity to streams and lakes.
- (c) Identification on the plan of the location of recharge features, which features must be indicated on the final plat.
- (d) Identification on the plan of planned or existing well locations and a sanitary zone with a 100-foot radius around private wells, and a 150-foot radius around public wells, within which no effluent disposal fields may be sited as set forth in this chapter.
- (e) A comprehensive drainage and 100-year floodplain impact plan.
- (f) Identification on the topographic map or plan of the 100-year floodplain and the floodway.
- (g) A report detailing the types of OSSFs to be considered and their compatibility with area-wide drainage and groundwater.
- (h) Results of a site evaluation for soil suitability in accordance with section 48.035 of this chapter based upon a number of soil profile holes which will provide a representative sample of soils. Profile holes shall be to a depth of five feet or to a limiting condition, whichever is shallower. Test locations shall be evenly distributed throughout the development and be representative of the soils within the development. Where soil conditions are variable, additional soil profile hole testing may be required in test sites determined by the Permitting Authority. An analysis of each soil layer in each profile hole shall be provided including soil classification, structure, gravel content percentage, and presence of mottles and/or groundwater.
- (i) Depiction on the plan of the areas and depths of scalping or fill and road cuts for the purpose of addressing setback requirements.
- (j) Notification on the plan of the presence of mottled soils or water in soil profile holes indicating the groundwater table is less than five feet below the surface as the surface exists or as it will be after grading and filling that may be required in the development.
- (k) Depiction on the plan of areas of greater than 30% slope with a cumulative total of areas with greater than 30% per lot.
- (l) Any additional planning materials that the Permitting Authority and/or staff of the Permitting Authority determine are necessary to demonstrate the applicant's compliance with the requirements of this chapter.

48.057 Procedures for Reviewing Planning Materials

- (a) Preliminary Review. Preliminary review may be requested by the applicant, including scheduling an on-site inspection by the Permitting Authority. To obtain preliminary review, an applicant shall submit at least the materials listed in Section 48.056(a), (b), (d), and (f).
- (b) Final Review. The Permitting Authority shall review the final planning materials for compliance with this chapter and recommendations made for the preliminary review, if any. Changes in the planning materials may require additional review. Survey and staking of individual lots is required before the final review.
- (c) Final Plat Approval. If reviewed in conjunction with an application for final plat approval, the Permitting Authority shall make a written recommendation to the Commissioners Court within 45 days of a proper and complete submittal of planning materials.
 - (1) Approval. If the recommendation is for approval of the subdivision as proposed for use with OSSFs, the Permitting Authority shall continue to process the plat, preliminary plan, or basic development permit for approval.
 - (2) Approval with Conditions or Denial. If the recommendation is for approval with conditions or for denial, the applicant may appeal as provided in Chapter 82, Travis County Code.
- (d) Limits of Approval. An approval recommendation under this subsection does not constitute either a Permit to Construct or a License to Operate for a specific OSSF.

48.058 Permit to Construct

- (a) Application.
 - (1) Except for making emergency repairs that are authorized by 30 TAC Section 285.35, no person may construct, install, repair, alter, or extend an OSSF unless the person has first obtained a Permit to Construct from the Permitting Authority.
 - (2) In addition to other requirements, a property owner who seeks to have an OSSF constructed, installed, repaired, altered, or extended on that person's property shall submit a complete "Application for On-Site Sewage Facility Permit to Construct" to the Permitting Authority. The owner or an agent of the owner may seek information and/or assistance pertaining to the requirements for design of an OSSF for a specific property once application has been made.

- (3) To be considered administratively complete, an application must include all the information specified in the "Application for On-Site Sewage Facility Permit to Construct," including:
 - (A) construction planning materials that demonstrate that the proposed OSSF complies with this chapter. Construction planning materials that are prepared by a registered sanitarian or licensed professional engineer must include the signature and official seal of the professional as well as the date of preparation.
 - (B) the results of a site evaluation as required by section 48.035 of this chapter.
 - (C) the floor plan of all the structures serving as the generating unit shall be included with the application for a permit to construct an onsite wastewater system. Square footages, labels, and dimensions must be included for clarity.
 - (D) a statement stating that the site has been marked by a sign, visible from the road frontage, that is at least 12" x 24", bearing the street address.
- (4) An application must be accompanied by payment of required fees.
- (b) Site Inspection.
 - (1) After an administratively complete application has been received by the County, the Permitting Authority shall conduct an inspection of the site on which the OSSF is to be constructed, and shall make a finding on the issuance of a Permit to Construct, based upon the information in the complete application and any other information available to the Permitting Authority.
 - (A) Upon a finding by the Permitting Authority that construction may begin, the County will issue a Permit to Construct to the applicant. The applicant must post the permit in a conspicuous manner at the site at all times during construction.
 - (B) If the Permitting Authority determines that a Permit to Construct cannot be issued, the Permitting Authority shall notify the applicant in writing of the reasons why the permit cannot be issued.
 - (2) The construction, installation, extension, or repair of an OSSF shall be made in accordance with the approved design and requirements of the Permit to Construct.
- (c) Construction Inspections.
 - (1) The Permitting Authority shall inspect installations of OSSFs in accordance with the inspection schedule established in the Permit to Construct. Each type of system will have an included number of

inspections given in the inspection schedule. Any additional inspections required will incur an additional fee per inspection.

- (2) Components of an OSSF may not be installed or covered until required inspections have been made and approval has been obtained from the Permitting Authority for that stage of construction.
- (3) The applicant or installer shall notify the Permitting Authority that an inspection is desired at least two working days, excluding weekends and County-designated holidays, before the need for each inspection.
- (4) The applicant or installer shall provide whatever reasonable assistance the Permitting Authority requests in order to make each inspection.
- (5) The inspection of drip emitters in place and uncovered is required except where drip emitters are installed by the "plowed-in" method. When "plowed-in" the connections of all drip emitter tubing to the header piping will be uncovered for inspection.

48.059 License to Operate

- (a) New OSSFs. After final inspection of a newly installed OSSF, the Permitting Authority shall make a finding on whether to issue a License to Operate, based upon the information obtained from the inspections and any other information available to the Permitting Authority.
- (b) Upon a finding that the use of the new OSSF will not cause pollution, injury to the public health, or nuisance conditions and is not in conflict with this chapter, other provisions of the Travis County Code, the Permitting Authority will issue a License to Operate the OSSF.
- (c) Upon a finding that a License to Operate cannot be issued, the Permitting Authority shall notify the applicant in writing and shall include the reasons for denying the issuance of a license.

48.060 Affidavit Forms

Sample affidavit forms for use under this chapter will be provided by the Permitting Authority. The maintenance affidavit must include the following language:

The OSSF shall be covered by a continuous service policy for the first two years. After the initial two-year service policy, the owner of an aerobic treatment system for a single family residence shall either obtain a maintenance contract within 30 days or maintain the system personally.

48.061 Recording of Designated Representative's License Number

The Designated Representative must record the Designated Representative's license

number on all items prepared by the Designated Representative.

COUNTY OF TRAVIS §

STATE OF TEXAS §

AFFIDAVIT

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

My name is Dana DeBeauvoir. 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 Clerk's office for the County of Travis, Texas. Attached hereto are _____ pages of records known as ""Order Adopting Rules of Travis County, Texas, for On-Site Sewage Facilities." The records are kept by me as County Clerk, County of Travis, 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.

Dana DeBeauvoir
Travis County Clerk

Before me, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and having 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 _____, 20__.

(SEAL)

Notary Public, State of Texas
My commission expires:

Chapter 48- Travis County Code, Rules of Travis County, Texas for On-site Sewage Facilities

This is an outline of the material contained in Chapter 48. For details regarding the more stringent items refer to the entire document.

The Texas Commission on Environmental Quality has established rules for on-site sewage facilities (OSSFs) in Title 30 TAC Chapter 285. Travis County has adopted Chapter 285 in its entirety, but has also adopted more stringent requirements. Travis County Transportation and Natural Resources (TNR) believes the more stringent rules are necessary to protect the public health and environment in the unique geologic and groundwater conditions of Travis County, Texas.

