

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



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

December 1, 2017

Judge Paul Pape
Bastrop County Texas
804 Pecan Street
Bastrop, Texas 78602

RE: Bastrop County
On-Site Sewage Facility No. 620010

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has issued final approval of the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the approval became effective on the date the ED signed the permit or other approval. A copy of the final approval is enclosed and cites the effective date.

You may file a **motion to overturn** with the chief clerk. A motion to overturn is a request for the commission to review the TCEQ executive director's approval of the application. Any motion must explain why the commission should review the TCEQ executive director's action. According to 30 TAC Section 50.139 an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

A motion to overturn must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, please provide copies to Robert Martinez, Environmental Law Division Director (MC 173), and Vic McWherter, Public Interest Counsel (MC 103), both at the same TCEQ address listed above. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's approval. According to Texas Water Code Section 5.351 a person affected by the ED's approval must file a petition appealing the ED's approval in Travis County district court within 30 days after the effective date of the approval. Even if you request judicial review, you still must exhaust your administrative remedies, which includes filing a motion to overturn in accordance with the previous paragraphs.

Individual members of the public may seek further information by calling the TCEQ Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac
Chief Clerk

BCB/ms

cc: Vic McWherter, TCEQ Public Interest Counsel (MC 103)

Bryan W. Shaw, Ph.D., P.E., *Chairman*
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Protecting Texas by Reducing and Preventing Pollution

December 1, 2017

Judge Paul Pape
Bastrop County Texas
804 Pecan Street
Bastrop, Texas 78602

Re: On-Site Sewage Facilities Order for Bastrop County

Dear Judge Pape:

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

Should you have any questions, please contact Mr. Michael Price, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program, MC-235, at 512-239-2150.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cynthia Gandee".

Cynthia Gandee, Team Leader
Program Support Section, MC-174
Office of Compliance and Enforcement

Enclosures: Certified Order
Recipient Mail List

APPLICATION BY BASTROP COUNTY
TO INITIATE THEIR ON-SITE SEWAGE FACILITY ORDER

Judge Paul Pape
Bastrop County Texas
804 Pecan Street
Bastrop, Texas 78602

Phillip Merino
Manager
Bastrop County Environmental & Sanitation
211 Jackson Street
Bastrop, Texas 78602

TCEQ – Region 11
Attn: Michael Daniels

Mike Price
OSSF Program
Filed Operations Program Support Section, MC- 235

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS
COUNTY OF TRAVIS
THEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

DEC 01 2017

OF THE COMMISSION, GIVEN UNDER MY HAND AND THE
SEAL OF OFFICE ON

Bridget C. Bohac
BRIDGET C. BOHAC, CHIEF CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

On November 20, 2017 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Bastrop for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that the County of Bastrop has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Bastrop Order should be approved.

FINDINGS OF FACT

1. The County of Bastrop drafted a proposed Order which regulates on-site sewage facilities.
2. On June 1, 2017 the County of Bastrop caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Bastrop area of jurisdiction, of a public meeting to be held on June 12, 2017.
3. The County of Bastrop held a public meeting to discuss its proposed Order on June 12, 2017.
4. The County of Bastrop Order regulating on-site sewage facilities was adopted on June 12, 2017.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Bastrop Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

EXHIBIT A



ON-SITE SEWAGE FACILITY RULES

FOR

BASTROP COUNTY, TEXAS

PREAMBLE

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

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

WHEREAS, due notice was given of a meeting and public hearing to determine whether the Commissioner's Court of Bastrop County, Texas should enact an order controlling or prohibiting the installation or use of On-Site Sewage Facilities (OSSF) in the County of Bastrop, Texas; and

WHEREAS, the Commissioner's Court of Bastrop County, Texas finds that the use of On-Site Sewage Facilities in Bastrop County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Commissioner's Court of Bastrop 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 Bastrop County, Texas;

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONER'S COURT OF BASTROP COUNTY, TEXAS;

Section 1: THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

Section 2: THAT the use of On-Site Sewage Facilities in Bastrop County, Texas is causing or may cause pollution or is injuring or may injure the public health;

Section 3: THAT an Order for Bastrop County, Texas be adopted and entitled "On-Site Sewage Facility Rules," which shall read as follows:

Certified to be a true and
correct copy

Page 1 of 17



Rose Pietsch, County Clerk
Bastrop County, TX

Section 4: CONFLICTS.

