

DRAFT By NEI - July 23, 2007

Note: Original text is in black (NEI's June 18, 2007 draft of Hays Co. OSSF Order, which updated the existing 1997 Hays Co. OSSF Order).

Added text is in blue.

~~Deleted text is in red.~~

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

PREAMBLE

A. The Texas Commission on Environmental Quality has established Rules for on-site sewage facilities to provide the citizens of Texas with adequate public health protection and a minimum of environmental pollution; and

B. 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

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

D. Said meeting and public hearing were held in accordance with the notice thereof, and the evidence and argument there presented were considered by the Commissioners Court of Hays County, Texas; and

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

F. The Commissioners Court of Hays County finds that the Texas Commission on Environmental Quality has identified the Edwards Aquifer as being one of the most sensitive aquifers in Texas to groundwater pollution; and

G. The Commissioners Court of Hays County, Texas, finds that soil conditions in those portions of Hays County situated over the Recharge Zone of the Edwards Aquifer are generally porous limestone susceptible to rapid transportation of pollutants and therefore, in order to protect the public health, safety and welfare of the residents of Hays County, additional protective measures are appropriate and necessary for the use of on-site sewage systems within those portions of Hays County; and

H. The Commissioners Court of Hays County finds that portions of Hays County within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer and other

areas in western Hays County have been designated by the Texas Commission on Environmental Quality as within the "Hill Country Priority Groundwater Management Area" pursuant to Chapter 35 of the Texas Water Code and 30 Texas Administrative Code ("TAC") §294.24; and

I. The Commissioners Court of Hays County finds that the United States Fish and Wildlife Service has described the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer as a porous limestone, karst aquifer that is heavily influenced by the introduction of pollutants into its recharge features; and

J. The Commissioners Court of Hays County finds that the Texas Commission on Environmental Quality, for the stated purpose of protecting existing and potential uses of groundwater, has implemented special protective regulations for the Recharge Zone of the Edwards Aquifer under the Edwards Aquifer Rules promulgated as 30 TAC Chapter 213; and

K. The Commissioners Court of Hays County finds that soils within the Glen Rose Formation within the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer have been described as highly variable, stony and fragile systems easily subject to degradation and that the Glen Rose Formation is characterized by a stair-step topography with alternating hard limestone/dolomite beds and soft marly beds which is highly susceptible to lateral discharge of groundwater through seeps directly into creeks and other bodies of surface water; and

L. The Commissioners Court of Hays County, Texas, upon public hearings, has received public comment from a broad spectrum of residents of Hays County seeking more stringent protective measures for the use of on-site sewage facilities in rural areas of Hays County including those areas within the Recharge Zone of the Edwards Aquifer and the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer; and

M. The Commissioners Court of Hays County finds that protecting water resources is vital to human health and that virtually all residents within Hays County depend solely upon groundwater for their drinking water; and

N. The Commissioners Court of Hays County adopts Section 10 of these Rules as water availability requirements pursuant to Section 35.019 of the Texas Water Code and finds that these Rules are necessary to prevent current or projected water use in the county from exceeding the safe sustainable yield of the county's water supply; and

O. The Commissioners Court of Hays County finds that the population of Hays County has grown at an average annual rate of approximately five percent (5%) since 1990 and it is expected that similar or faster growth rates will be experienced in the future with much of this growth occurring within the unincorporated areas of Hays County; and

P. The Commissioners Court of Hays County finds that all or most of the projected future growth within the unincorporated areas of Hays County is expected to rely on on-site sewage facilities and to obtain drinking water from groundwater and that more stringent regulations of on-site sewage facilities within the Recharge Zone of the Edwards Aquifer, the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer and those portions of

Hays County within the Hill Country Priority Groundwater Management Area are necessary and appropriate to avert public health hazards resulting from such increased use of on-site sewage facilities; and

Q. The Commissioners Court of Hays 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 Hays County, Texas.

ORDER

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

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

AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-site Sewage Facility order for Hays County, Texas. All Orders or parts of the Orders of Hays County, Texas, not consistent with or in conflict with the provisions of this Order are hereby repealed.

SECTION 5. ADOPTING CHAPTER 366.

The County of Hays, Texas, clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt 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 Hays County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

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

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of Hays County, Texas must comply with the Rules adopted in Sections 8 and 10 of this Order.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 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 Hays 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 Hays, 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 Hays County, Texas:

10.1 Facility Planning

All of the terms and provisions of 30 TAC Section 285.4 are incorporated within the Rules of Hays County except as expressly amended below.

(a) Land Planning and Site Evaluation.

(1) Single Family Residential Uses ~~Lot Sizing~~.