Items that are more stringent than the requirements of Chapter 285 are as follows:

- Addition of definitions of “accessory use,” “accessory structure,” and “development”
- Enforcement Plan
- Lot size requirements have been increased
- Additional Requirements for placement of additional residence(s) on lot or site (exemption to minimum lot size).
- Requirement for planning materials for single family, multi-family, condominium, commercial, or other developments when served by OSSF
- Notice of OSSF conditions for developments in deed records
- All OSSF’s in jurisdiction must follow rules (regardless of lot size)
- Application and Permitting Procedures (timelines, expiration, designer certification, licensing, and revocation)
- Maintenance requirements to require credentials for homeowner maintenance
- Terms for termination of homeowner maintenance
- Additional maintenance report requirements
- Requirements for test holes for site evaluation
- Requirement for filling and leak testing tanks prior to backfill
- Requirement for additional retention time on non-residential OSSF
- Daily application rate limit in terms of gallons per area of lot
- Drip irrigation soil depth requirements
- Drip irrigation at minimum of 0.15 gallons per sq. ft. per day
- Drip irrigation to require minimum of 2-feet per second flushing velocity
- Drip irrigation emitter requirement for 1-foot separation to fractured or solid rock
- Low Pressure Dose (LPD) to require 3-feet between sidewalls of excavation
- LPD design materials to include friction losses in manifold between laterals and elevation change between laterals
- LPD supply manifold to connect at highest lateral on sloping ground
- Surface Irrigation to be at night time
- Surface Irrigation to provide consideration for rainfall runoff from disposal area
- Minimum setback from surface irrigation area to property line at 25-feet
- Soil substitution drainfields shall require same distribution piping requirements as mound
- Pipe bedding requirements for piping outside of disposal areas
- Pump tank sizing to require one full day flow above alarm (except when duplexed)
- Erosion controls for disposals areas on slopes exceeding 10% (erosion matting or 80% vegetative cover)

(More stringent requirement.) (Each new more stringent requirement must be justified (in a separate document) based on greater public health and safety protection.)

Note: Format was updated to match other Travis County Codes
48.002 (Definitions and Acronyms) New Section for Clarification of Terms

Subchapter B

48.032 (Previously 48.010.2(a))

(Facility Planning)

(a) Added: As much of the land being developed were previously areas either too remote or difficult to allow for OSSF; the additional challenges must be carefully considered to ensure public health is protected.

(b) Larger lot sizes are necessary to protect the public health and environment in Travis County because of the predominance of unsuitable soils, steep rocky slopes, and the demand for construction of larger than normal size houses. Research of the literature reveals that many jurisdictions increase lot size requirements to protect groundwater through the reduction of septic tank densities (GA Extension Service, Septic Systems Handbook, Kaplan). "The range of [minimum] lot sizes ... appears to be from 1/2 to 1 acre, based on reported data, and from 3/4 to 1 acre based on theory." (Bauman and Schafer 1985) Estimating groundwater quality impacts from on-site sewage treatment systems. (ASAE Pub. 007-85, pp. 285-295. ASAE St. Joseph, M.I.)

Additional space is needed for lots utilizing both individual and wells and on-site wastewater systems to ensure that groundwater quality is protected by providing adequate buffer space around the wells without having to encroach onto adjacent properties. Additionally, many areas of western Travis County have rapidly recharging conditions, with thin soils and karst rock or layered limestone. These conditions are particularly vulnerable to well contamination from either surface sources or OSSF's. Larger lot sizes will reduce the potential for contamination in these sensitive areas, thus providing additional protection for the public health and environment.

Since small lots are commonly cited as the number one problem with siting on-site sewage systems, future health hazards can be averted by adhering to minimum required lot sizes, providing greater protection to the public health and environment. Once a minimum lot size standard is set, there should be only rare occasions when a new subdivision would be created with lots smaller than those required. A pre-existing single lot that has never been legally platted is an example of such an occasion.

Western Travis County requires the additional protection to public health and the environment afforded by this requirement because its topography typically has steep rocky slopes with thin soils which are not favorable for on-site sewage disposal. Each lot in new subdivisions should initially be created with an area suitable for a sewage disposal field and a replacement area in order to prevent health and pollution problems resulting from poorly sited sewage systems or from the inability to relocate a new system in case of failure. Each newly created lot should have an area with flat enough slopes (30% or less) to allow the installation of a variety of on-site sewage systems in most soil conditions, giving the owner the maximum options for types of facilities which will provide protection to the public health and environment equivalent to the State Rules.

(c) Per AG opinion No. GA-1007 Travis County Attorneys have interpreted subdivision to include additional uses which includes additional residences. A second residence on same site or lot may constitute lower threshold for review of subdivision and provides specifics for exemption.

(d) Local review procedures to be used in Travis County in administering 30 TAC §285.4(c),

"Facility Planning — Review of subdivision or development plans," are set forth in Attachment A, Local Administrative Procedures. Aligns order with other Travis County codes.

(e) This provision ensures that purchasers are informed that lots in a subdivision require an OSSF and are subject to certain OSSF-related requirements. In addition, adding restrictions as plat notes or covenants enhances the county's legal ability to enforce the restrictions.

48.033 (Application and Permitting Procedures)

(a) All new sewage systems need to be permitted and inspected to ensure protection of public health and the environment in every situation. Site-specific needs which must be met to ensure protection of the public health and environment can only be determined if every system receives regulatory attention.

(a)(3) Addition protection to public health by having confirmation of repair and completion.

(c) Prolonged archiving of inactive applications and permits unnecessarily waste and consume the County's limited resources. Utilization of resources in that manner detracts from our ability to focus on our primary mission of protecting the public health by diverting resources from enforcement to record-keeping, the result being the increased exposure of the public to health and environmental damage.

(d)(1) (see (c) above)

(d)(2) Requiring this additional certification would provide additional protection to the public health and environment by having the professional who designed the system also monitor the on-going installation of the designed system to be certain that it was constructed as specified. Designers who know that they will be certifying that the final product is consistent with the design will be more cautious to ensure that the construction has been accomplished such, that the system will function according to design. Inspections by the designer throughout the installation process will also expand the review process beyond that which can be provided by the limited required inspections by the Permitting Authority.

(d)(3) A stated license with specific use limitations provides clarity to both private and public sector as to the legitimacy and continued operation of an OSSF.

(d)(4) Provides means for regulatory and enforcement enhancement to ensure compliance and protect public health by administrative removal of license

(d)(5) Clarifies and enhances enforcement of order regarding forbidden use of OSSF

(d)(6) Provides enhanced protection of public health by ensuring failed systems are properly remediated and licensed.

(e) It places an undue burden on Travis County staff to issue statement on suitability without first having a formal submittal that provides justification for such a statement

(48.034)(Maintenance Requirements)

(a-g)-Due to the density and quantity of OSSF's throughout Travis County, it is important to ensure properly certified/qualified persons are properly inspecting and reporting on the operation of OSSF's requiring maintenance. Contact for information requirements allows for improved communication with regulatory staff to more quickly remedy issues.

(48.035) (Site Evaluation)

- Requiring a backhoe pit for evaluation and soil analysis report for all OSSFs ensures a substantial profile of the soil for evaluation and opportunity for inspection by Travis County Staff which increases the likelihood of an appropriate OSSF for the site and thereby provides a higher protection to public health.

(48.036)(Criteria for Sewage Treatment Systems)

(a) Leaking septic tanks are a common cause of failure. The additional testing will ensure protection of public health by requiring better quality control at the time of initial installation, resulting in fewer failures in the fixture. Literature supports this requirement by showing that there are other states which test all tanks to ensure better quality, and thus increased public health protection.

(b) Non-standard treatment units are individually designed systems generally utilizing

mechanical components in systems designed to provide a higher level of sewage treatment on a given site due to unsuitable site conditions. Unsuitable site conditions and additional mechanical components increase the need for assurance of proper functioning and performance monitoring of these units which is provided by a more stringent maintenance requirement. Increased public health and environment protection is the result of this additional ongoing upkeep of the more complex systems needed to serve in less than ideal conditions.

(48.037)(Criteria for Sewage Disposal Systems)

(a) With increasing home sizes and densities over the rapid recharge areas of western Travis County and poorly draining soils of eastern Travis County, there is concern with the organic loading of the soils, infiltration of harmful nitrogen compounds (nitrate and ammonia), potassium, and other trace chemicals into groundwater. By limiting the total daily volume loading based on acreage, the concentration can be evenly limited.

(b)(1) The State has established 1 foot as the base minimum soil depth to achieve adequate land treatment using drip emitters. Due to the fluctuating depth of seasonal groundwater conditions, the 'factor of safety' provided by the increased soil is required to ensure adequate separation between the sewage disposal fields and groundwater. The requirement is reduced where a higher quality effluent through secondary treatment is provided before discharge to the disposal area.

(b)(2) Due to variation in recommended hydraulic loading rates for soils in the Class III zone of the USDA Soil Textural Classifications (30 TAC §285.91 Table VI), generally poor site conditions (rocky soils and slopes of areas with Class III soils), and historic failure rates of many drip irrigation systems using the loading rate for Class III soils, the minimum requirement of 0.15 gallons per day per square foot provides a protection to the public health by decreasing the total loading per square foot and potentially reducing the frequency of system failures.

