

COPY

ORDER ADOPTING RULES OF GILLESPIE COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES

PREAMBLE

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

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

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Gillespie County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Gillespie, Texas; and

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

WHEREAS, the Commissioners Court of Gillespie 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 Gillespie County, Texas; and

WHEREAS, Gillespie County has been designated by the Texas Water Development Board as a county within a Priority Groundwater Management Area and has adopted minimum acreage formula under Section 35.019 of the Texas Water Code to ensure an adequate water supply for the residents of Gillespie County.

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

SECTION 3. THAT an Order for Gillespie County, Texas be adopted entitled "Order Adopting Rules Of Gillespie County, Texas for On-Site Sewage Facilities".

SECTION 4. CONFLICTS.

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

SECTION 5. CHAPTER 366.

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

SECTION 6. AREA OF JURISDICTION.

(A) The Rules shall apply to all the area lying in Gillespie County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

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

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Gillespie County, Texas having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE.

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

SECTION 10. AMENDMENTS.

The County of Gillespie, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Rules adopted by Gillespie County, Texas:

- (A) To ensure all systems meet title 30 TAC Chapter 285 Rules, regardless of the acreage involved, any new construction, alteration, repairs, or extension of an OSSF located within Gillespie County's jurisdiction are required to be permitted and licensed.
- (B) In order to provide greater public health and safety protection, Gillespie County shall require the maintenance for all OSSF's identified in 285.91 (12) to be performed by a TCEQ registered maintenance company unless:
 - (1) The homeowner/property owner is a TCEQ registered maintenance provider for their aerobic treatment unit; or
 - (2) The homeowner/property owner was trained by an installer or manufacturer according to the requirements of HB 2510 [79(R)] prior to adoption of HB 2482 [80(R)]; or
 - (3) The homeowner/property owner holds a valid wastewater Class D license or higher wastewater treatment license, and is certified by the manufacturer for the brand of OSSF that they own.
- (C) Maintenance Inspections and Reports:
 - (1) Inspections at a minimum must meet all inspection requirements as set by the Rules, Gillespie County, as well as the inspection requirements outlined by the manufacturer for the brand being inspected.
 - (2) Inspection reports shall address all inspection and testing requirements as set by the Rules, Gillespie County, as well as the testing requirements outlined by the manufacturer for the brand being inspected.
 - (3) Gillespie County shall require the reporting of the sludge levels in the pump tank, and the condition of the spray area to be included on each required testing report specified by the Rules.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Gillespie 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 Gillespie County, Texas.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Gillespie County, Texas.

SECTION 14. PENALTIES.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and title 030 TAC Chapters 30 and 285.

SECTION 15. SEVERABILITY

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

SECTION 16. EFFECTIVE DATE.

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

AND IT IS SO ORDERED:

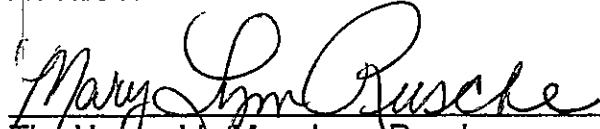
PASSED AND APPROVED THIS 27th DAY OF August, 2007.

APPROVED:



The Honorable Mark Stroehrer,
Gillespie County Judge

ATTEST:



The Honorable Mary Lynn Rusche,
Gillespie County Clerk