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) Order for Bastrop County, Texas

Section 5: ADOPTING CHAPTER 366.

The County of Bastrop, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the THSC and Chapters 7 and 37 of the Texas Water Code (TWC) and associated rules referenced in Section 8 of this Order.

Section 6: AREA OF JURISDICTION.

These Rules shall apply to all the areas lying within Bastrop County, Texas, except for areas regulated under an existing Order, Ordinance or Resolution.

Section 7: STATE OF TEXAS ON-SITE SEWAGE FACILITY RULES.

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

Section 8: STATE OF TEXAS ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of Bastrop County, Texas, having duties under said Rules are authorized to perform such duties as are required of under said Rules.

Section 9: INCORPORATED BY REFERENCE.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

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Rose Piensch, County Clerk
Bastrop County, TX

Section 10: AMENDMENTS.

The County of Bastrop, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facility Order, understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirements, if local rules provide greater public health and safety protection. Listed below are the more stringent Rules adopted by Bastrop County, Texas:

10.1 Permit Required

- a. To assure all on-site sewage facilities (OSSF's) that are constructed will prevent pollution, contamination and/or cause injury to public health, submission of an application for a permit to construct or modify and associated fees shall be required, regardless of the acreage of the subject property in Bastrop County.
- b. Any proposed structure to be used as a residence is required to get an OSSF permit to assure compliance with this order and Title 30, TAC, Chapter 285 rules.

10.2 Surface Application and Any Other Systems Required to meet Secondary Treatment Standards:

- a. The minimum setback from the edge of a surface application area to any residential or commercial structure shall be ten (10) feet.
- b. There must be a minimum of two (2) spray heads operational in the disposal area of a surface application system.
- d. Only licensed Maintenance Providers can be contracted to serve Non-Residential OSSF's (commercial, institutional, apartments, duplex, condo, etc.) and homeowners who do not wish to participate in homeowner maintenance activities. Maintenance Providers must:
 - 1) Obtain and keep a TCEQ Maintenance Provider license and
 - 2) Comply with all testing and reporting requirements according to 285.90(3) with the inclusion of sludge levels in the pump tank and the condition of the spray area.
 - 3) The initial maintenance contract will be for two years from the date of the final approval of Bastrop County. Renewal contracts must have a start and end date, for a term of at least one year and not to exceed three years.
 - 4) Submit a maintenance report for each system identified in 285.91(12) and as required in 285.90(3) and 285.91(4), along with each new maintenance contract.

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Rose Pietsch, County Clerk
Bastrop County, TX

e. Homeowners, after the initial 2 yr mandatory maintenance contract with a licensed Maintenance Provider, choosing to maintain their own OSSF's as identified in 285.91(12), must show proof of one of the following to Bastrop County Sanitation Services:

- 1) A TCEQ Maintenance Provider license <or>
- 2) A Class D or higher wastewater treatment license <or >
- 3) Complete and pass the TOWA Basic Maintenance Course, or other Bastrop-County-approved course <and>
- 4) Each owner of an aerobic system must comply with all testing and reporting requirements according to 285.90(3) with the inclusion of sludge levels in the pump tank and the condition of the spray area.

10.3 Inspection Ports

To assure that all subsurface, gravity flow OSSF's can be adequately inspected, maintained and assessed for proper functioning by the property owner and any future owners, the following list designates the types of OSSF's that shall be required to install inspection ports at the end of each trench or the back corner of each bed:

Evapotranspiration Beds, Gravel-less Pipe, Leaching Chambers, Multi-Pipe and Standard Soil Absorption Beds or Trenches

10.4 Time Limit - Non-Compliance

If an OSSF is determined by Bastrop County officials to exhibit an immediate threat to public health with sewage exposed above the ground, the owner of the property must have the OSSF pumped immediately and cease operation. The property owner will be given 15 days after the initial violation notice to initiate repairs/extension/alteration/ replacement of the malfunctioning OSSF. The applicable fines will range up to \$500.00 a day for non-compliance.