(b)(3) By ensuring drip emitter systems are providing adequate flushing when serviced, the frequency of failure can be reduced and allow optimal service life of emitters to be achieved.

(b)(4) By required additional volume of suitable material below the emitter lines, additional protections are provided by decreasing the likelihood for effluent to travel along shallow restrictive horizons. Further it is felt the inclusion of soils with up to 60% gravel as suitable greatly reduces the soil pore space and requiring additional soil depth will aid in ensuring sufficient hydraulic capabilities are met.

(c)(1) As low pressure dosed drainfields are credited sidewalls as absorptive area, it is desired the sidewall area be given the necessary protection and volume to allow for absorption. A 1' absorption area is assumed along each sidewall with a central foot area to be considered as compacted during installation. This consideration will prevent a less than optimal sidewall between excavations to ensure intended operation.

(c)(2) As demonstrated by the locally accepted and developed 'Travis County Method' hydraulic friction losses due to flow along manifolds between laterals can affect the head in low pressure dosed systems and thereby the consistent and even distribution. By requiring the consideration of this loss in the design, a more accurate hydraulic loading can be achieved thereby reducing the potential for over loading an area causing a failure.

(c)(3) As demonstrated by the locally accepted and developed 'Travis County Method', bottom loading of a low pressure dose system on sloping ground is more likely to overload lower trenches and thereby increase potential for failures.

(d)(1) Irrigation is limited to the period of least human activity to minimize the likelihood of human contact. Night time irrigation provides for greater protection of public health since it is generally the period of least human activity.

(d)(2) In order to protect public health and environment, the design of all surface irrigation systems should address some means of providing control of effluent runoff onto neighboring properties which can increase during rain events; in addition, this practice will aid in the prevention of the creation of nuisance conditions.

(d)(3) Due to an average wind speed of 8.5 mph (NOAA National Climatic Data Center. Comparative Climatic Data Publication.), an increase setback to property lines can decrease the likelihood of wind induce carriage of irrigation effluent across property lines.

(e) To prevent pooling and uneven distribution that can lead to failure, low pressure dosed soil-substitution systems maintain even distribution.

(f) Fewer broken lines due to shifting clay soils and improper backfill (rocks, debris).

(g) The state minimum pump tank volume only provides 1/3 of a day volume. This requires immediate attention and does not allow the owner opportunity to wait for service or parts. By requiring additional alarm volume the owner may be afforded more time to make repairs and reduce the likelihood of surfacing.

(h) As less "ideal" building sites are available, development of sloping property is becoming more prevalent. In order to minimize erosion that could lead to exposed media and or lines in the drainfield. Erosion controls and establishing vegetation can significantly reduce the likelihood of this type of file drainfield failure.

(48.051) (Local Administrative Procedures) Local procedures may be used to provide a clear path for permitting, enforcement, review, inspection, and licensing. (applies for 48.051-48.061)

(48.052) (Enforcement) – Providing clear and defined enforcement policies and criteria will aid in protecting public health by enhancing abilities to address situations that violate 30 TAC 285 and this order. Codified policy can provide constituents with clear expectations of actions and penalties should they violate this order.

(48.053) (Notice)

(48.054) (Permit to Construct and License to Operate)

(48.055) (Variance Procedures)

(48.056) (Submission of Planning Materials)

(48.057) (Planning Materials)

(48.058) (Permit to Construct)

(48.059) (License to Operate)

(48.060) (Affidavit Forms)

(48.061) (Recording of Designated Representative's License Number)

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 1, 2014

Brandon Couch, R.S., D.R.
Travis County TNR
On-Site Wastewater Program
PO Box 1748
Austin, Texas 78767

Re: County of Travis On-site Sewage Facility Order

Dear Brandon:

The TCEQ staff has reviewed the proposed County of Travis' On-Site Sewage Facility Order. Based on our review of your draft proposal submitted September 30, 2014, this order meets minimum State requirements. Please proceed with the adoption process as outlined in Title 30 TAC Chapter 285, Section 285.10 (b)(5)(A)-(C) and 285.0 (b)(6)(A)-(D), with particular consideration of the following items:

1. Publish notice of a public meeting at least 72 hours before the public meeting, but not more than 30 days before the meeting. The notice must appear in a regularly published newspaper(s) of general circulation in the area of jurisdiction and the notice must include the time, date and location of the public meeting.
2. After the public meeting is held, submit a copy of the following items:
 - * A public notice as it appeared in the newspaper(s);
 - * A publisher's affidavit from the newspaper(s) in which the public notice appeared;
 - * A certified copy of the minutes of the meeting when the order was adopted; and
 - * A certified copy of the order that was adopted by the County of Travis Commissioner's Court.

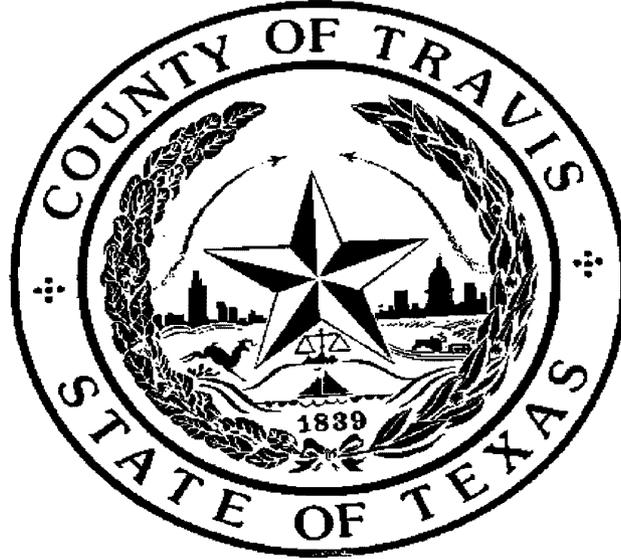
Please remove all cross references to the model order. The otherwise approved draft order is enclosed. If further information or assistance is needed, please contact me at (512) 239-2150 or by email at mike.price@tceq.texas.gov.

Sincerely,


Michael Price
On-site Sewage Facility Program

Enclosure

TRAVIS COUNTY CODE CHAPTER 48



Chapter 48. Rules of Travis County, Texas for On-Site Sewage Facilities

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**CHAPTER 48. RULES OF TRAVIS COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES**
[with references to the TCEQ's Model Order]

Subchapter A

48.001 Policy and Purpose

- (a) Background and Policy. [Preamble in Model Order, page 2]
- (1) 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 to minimize environmental pollution. [First recital in Model Order, page 2]
 - (2) The Legislature has enacted legislation, codified as Texas Health and Safety Code Chapter 366, which authorizes a local governmental entity 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. [Second recital in Model Order, page 2]
 - (3) Due notice was given of a public meeting to determine whether the Commissioners Court of Travis County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in Travis County, Texas. [Third recital in Model Order, page 2]
 - (4) The Commissioners Court of Travis County, Texas finds that the use of on-site sewage facilities in Travis County, Texas is causing or may cause pollution, and is injuring or may injure the public health. [Fourth recital in Model Order, page 2]
 - (5) The Commissioners Court of Travis 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 Travis County, Texas. [Fifth recital in Model Order, page 2]
- (b) Findings and Adoption of Rules. The Commissioners Court of Travis County, Texas finds that:
- (1) The matters and facts recited in subsection (a) are true and correct; [Section 1 of Model Order, page 2]
 - (2) The use of on-site sewage facilities in Travis County, Texas, is causing or may cause pollution and is injuring or may injure the public health; and [Section 2 of Model Order, page 2]
 - (3) It is necessary and appropriate to adopt this chapter of the Travis County Code, which is to be entitled "Rules of Travis County, Texas for On-Site Sewage Facilities. [Section 3 of Model Order, page 2]

48.002. Definitions and Acronyms.

Words and phrases in this chapter have the same meaning they have in Chapter 366 (On-Site Sewage Disposal Systems) of the Texas Health and Safety Code and Chapter 285 (On-Site Sewage Facilities) of Title 30 of the Texas Administrative Code. The following words and terms in this section, when used in this chapter, have the following meanings:

- (1) "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
- (2) "Accessory structure" means a structure which is on the same parcel of property as the principal structure to be insured and which is incidental to the use of the principal structure.
- (3) "Authorized Agent" means the Travis County Commissioners Court or its designee, the Travis County Transportation and Natural Resources Department.
- (4) "Commissioners Court" means the Travis County Commissioners Court.
- (5) "County Executive" means the county executive of the Travis County Transportation and Natural Resources Department or his designee.
- (6) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures, a change in the use of improved or unimproved real estate, mining, dredging, filling, grading, paving, surfacing, excavation operations, drilling operations, the storage of equipment or materials, and the clearing of land for the purpose of preparing a site for any man-made change to improved or unimproved real estate.
- (7) "License to Operate" means written permission from the Permitting Authority to operate an on-site sewage facility.
- (8) "Lot" or "site" means the unit of land area served by an on-site sewage facility.
- (9) "Maintenance" means required or routine performance checks, examinations, upkeep, cleaning, or mechanical adjustments to an on-site sewage facility, including replacement of pumps, filters, aerator lines, valves, or electrical components. Maintenance does not include alterations.
- (10) "On-site sewage facility" or "OSSF" means a system that:
 - (a) does not treat or dispose of more than 5,000 gallons of sewage each day; and
 - (b) is used only for disposal of sewage produced on a site where any part of the system is located.
- (11) "Permit to Construct" means written permission from the Permitting Authority to construct an on-site sewage facility showing the date the permission was granted.

- (12) "Permitting Authority" means the Travis County Commissioners Court or its designee, the Travis County Transportation and Natural Resources Department.
- (13) "Person" means an individual, association, partnership, corporation, organization, business trust, political subdivision, state or federal agency, or an agent or employee thereof.
- (14) "Repair" means to replace any components of an on-site sewage facility in situations not included under emergency repairs according to 30 TAC § 285.35 (relating to emergency repairs), excluding maintenance. The replacement of tanks or drainfields is considered a repair and requires a permit for the entire OSSF system.
- (15) "Residential unit" means a structure that is used for habitation.
- (16) "Sewage" means waste that:
 - (a) is primarily organic and biodegradable or decomposable; and
 - (b) generally originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.
- (17) "TAC" means the Texas Administrative Code.
- (18) "TCEQ" means the Texas Commission for Environmental Quality or its successive agencies.
- (19) "TCEQ Rules" means the rules promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities in Title 30 Texas Administrative Code Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions to those rules.

48.003 Conflicts [Section 4 of Model Order, page 3]

- (a) This chapter repeals and replaces any other on-site sewage facility orders or parts of orders of Travis County, Texas.
- (b) All Codes or policies, or parts of Codes or policies of Travis County related to this chapter that are in conflict with the provisions of this chapter are hereby repealed.

48.004 On-Site Sewage Facility Regulation and Enforcement [Section 5 of Model Order, page 3]

Travis County, Texas clearly understands 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, Chapters 7 and 37 of the Texas Water Code, and associated rules referenced in section 48.006 of this chapter.

48.005 Jurisdictional Area/Applicability [Section 6 of Model Order, page 3]

This chapter applies to:

- (a) the unincorporated areas of Travis County, Texas except:
 - (1) the areas regulated under an order adopted by a local governmental entity other than Travis County; and
 - (2) the areas have been annexed by the City of Austin for the limited purpose of public health;
- (b) areas within the corporate limits of Webberville and San Leanna;
- (c) areas within the corporate limits of Leander located within Travis County; and
- (d) areas within the territorial limits of a local governmental entity located in whole or in part in Travis County that:
 - (1) has been delegated the authority by the TCEQ executive director to implement and enforce the rules adopted under Texas Health and Safety Code, Chapter 366; and
 - (2) has entered into an interlocal agreement with Travis County for the enforcement of that local governmental entity's OSSF rules.

48.006 Compliance with On-Site Sewage Facility Rules [Section 7 of Model Order, page 3]

- (a) Any person who has an ownership interest in an on-site sewage facility or who participates in any activity relating to the development of planning materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, inspection, or investigation of an on-site sewage facility within the jurisdictional area of Travis County, Texas must comply with the TCEQ Rules and all applicable provisions of this chapter.
- (b) A person must obtain a Permit to Construct from the County in accordance with this chapter before the person constructs, installs, alters, repairs, extends, or modifies an OSSF unless the OSSF is excluded or exempted under State law or this chapter.
- (c) Any person who has an ownership interest in an on-site sewage facility within the jurisdictional area of Travis County must obtain a License to Operate from the County before the person operates or allows any person to operate the on-site sewage facility.

48.007 TCEQ Rules Adopted; Incorporation by Reference [Sections 8 and 9 of Model Order, page 3]

- (a) Travis County adopts the rules promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities in Title 30 Texas Administrative Code Chapter 30, Subchapters A and G, and Chapter 285. [Section 8 of Model Order, page 3]

- (b) The TCEQ Rules and all future amendments and revisions to them are incorporated by reference and made a part of this chapter. [Section 9 of Model Order, page 3]

48.008 Authority to Act [Section 8 of Model Order, page 3]

All officials and employees of Travis County, Texas who have duties under the TCEQ Rules are authorized to perform those duties as are required of them under the TCEQ Rules and the provisions of this chapter.

48.009 Adoption of Rules that are More Stringent [Section 10 of Model Order, Page 4]

- (a) Travis County, Texas adopts certain OSSF rules that are more stringent than those adopted by the TCEQ.
- (b) The more stringent rules adopted by the Travis County Commissioners Court shall take precedence over any less stringent rules adopted by TCEQ.
- (c) Travis County's more stringent rules are set forth in subchapter B.

48.010 Additional Findings [Section 10 of Model Order, Page 4]

The Travis County Commissioners Court finds that it is proper and necessary to adopt OSSF standards that are more stringent than the standards adopted by TCEQ because:

- (a) Protecting water resources is vital to human health, and some residents within Travis County depend heavily upon groundwater for their drinking water;
- (b) The population of Travis County is projected to double by the year 2050;
- (c) A significant amount of the projected future growth within the unincorporated areas of Travis County is expected to rely on on-site sewage facilities;
- (d) The adoption of OSSF regulations that are more stringent within the Recharge Zone of the Edwards Aquifer (including those land areas situated above the Trinity Aquifer Recharge Zones) and other aquifers which have environmentally sensitive rapid recharge conditions is necessary and appropriate to avert public health hazards resulting from the projected increased use of on-site sewage facilities and the increased usage of water; and
- (e) The more stringent rules will provide greater public health and safety protection for the residents of Travis County.

48.011 Local Administrative Procedures

The County's local administrative procedures are set forth in subchapter C.

48.012 Duties and Powers of Designated Representatives [Section 10 or 11]

Model Order, Page 4]

- (a) The Transportation and Natural Resources Department of Travis County, Texas will ensure that each individual who acts as a designated representative for Travis County within Travis County's jurisdictional area is certified by the Texas Commission on Environmental Quality before that individual assumes duties and responsibilities as a designated representative of Travis County, Texas.
- (b) Each of Travis County's designated representatives is authorized to review permit applications, site evaluations, and planning materials and to conduct inspections of on-site sewage facilities.

48.013 Collection of Fees [Section 11 or 12 of Model Order, Page 4]

- (a) All fees collected under this chapter must be made payable to Travis County, Texas and must be paid in accordance with fee schedules adopted by the Commissioners Court as authorized by law.
- (b) Each fee collected by Travis County for an application for a Permit to Construct must include a fee of \$10 that Travis County must forward to the TCEQ Water Resources Management Account in accordance with Chapter 367 of the Texas Health and Safety Code.

48.014 Appeals [Section 12 or 13 of Model Order, Page 4]

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision by mailing, within 30 days of the action or decision, a written appeal to the Travis County Commissioners Court.

48.015 Enforcement Plan [Section 13 or 14 of Model Order, Page 4]

- (a) Travis County, Texas clearly understands that, as a minimum, it must follow the requirements in 30 TAC Section 285.71 (Authorized Agent Enforcement of OSSFs).
- (b) This chapter 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 Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code, 30 TAC Chapter 30, Subchapters A and G, and 30 TAC Chapter 285.
- (c) At the request of the Commissioners Court, the County Attorney or other prosecuting attorney for the County may file an action in a court of competent jurisdiction to do one or more of the following:
 - (1) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under this chapter;
 - (2) Seek civil or criminal penalties as provided by law; and

- (3) Take all actions or seek any penalty authorized under law, including the penalties and enforcement provisions of Chapters 341 and 366 of the Texas Health and Safety Codes, Chapters 7 and 26 of the Texas Water Code, 30 TAC Chapter 285, and the provisions of this chapter.

48.016 Severability [Section 14 or 15 of Model Order, Page 5]

It is the intention of the Commissioners Court of Travis County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter is 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 chapter, since the same would have been enacted by the Commissioners Court without incorporation in this chapter of such unconstitutional phrases, clause, sentence, paragraph, or section. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this chapter and the application thereof to other persons and circumstances shall not be affected.