10.5 Professional Design Requirements

Applications for an OSSF must have planning materials designed and stamped/sealed by a Professional Engineer or Registered Sanitarian, regardless of system type in the following instances:

- a) Any OSSF designated by Chapter 285.91(9).
- b) Any OSSF that is to be installed on a property of ½ acre or less
- c) Any OSSF proposed to serve two or more residential structures

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Rose Pietsch, County Clerk
Bastrop County, TX

d) Any OSSF proposed for the second (or more) residential structure on a legal tract(s) of land that is less than 2 acres

e) Any OSSF proposed for a Non-Single Family-Residential (commercial, institutional, apartments, duplex, condo, etc.)

f) Any OSSF for a structure that prepares food for the public that utilizes spray application as a disposal method shall:

- 1) Use flow equalization measures in their OSSF design
- 2) Be required to have a contract with a Licensed Maintenance Provider
- 3) Have the following permit conditions:
 - A. Monthly testing and reporting for the first year and then quarterly if there are less than two failed tests in the previous year
 - B. A disinfection log must be kept at the site, showing each chlorine addition and residual, reported to the county annually
 - C. A record of an annual grease-trap pump-out must be kept at the site and reported to the county

10.6 Inspections

- a) All inspections from licensed installers must be called for a day in advance
- b) If a homeowner is installing his own system, same day inspections may be allowed on a case by case basis.

10.7 Minimum Sizing

- a) The minimum size treatment tank for any occupied residential structure up to 1500 square feet, with less than 2 bedrooms shall have a volume of at least 750 gallons.
- b) If a system is being designed for more than one occupied structure, there must be a minimum 750 gallon septic tank for each home preceding the required treatment and disposal components.
- c) The minimum sizing factor for any structure up to 1500 ft² will be 180 gallons a day, including RV's, guest houses, offices, apartments, etc. with the exception of RV Parks. (RV Parks being defined as 5 or more on one tract of land.) RV's in RV Parks may be designed for a minimum wastewater usage of 50 gallons per day.

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Rece Pietsch, County Clerk
Bastrop County, TX

10.8 Design Requirements

- a) All OSSF detailed designs must be to a scale of 1" = 40' and if all property lines cannot be included on a 11" X 17" or smaller page at that scale, another 'zoomed-out' design is required at a larger scale for location purposes.
- b) All proposed and existing structures must be included on the design, including secondary residences, guest houses, septic systems, outbuildings, barns, sheds, etc. Waterlines, Water Meters, Water Wells, Overhead Electric lines, Driveways and Access Easements must be shown also.
- c) Any design for modification/tank replacement of an existing OSSF must show all components of the existing and proposed OSSF and such design must be shown to meet current State and County OSSF standards and planning materials designed according to Chapter 285.91(9).
- d) Surface Irrigation systems may not be designed with overlapping spray patterns.

SECTION 11: DUTIES AND POWERS

The OSSF Designated Representative (DR) (30 TAC § 285.2 (17)) of Bastrop County, Texas must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 12: COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Bastrop County, Texas, in accordance with the fee schedule established from time to time by the Commissioner's Court. A fee of \$10.00 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the THSC, Chapter 367.

SECTION 13: APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioner's Court of Bastrop County, Texas

SECTION 14: ENFORCEMENT PLAN

The County of Bastrop, Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341, 343 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

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correct copy

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Rees Pietsch, County Clerk
Bastrop County, TX

Rose Pietsch, County Clerk, Bastrop County, Texas do hereby certify that this is a true and correct copy as same appears of record in my office. Witness my hand and seal of office on 6-26-17



ROSE PIETSCH
BASTROP COUNTY CLERK
By Deputy

Kuskauteh

SECTION 15: SEVERABILITY

It is hereby declared to be the intention of the Commissioner's Court of Bastrop County, Texas, the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Order, since the same would have been enacted by the Commissioner's Court without incorporation in this Order of such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 16: RELINQUISHMENT OF ORDER

If the Commissioners Court of Bastrop County, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Commissioners Court, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC§ 285.10 (d)(1) through (4).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC §285.10 (d) (5) and 285.14 after the date that delegation has been relinquished.

SECTION 17: EFFECTIVE DATE.

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

AND SO IT IS ORDERED:

PASSED AND APPROVED THIS 12th DAY OF June, 2017.

APPROVED:

Paul Pape

Paul Pape, Bastrop County Judge

ATTEST:

Rose Pietsch

Rose Pietsch, Bastrop County Clerk



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Rose Pietsch, County Clerk
Bastrop County, TX