48.017 Relinquishment of Order [Section 15 or 16 of Model Order, Page 5]

- (a) If the Commissioners Court of Travis 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 Section 285.10 (d) (1) through (4).
- (b) After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC Section 285.10(d)(5) and Section 285.14 after the date that delegation has been relinquished.

48.018 Effective Date [Section 16 or 17 of Model Order, Page 5]

This chapter 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.

Subchapter B

48.031 Travis County's More Stringent Rules

This subchapter sets forth the more stringent rules adopted by Travis County, Texas.

48.032 Facility Planning [285.4]

- (a) All property that will use an on-site sewage facility for sewage disposal must be evaluated for overall site suitability.
- (b) Unless the lot or tract is exempted under 30 TAC Section 285.4(b)(1), the minimum lot size for a structure served by an OSSF, regardless of whether the lot or tract is served by a public water supply, is one acre.
- (c) Residential Structures Served by OSSFs.
 - (1) Each residential unit served by an OSSF is considered a separate structure. Except as provided in Paragraph (2), multiple residential units may be on a single lot or site only if the lot or site contains at least one acre of land for each residential unit.
 - (2) A lot or site of at least one acre in size that was created before TCEQ's approval of this chapter and that has a single-family dwelling located on it may have one additional residential unit placed on the lot or site as an accessory structure for accessory use if:
 - (A) having more than one residential unit on the lot or site does not violate restrictions in a plat, deed, or restrictive covenant for the lot;
 - (B) all other requirements of Chapter 285 of Title 30 of the Texas Administrative Code and the Travis County Code are met; and
 - (C) the lot or site owner files a restrictive covenant in the Official Public Records of Travis County, Texas that:
 - (i) prohibits the addition of any more habitable structures on the lot or site without approval by the local entity having OSSF jurisdiction over the lot;
 - (ii) prohibits the residential units from being conveyed or transferred to separate owners without approval by the local entity having OSSF jurisdiction over the lot;
 - (iii) prohibits any further subdivision of the lot or site without approval by the local entity having OSSF jurisdiction over the lot; and
 - (iv) provides that the restrictive covenant is enforceable by the owners of adjacent land, TCEQ, and the local governmental entity having OSSF jurisdiction over the lot.
 - (3) If the County Executive determines that having more than one residential

unit on the lot or site will not adversely affect public health, safety, or welfare, the County Executive may waive the requirement that a plat be approved for structures and a lot or site meeting the requirements of this subsection.

- (d) **Review of Planning Materials.** Persons proposing single-family residential developments, condominium developments, multi-unit residential developments, manufactured housing communities, commercial developments, or any other type of development with structures served by OSSFs must submit planning materials for these developments to the Permitting Authority as set forth in Subchapter C, Travis County Local Administrative Procedures, and obtain the Permitting Authority's written approval of the planning materials before submitting an OSSF application.
- (e) **Notice in Deed and Plat Records.**
 - (1) Where approval of on-site sewage facilities in a development will be granted based on conditions that restrict lots with regard to on-site sewage facilities, those conditions shall be reflected by appropriate plat notes or restrictive covenants filed in the Official Public Records of Travis County, Texas. The County will not issue a Permit to Construct or a License to Operate unless a property owner has recorded all plat notes and restrictive covenants required by the County.
 - (2) In addition to the requirements set forth in 30 TAC Chapter 285, on each new plat, the following note shall be included (along with any specific restrictions imposed):

This subdivision is subject to all the terms and conditions of Chapter 48, Travis County Code, Rules of Travis County, Texas for On-Site Sewage Facilities. These rules require, among other things, that a construction permit be obtained from Travis County before an on-site sewage facility can be constructed, altered, modified, or repaired in the subdivision and that a license to operate be obtained from Travis County before an on-site sewage facility can be operated in the subdivision.

48.033 Application and Permitting Procedures (§§285.3, 285.5 and 285.6)

- (a) **No Exemptions.** All OSSFs in the jurisdictional area of Travis County are subject to the provisions of this chapter regardless of the size of the lot on which the OSSF is located.
 - (1) Except for emergency repairs that are authorized by 30 TAC Section 285.35, a person must obtain a Permit to Construct from the County before constructing, installing, altering, extending, or repairing an OSSF.
 - (2) An individual who makes an emergency repair to an OSSF must notify the Permitting Authority, in writing, within 72 hours after starting the

emergency repair. The notice must include a detailed description of the methods and materials used in the repairs.

- (3) The Permitting Authority has discretion to require an inspection of the emergency repairs.
- (b) Local Procedures. Local Administrative Procedures to be used in Travis County in administering 30 TAC Section 285.5 are set forth in Subchapter C.
- (c) Time Limit on Applications. An application for an OSSF Permit to Construct expires one year after the date the application fee is paid for if the applicant has been unable to obtain an OSSF Permit to Construct from the County during that one-year period. After an application has expired, an applicant for an OSSF Permit to Construct must submit a new application and pay a new application fee.
- (d) Permit to Construct/License to Operate. Under Travis County procedures, the licensing of an on-site sewage facility is separated into two parts: the Permit to Construct, which is a permit that is issued by Travis County for construction of an onsite wastewater system specifically designed for a specific use, and the License to Operate, which is a license that is issued by Travis County that allows an onsite wastewater system constructed in accordance with the Permit to Construct to be operated as designed, to actively put through, treat, and dispose of sewage waste being generated by the use for which the system is designed.
 - (1) A Permit to Construct expires 12 months from the date of issuance, or upon completion of construction, whichever is sooner. The County may grant a 30-day permit extension if there have been no changes to the design plan approved by the Permitting Authority and the owner applies for the extension at least 30 days prior to the expiration of the Permit to Construct. A fee will be charged towards the cost of the extension and re-issuance of permits. After a Permit to Construct has expired, a person who seeks to construct an OSSF must submit a new application and pay a new application fee in order to obtain a new Permit to Construct.
 - (2) Certification by Designer. The Permitting Authority will not issue a License to Operate for an OSSF that was designed by a professional engineer or registered sanitarian until the owner provides the Permitting Authority with:
 - (A) the engineer or sanitarian's written assurance that the engineer or sanitarian has inspected the OSSF and determined that it has been installed as designed and specified; and
 - (B) an accurate as-built drawing of the OSSF.
 - (3) A License to Operate is limited to authorization to operate an OSSF in accordance with the design and use approved by the Permitting Authority.
 - (4) Termination of License to Operate. A License to Operate issued under this chapter or previous OSSF rules adopted by the County may be revoked by the Permitting Authority if:

- (A) the OSSF fails;
 - (B) the OSSF receives more sewage than the amount for which it was approved;
 - (C) the OSSF receives non-sewage wastewater;
 - (D) a structure connected to the OSSF exceeds or violates the terms of the License to Operate;
 - (E) the property on which the OSSF is located is used for a purpose other than that described in the original application for the Permit to Construct the OSSF; or
 - (F) the OSSF is operated in a manner that does not conform to the design and use approved by the Permitting Authority.
- (5) It is a violation of this Chapter for any person to operate or allow any person to operate an OSSF for which the License to Operate has been terminated or for which a License to Operate has not been issued by the Permitting Authority.
- (6) An owner of an OSSF for which a License to Operate has been terminated may apply in writing to the Permitting Authority to have the License to Operate re-instated. The Permitting Authority may re-instate a License to Operate if the owner of the OSSF has paid all applicable fees, and the Permitting Authority determines, after conducting an inspection of the OSSF, that the OSSF is functioning properly and that the owner of the OSSF has taken affirmative steps to ensure that the OSSF will be operated only in accordance with the design and use previously approved by the Permitting Authority.
- (e) The County will not issue a suitability letter for a TCEQ stormwater pollution prevention plan permit until the Permitting Authority determines that an application for an OSSF Permit to Construct is administratively complete.

48.034 Maintenance Requirements (§285.7)

- (a) This section applies to OSSFs for which maintenance is required as specified in Table XII of 30 TAC Section 285.91 and that serve single-family dwellings.
- (b) At the end of the initial two-year service policy, a homeowner may perform maintenance activities for an OSSF that serves the homeowner's single family dwelling only if the homeowner:
 - (1) has taken the training and passed the test required for a TCEQ registered maintenance technician, as required in 30 TAC Section 30.245(b), and has provided the results of the test and proof of attendance at the training to the County; or
 - (2) has taken equivalent training specifically for homeowners, as determined

by the County, has passed any tests that were required as part of the training, and has provided to the County the results of any tests that were part of the training and proof of attendance at the training.

- (c) A homeowner who performs maintenance activities for an OSSF that serves the homeowner's single family dwelling must comply with the testing and reporting requirements set forth in 30 TAC Section 285.7(e)(1)-(3) for maintenance providers.
- (d) Notwithstanding any provision to the contrary, the owner of a single-family dwelling who has been personally maintaining the OSSF for the single-family dwelling must obtain a maintenance contract for the OSSF and provide a copy of the contract to the County within ten days after the County notifies the owner that:
 - (1) The owner has violated Texas Health and Safety Code Chapter 366, a rule adopted pursuant to Texas Health and Safety Code Chapter 366, or this chapter, and the owner chooses to enter into a contract for the maintenance of the system instead of personally correcting the violation; or
 - (2) The owner has, within three years of a previous violation, committed another violation of Texas Health and Safety Code Chapter 366, a rule adopted pursuant to Texas Health and Safety Code Chapter 366, or this chapter.
- (e) In addition to the information required by 30 TAC Chapter 285, all maintenance/inspection reports, including reports prepared by homeowners who provide maintenance on their own OSSFs, must include the following:
 - (1) the reporting of any alterations to the OSSF that have not been authorized by the County;
 - (2) the condition of the spray area (if applicable);
 - (3) the permit number for the Permit to Construct;
 - (4) the printed name and signature of the maintenance provider or homeowner/property owner if the homeowner is submitting the report;
 - (5) the physical address of the OSSF location; and
 - (6) the physical address, business address, business telephone number, and emergency phone number of the maintenance provider.
- (f) In addition to the information required by 30 TAC Chapter 285, all maintenance/inspection contracts must include the following:
 - (1) the permit number for the Permit to Construct;
 - (2) the printed name and signature of the maintenance provider or homeowner if the homeowner is submitting the report;
 - (3) the physical address of the OSSF location; and

- (4) the physical address, business address, business telephone number, and emergency phone number of the maintenance provider.

48.035 Site Evaluation (§285.30)

Travis County requires that backhoe pits be excavated to a depth of two feet below the bottom of the proposed excavation or to a restrictive horizon, whichever is less for soil evaluations. Profile holes are required to be excavated and soil analysis reports must be submitted with all applications for Permits to Construct on-site sewage facilities.

48.036 Criteria for Sewage Treatment Systems (§285.32)

- (a) Testing of Tanks. Following installation and prior to final backfilling, all tanks in the system, including but not limited to septic tanks, pump tanks, trash tanks, and aerobic treatment units, shall be tested by being filled to the outlet with clean water and checked 24 hours later for leaks and structural integrity.
- (b) Non-residential Treatment Requirements - Non-residential systems shall have a minimum of six-day retention time in a septic tank, or in a pre-treatment tank prior to a treatment unit; or provide equalization tanks per 30 TAC Section 285.34 (b)(4)

48.037 Criteria for Sewage Disposal Systems (§285.33)

- (a) Limits on Daily Application Rate – Except as provided in Paragraphs (1) and (2), the total daily application of effluent from an OSSF may not exceed 60 gallons per tenth of an acre of the lot or site. Fractional acreage shall be rounded down to the nearest tenth of an acre.
 - (1) For parcels that were legally platted before TCEQ's approval of this chapter and that are less than or equal to four-tenths of an acre, up to 240-gallons per day may be allowed.
 - (2) For proposed developments with less than 50% total impervious cover, including OSSF drainfield as impervious cover, an exemption may be granted to allow a higher effluent application rate.
- (b) Disposal Processes - Proprietary - Drip Irrigation.
 - (1) There shall be a minimum of two feet of soil between the drip emitter and groundwater; however, only one foot of soil is required where secondary treatment is used.
 - (2) Drip irrigation systems shall be designed using a maximum application rate of 0.15 gallon per square foot per day.
 - (3) Drip irrigation systems shall provide a minimum of two feet per second flushing velocity.

- (4) There shall be a minimum of one foot of soil between the drip emitter and solid or fractured rock.
- (c) Disposal Processes - Non-Standard - Low Pressure Dosed Drainfield - Drainfield Criteria.
 - (1) There shall be a minimum of three feet of undisturbed soil between the sidewalls of multiple excavations.
 - (2) Low pressure dose designs shall include consideration for elevation changes between laterals and friction losses in manifold piping between lateral lines.
 - (3) When on sloping ground, supply manifolds shall connect to the highest lateral in a drainfield zone.
- (d) Disposal Processes - Non-standard - Surface Irrigation Systems.
 - (1) Surface irrigation shall be conducted during the night-time hours, preferably just before sunrise.
 - (2) Consideration must be given towards controlling run-off from the disposal area during rain events.
 - (3) The minimum setback to a property line is 25 feet.
- (e) Disposal Processes - Non-Standard - Soil Substitution Drainfields. Soil Substitution beds are required to use pressure dose application. Pipe and orifice spacing for the distribution piping is to be the same as for current mound design requirements.
- (f) Pipe Bedding – Pipes such as sewer pipes from the structure to the treatment facility and from the treatment facility to the disposal component shall be bedded with four inches of Class Ib, Class II, or Class III soil with less than 30% gravel. The bedding soil shall be free of organic material and any rocks or grains larger than ½ inch.
- (g) Pump Tank Sizing – Pump tank shall be sized to provide at least one full day of flow above the alarm on setting unless dual pumps are used per requirements of 30 TAC 285.34(b)(3).
- (h) Installations on Slopes Exceeding 10% - Drainfields with finished grades exceeding 10% shall either provide erosion control matting or 80% vegetative cover prior to final inspection.

Subchapter C.

48.051 Local Administrative Procedures

- (a) This Subchapter sets forth procedures that must be followed by persons who are applying for a Permit to Construct or a License to Operate an OSSF. This Subchapter also sets out the County's enforcement authority.
- (b) The Local Administrative Procedures set forth in this Subchapter are designed to further the ability of the Permitting Authority in assuring that a person does not:
 - (1) install, construct, alter, extend, or repair an OSSF without obtaining a Permit to Construct from the Permitting Authority;
 - (2) operate or maintain an OSSF or discharge (includes deposit, conduct, drain, throw or otherwise release or dispose of wastewater or effluent, or to allow any of these acts) sewage or sewage effluent into an OSSF without obtaining a License to Operate from the Permitting Authority; or
 - (3) cause, permit or allow the operation of or the maintenance of an OSSF in a manner that will cause, or may tend to cause pollution, injury to the public health, or nuisance conditions.

48.052 Enforcement

In order to enforce this chapter, the Permitting Authority is authorized to:

- (a) enter private property to inspect or monitor incipient or existing OSSFs at all reasonable times and at any time there is reasonable cause to believe a violation of this chapter has been committed or is being committed. Notwithstanding the foregoing, the Permitting Authority or TCEQ may inspect an on-site sewage system using aerobic treatment at any time.
- (b) order the work being done on an OSSF in violation of this chapter to be stopped by notice in writing of the suspension or revocation of the permit to the person doing or causing the work to be done.
- (c) issue a written order to a person to immediately cease using any OSSF causing pollution or constituting a nuisance, or otherwise operating in violation of this chapter, and may seek legal process to enforce its orders.
- (d) revoke a License to Operate an individual onsite wastewater system if the system for which it has been issued is being operated in violation of this chapter, is not being operated within the manufacturer's specifications, does not have a valid maintenance contract when one is required, or becomes a public nuisance. A Notice of Violation for inappropriate operation shall first be issued by Travis County. If the violation for which the property owner is cited is not corrected within the time specified in the Notice of Violation, Travis County may revoke the License to Operate.

- (e) take any other action authorized by law to enforce local, state, and federal rules relating to OSSFs within the County's jurisdictional area.

48.053 Notice

- (a) Unless otherwise specified, any notice prepared by the County may be given by hand delivery or by US Mail. Notice by the County may also be accomplished by posting a sign on the property to which the notice refers.
- (b) Any notice that is required to be sent to the County must be given by:
 - (1) hand delivery or overnight courier to the Permitting Authority at 700 Lavaca, Suite 500, Austin, Texas 78701,
 - (2) United States Mail, postage prepaid, return receipt requested, to the following address:
Travis County Transportation and Natural Resources Department
On-Site Wastewater Program
P.O. Box 1748
Austin, Texas 78767

48.054 Permit to Construct and License to Operate.

To facilitate the efficient implementation of this chapter:

- (a) The Permit to Construct is limited to the authorization to install, construct, alter, extend, or repair an OSSF in accordance with the planning materials approved by the Permitting Authority. It does not include authorization to operate the OSSF.
- (b) The License to Operate is not included in the Permit to Construct, but will be issued upon certification by the designer of record and final approval of construction by the Permitting Authority. The License to Operate will allow an OSSF to be operated in accordance with the approved planning materials for the discharging of sewage into the facility for treatment and disposal or reuse.
- (c) Because wastewater collection systems provide greater public health protection than OSSFs, the Permitting Authority may elect to not issue a Permit to Construct if the Permitting Authority determines that any portion of the proposed OSSF is located within 500 feet of the boundary of an area served by a private or public wastewater collection system that would, in the opinion of the Permitting Authority, be legally and technically feasible for the OSSF to connect to.

48.055 Variance Procedures

Variances from this chapter may be granted as provided in this subsection.

- (a) Requests for variances from this chapter shall be considered on an individual basis in accordance with the criteria specified in 30 TAC Section 285.3(c) and where site conditions (such as lot size, separation distance and setbacks) are such that no alternative that complies with this chapter can be found.
- (b) The Commissioners Court authorizes the Permitting Authority to grant variances involving exceptions to technical construction standards or local setback and separation distances more stringent than State standards as long as the variance granted results in a system which ensures public health protection equivalent to that provided under the TCEQ Rules. The Permitting Authority is authorized to grant administrative variances, including, for example, a variance to allow the construction of an OSSF in a drainage easement if the applicant has taken concrete steps to vacate the easement and there is no known opposition to the vacation of the drainage easement. The Permitting Authority may refer any request for variance to the Commissioners Court for direction.
- (c) A person desiring a variance to any requirement of this chapter shall file a written request with the Permitting Authority, stating the specific provision from which a variance is requested, and including any information which the requestor feels is pertinent to the request.
- (d) In granting a variance, the Commissioners Court or the Permitting Authority may specify terms and conditions determined to be necessary or advisable to ensure equivalent public health protection, such as requiring certain treatment levels, monitoring equipment, and procedures for design and/or operating and/or maintenance. The owner of the property shall allow the Permitting Authority to enter the property for the purpose of inspecting the facility at any reasonable time to ascertain that conditions are met.
- (e) Requests for variances requiring approval by the Commissioners Court will be submitted for Court consideration as follows:
 - (1) The Permitting Authority shall review the request within 30 days of the completed request, formulate a recommendation to the Court, and make a written reply either requesting additional information or notifying the applicant of a Court date and of the Permitting Authority's recommendation to the Court.
 - (2) Notwithstanding any other provision of this chapter, if the variance request is made in conjunction with an application for final plat approval under Chapter 82, Travis County Code, the request must be reviewed, acted on, and appealed within the time periods established under Chapter 82 in lieu of this chapter.
- (f) Procedures for consideration of requests for variances that may be granted by

the Permitting Authority will be as follows:

- (1) Not later than 30 days after the receipt of a complete request for variance, the Permitting Authority shall review the request and reply to the applicant in writing, granting or denying the request, or requesting additional information. If the Permitting Authority does not reply in writing to an applicant within 30 days after receiving the applicant's request for variance, the request is denied.
 - (2) A person aggrieved by an action or decision of the Permitting Authority regarding the person's request for a variance may, within 30 days after the date of the document giving notice of the action or decision, or within 30 days after the action if no document is given, appeal to the Commissioners Court. The appeal shall be initiated by filing a written objection with the Permitting Authority. The written objection shall state the specific action or decision being appealed, the relief requested, the person's reasons for requesting the relief, and a copy of the document, if any, giving notice of the action or decision appealed.
 - (3) The Permitting Authority shall notify the County Judge who shall place the matter on the agenda of the Commissioners Court in accordance with usual Court procedures. The Permitting Authority shall provide written notice of the time and place of the hearing before the Court to the person making the appeal.
 - (4) The Commissioners Court shall review the matter in the scheduled hearing, considering the materials submitted by the Permitting Authority and the person seeking the appeal, as well as any information and evidence that it considers relevant. The Commissioners Court shall render its decision no later than ten days after the conclusion of the hearing. If the Commissioners Court does not approve a request for variance within ten days after the hearing, the request is denied unless the Commissioners Court schedules an additional hearing and approves the variance at the subsequent hearing.
- (g) The Permitting Authority shall keep complete records of variances granted. The Permitting Authority shall make periodic reports to the Commissioners Court including locations, descriptions of the variances requested, the reasons for the variances, and Permitting Authority's justifications for the granting of the variances, as specified by the Court.

48.056 Submission of Planning Materials

The following planning materials, which must be prepared by a professional engineer or registered sanitarian, must be submitted with an application for a preliminary plan, final plat, or when proposing a manufactured housing community, condominium development, multi-unit residential development, business park, or other similar use that will use OSSFs for sewage disposal:

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- (a) An accurate plan that complies with all applicable State of Texas and County standards and that shows each existing or proposed lot, its size, source of water, and the area available for disposal fields.
- (b) The geographic location of the development or subdivision and its proximity to streams and lakes.
- (c) Identification on the plan of the location of recharge features, which features must be indicated on the final plat.
- (d) Identification on the plan of planned or existing well locations and a sanitary zone with a 100-foot radius around private wells, and a 150-foot radius around public wells, within which no effluent disposal fields may be sited as set forth in this chapter.
- (e) A comprehensive drainage and 100-year floodplain impact plan.
- (f) Identification on the topographic map or plan of the 100-year floodplain and the floodway.
- (g) A report detailing the types of OSSFs to be considered and their compatibility with area-wide drainage and groundwater.
- (h) Results of a site evaluation for soil suitability in accordance with section 48.035 of this chapter based upon a number of soil profile holes which will provide a representative sample of soils. Profile holes shall be to a depth of five feet or to a limiting condition, whichever is shallower. Test locations shall be evenly distributed throughout the development and be representative of the soils within the development. Where soil conditions are variable, additional soil profile hole testing may be required in test sites determined by the Permitting Authority. An analysis of each soil layer in each profile hole shall be provided including soil classification, structure, gravel content percentage, and presence of mottles and/or groundwater.
- (i) Depiction on the plan of the areas and depths of scalping or fill and road cuts for the purpose of addressing setback requirements.
- (j) Notification on the plan of the presence of mottled soils or water in soil profile holes indicating the groundwater table is less than five feet below the surface as the surface exists or as it will be after grading and filling that may be required in the development.
- (k) Depiction on the plan of areas of greater than 30% slope with a cumulative total of areas with greater than 30% per lot.
- (l) Any additional planning materials that the Permitting Authority and/or staff of the Permitting Authority determine are necessary to demonstrate the applicant's compliance with the requirements of this chapter.

48.057 Procedures for Reviewing Planning Materials

- (a) Preliminary Review. Preliminary review may be requested by the applicant, including scheduling an on-site inspection by the Permitting Authority. To obtain preliminary review, an applicant shall submit at least the materials listed in Section 48.056(a), (b), (d), and (f).
- (b) Final Review. The Permitting Authority shall review the final planning materials for compliance with this chapter and recommendations made for the preliminary review, if any. Changes in the planning materials may require additional review. Survey and staking of individual lots is required before the final review.
- (c) Final Plat Approval. If reviewed in conjunction with an application for final plat approval, the Permitting Authority shall make a written recommendation to the Commissioners Court within 45 days of a proper and complete submittal of planning materials.
 - (1) Approval. If the recommendation is for approval of the subdivision as proposed for use with OSSFs, the Permitting Authority shall continue to process the plat, preliminary plan, or basic development permit for approval.
 - (2) Approval with Conditions or Denial. If the recommendation is for approval with conditions or for denial, the applicant may appeal as provided in Chapter 82, Travis County Code.
- (d) Limits of Approval. An approval recommendation under this subsection does not constitute either a Permit to Construct or a License to Operate for a specific OSSF.

48.058 Permit to Construct

- (a) Application.
 - (1) Except for making emergency repairs that are authorized by 30 TAC Section 285.35, no person may construct, install, repair, alter, or extend an OSSF unless the person has first obtained a Permit to Construct from the Permitting Authority.
 - (2) In addition to other requirements, a property owner who seeks to have an OSSF constructed, installed, repaired, altered, or extended on that person's property shall submit a complete "Application for On-Site Sewage Facility Permit to Construct" to the Permitting Authority. The owner or an agent of the owner may seek information and/or assistance pertaining to the requirements for design of an OSSF for a specific property once application has been made.
 - (3) To be considered administratively complete, an application must include all the information specified in the "Application for On-Site Sewage Facility Permit to Construct," including:
 - (A) construction planning materials that demonstrate that the proposed

OSSF complies with this chapter. Construction planning materials that are prepared by a registered sanitarian or licensed professional engineer must include the signature and official seal of the professional as well as the date of preparation.

- (B) the results of a site evaluation as required by section 48.035 of this chapter.
 - (C) the floor plan of all the structures serving as the generating unit shall be included with the application for a permit to construct an onsite wastewater system. Square footages, labels, and dimensions must be included for clarity.
 - (D) a statement stating that the site has been marked by a sign, visible from the road frontage, that is at least 12" x 24", bearing the street address.
- (4) An application must be accompanied by payment of required fees.
- (b) Site Inspection.
- (1) After an administratively complete application has been received by the County, the Permitting Authority shall conduct an inspection of the site on which the OSSF is to be constructed, and shall make a finding on the issuance of a Permit to Construct, based upon the information in the complete application and any other information available to the Permitting Authority.
 - (A) Upon a finding by the Permitting Authority that construction may begin, the County will issue a Permit to Construct to the applicant. The applicant must post the permit in a conspicuous manner at the site at all times during construction.
 - (B) If the Permitting Authority determines that a Permit to Construct cannot be issued, the Permitting Authority shall notify the applicant in writing of the reasons why the permit cannot be issued.
 - (2) The construction, installation, extension, or repair of an OSSF shall be made in accordance with the approved design and requirements of the Permit to Construct.
- (c) Construction Inspections.
- (1) The Permitting Authority shall inspect installations of OSSFs in accordance with the inspection schedule established in the Permit to Construct. Each type of system will have an included number of inspections given in the inspection schedule. Any additional inspections required will incur an additional fee per inspection.
 - (2) Components of an OSSF may not be installed or covered until required inspections have been made and approval has been obtained from the Permitting Authority for that stage of construction.

- (3) The applicant or installer shall notify the Permitting Authority that an inspection is desired at least two working days, excluding weekends and County-designated holidays, before the need for each inspection.
- (4) The applicant or installer shall provide whatever reasonable assistance the Permitting Authority requests in order to make each inspection.
- (5) The inspection of drip emitters in place and uncovered is required except where drip emitters are installed by the "plowed-in" method. When "plowed-in" the connections of all drip emitter tubing to the header piping will be uncovered for inspection.

48.059 License to Operate

- (a) New OSSFs. After final inspection of a newly installed OSSF, the Permitting Authority shall make a finding on whether to issue a License to Operate, based upon the information obtained from the inspections and any other information available to the Permitting Authority.
- (b) Upon a finding that the use of the new OSSF will not cause pollution, injury to the public health, or nuisance conditions and is not in conflict with this chapter, other provisions of the Travis County Code, the Permitting Authority will issue a License to Operate the OSSF.
- (c) Upon a finding that a License to Operate cannot be issued, the Permitting Authority shall notify the applicant in writing and shall include the reasons for denying the issuance of a license.

48.060 Affidavit Forms

Sample affidavit forms for use under this chapter will be provided by the Permitting Authority. The maintenance affidavit must include the following language:

The OSSF shall be covered by a continuous service policy for the first two years. After the initial two-year service policy, the owner of an aerobic treatment system for a single family residence shall either obtain a maintenance contract within 30 days or maintain the system personally.

48.061 Recording of Designated Representative's License Number

The Designated Representative must record the Designated Representative's license number on all items prepared by the Designated Representative.

COUNTY OF TRAVIS §

STATE OF TEXAS §

AFFIDAVIT

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

My name is Dana DeBeauvoir. 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 Clerk's office for the County of Travis, Texas. Attached hereto are _____ pages of records known as ""Order Adopting Rules of Travis County, Texas, for On-Site Sewage Facilities." The records are kept by me as County Clerk, County of Travis, 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.

Dana DeBeauvoir
Travis County Clerk

Before me, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and having 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 _____, 20__.

(SEAL)

Notary Public, State of Texas
My commission expires:

TAKINGS IMPACT ASSESSMENT: REVISION OF TRAVIS COUNTY'S RULES FOR ON-SITE SEWAGE FACILITIES

This takings impact assessment is prepared using the series of questions in the Private Real Property Rights Preservation Act Guidelines ("Guidelines") promulgated by the Attorney General's Office under Chapter 2007 of the Texas Government Code (the "Act"). The proposed action is Travis County's adoption of revisions to rules regarding on-site sewage facilities ("OSSFs"), Chapter 48 of the Travis County Code. Some of the revisions are substantive, and some of them are procedural.

Guidelines Question 1: Is Travis County a governmental entity covered by the Act?

Yes.

Guidelines Question 2: Is the proposed action covered by the Act?

All of the amendments are exempt from the Act. The amendments are exempt under the following provisions of the Guidelines or the Act for the reasons indicated:

a. §2.18 of the Guidelines.

The procedural amendments and many of the substantive amendments impose no new burden on private real property. To the extent the amendments impose no new burden on private real property, the amendments are not subject to the requirement in §2007.042 to perform a takings impact assessment.

b. §2007.003(b)(11)(B) of the Act.

The revisions to the County's OSSF regulations are exempt under §2007.003(b)(11)(B) because they constitute an action taken by a political subdivision to regulate on-site sewage facilities.

c. §2007.003(b)(13) of the Act.

The substantive and procedural amendments are exempt under §2007.003(b)(13) because the amendments respond to real and substantial threats to public health and safety, significantly advance that purpose, and do not impose a greater burden than is necessary. The purpose of the amendments is to eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems in the unincorporated areas of Travis County.

Guidelines Questions 3 and 5: Does the proposed action result in a burden on private real property as that term is defined in the Act? How does it burden private real property?

Yes. The proposed action burdens private real property because it may cause some property owners to delay plans for developing their property for certain uses. The proposed revisions include lot size requirements and other safety standards that are more stringent than the minimum standards required by the Texas Commission on Environmental Quality ("TCEQ"). On the other hand, the proposed revisions allow property owners greater flexibility because they would allow the construction, under certain circumstances, of an additional residential unit on a lot that already has an existing single-family dwelling located on it. The proposed revisions also include a process through which property owners can request variances.

Guidelines Questions 4 and 6: What is the specific purpose of the proposed action? How does it benefit society?

Texas Health and Safety Code Section 366.002(7) defines an on-site sewage disposal system (also known as an on-site sewage facility) as:

- [O]ne or more systems of treatment devices and disposal facilities that:
- (A) produce not more than 5,000 gallons of waste each day; and
 - (B) are used only for disposal of sewage produced on a site on which any part of the system is located.

Every on-site sewage disposal system in the unincorporated areas of Travis County must comply with the minimum safety standards established by the TCEQ. On-site sewage disposal systems that are improperly located, designed, constructed, installed, operated, or maintained can cause sewage to be discharged or exposed in a manner that contaminates groundwater and makes the sewage a potential instrument or medium in the transmission of disease to or between persons. Compliance with the proposed revisions will help OSSF owners to abate or prevent pollution or injury to their real property and to help abate or prevent pollution or injury to public health in Travis County.

As an authorized agent designated by the TCEQ, Travis County is a local governmental entity that has the legal authority to regulate the use of on-site sewage disposal systems in its jurisdiction and has been doing so for almost two decades. The County's most recent OSSF rules were adopted in June 2000. Since that time, the County's population has continued to grow, and the TCEQ has revised some of its rules regarding OSSFs.

The purpose of the substantive and procedural revisions is to clarify and strengthen the standards for the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems in Travis County in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities.

It is proper and necessary for the County to adopt OSSF standards that are more stringent than the standards adopted by TCEQ because:

- (a) Protecting water resources is vital to human health, and some residents within Travis County depend heavily upon groundwater for their drinking water;
- (b) The population of Travis County is projected to double by the year 2050;
- (c) A significant amount of the projected future growth within the unincorporated areas of Travis County is expected to rely on on-site sewage facilities;
- (d) The adoption of OSSF regulations that are more stringent within the Recharge Zone of the Edwards Aquifer (including those land areas situated above the Trinity Aquifer Recharge Zones) and other aquifers which have environmentally sensitive rapid recharge conditions is necessary and appropriate to avert public health hazards resulting from the projected increased use of on-site sewage facilities and the increased usage of water; and
- (e) The more stringent rules will provide greater public health and safety protection for the residents of Travis County.

Strengthening the County's standards protects the public's health and safety. Clarifying the County's standards makes them easier for property owners to comply with them and for the County to enforce them.

Guidelines Question 7: Will the proposed action constitute a taking?

Even if the amendments are not exempt, they do not constitute a taking. The amendments do not eliminate all viable uses of any private real property.

Guidelines Question 8: Are there reasonable alternatives to the proposed action that would accomplish its purpose?

An alternative to the amendments would be to leave unchanged the current provisions of Chapter 48, including provisions that are outdated and provisions that need clarification.