(A) A Pplatted or unplatted single family residential Llots ~~served by Surface Water or Rainwater Collection Systems. Lots used for Single Family Residences platted or created after the Effective Date of these Rules and~~ served by a Surface Wwater or a Rrainwater Collection System shall have surface areas of at least the acreage designated in Table 10.1(A).

(B) A Pplatted or unplatted single family residential Llots ~~served by Public Water Wells. Lots used for Single Family Residences platted or created after the Effective Date of these Rules and~~ served by a Public Wwater Wwell shall have surface areas of at least the acreage designated in Table 10.1(B).

(C) ~~A~~ Platted or unplatted single family residential ~~lots~~ served by ~~Private Wells or other water systems. Lots used for Single Family Residences~~ platted or created after the Effective Date of these Rules and served by a ~~Private Well or not covered by any water system other than those described in Paragraphs 10.1(A) or 10.1(B), above~~ shall have a surface areas of at least the acreage designated in Table 10.1(C).

(2) ~~Small Certain~~ Multi-Unit Residential Developments, Including Manufactured or Permanent Home Rental or Non-Rented Developments Served by a Central Sewage Collection System for On-Site Disposal. ~~Multi-unit Non-Single Family~~ residential developments with four or fewer living units, including such as duplexes, may utilize lots smaller than the acreages set forth ~~stated~~ in Paragraphs (1)(A), (1)(B) and (1)(C) of this Section provided:

(A) ~~s~~ Site s Specific evaluation ~~M~~ materials for a central system, addressing either a central system or individual systems are prepared by a professional engineer and professional sanitarian, and ~~Site Evaluation Materials are~~ submitted to the Department for review and approval; and,

(B) ~~T~~ There are no more than two living units for ~~per~~ each minimum lot acreage as designated in ~~that would be applicable under~~ Tables 10.1(A), 10.1(B) or 10.1(C); ~~provided that in no event shall lot acreage be lower than permitted under Chapter 366 of the Texas Health and Safety Code or other applicable State law.~~

~~(C) The proposed sewage disposal plan shall be prepared by a professional engineer or professional sanitarian.~~

(3) Other Multi-Unit Residential Developments ~~Apartments, Manufactured or Permanent Home Rental or Non-Rented Developments, Institutional Uses or and Non-Residential Developments (Business, Commercial, or Industrial).~~ Platted or unplatted ~~lots~~ used for multi-unit residential developments ~~apartment complexes~~ with more than four ~~(4)~~ living units, institutional uses or non-residential uses, including apartment complexes, and lots used for non-residential purposes (e.g., office, commercial, or industrial or institutional uses) producing domestic wastewater ~~shall:~~

~~(A) Be sized and designed pursuant to a sewage disposal plan submitted to the Director and approved by the Commissioners Court, which shall be based upon approved Site Specific Materials and Site Evaluation Materials; and~~

~~(AB) shall H~~ have a minimum lot size of 1.0 acres and a total surface acreage of at least one (1) acre for each living unit equivalent (LUE); and, per day with a minimum lot size of at least 1.0 acres.

~~(BC) the onsite sewage facilities for these developments shall be designed based on site specific evaluation materials~~ For Apartments and Manufactured or Permanent Rental or Non-Rented Developments, the proposed sewage disposal plan shall be

prepared by a professional engineer or professional sanitarian and submitted to the Department for review and approval.

(4) Manufactured Housing and Recreational Vehicle Parks. Platted or unplatted lots in a manufactured housing community or in a recreational vehicle park where spaces are rented or leased may be smaller in size than the acreages set forth in Paragraphs (1)(A), (1)(B) and (1)(C) of this Section provided:

(A) site specific evaluation materials for a central system or individual systems are prepared by a professional engineer or professional sanitarian and submitted to the Department for review and approval; and,

(B) there are no more than two living units for each minimum lot acreage as designated in Tables 10.1(A), 10.1(B) or 10.1 (C).

(54) Condominium Complexes. Condominium complexes utilizing on-site sewage facilities shall meet the following requirements:

(A) The applicant for the OSSF permit shall identify the person who will be legally responsible for compliance with all applicable OSSF requirements. The application for OSSF permit shall include a sworn (notarized) statement from such legally responsible person attesting that such person accepts full legal responsibility for compliance with all applicable OSSF requirements. In the event the designated legally responsible party fails or refuses to comply with any applicable OSSF requirements, the Department may institute appropriate enforcement action against that person, or against one or more of the following parties who the Department determines to be responsible for the noncompliance: (i) the owner or manager of the condominium complex; (ii) the owner of one or more individual condominium units; (iii) the legally constituted condominium owners association for that condominium; (iv) a maintenance company contracted to provide maintenance for the noncompliant OSSF.
~~The legally responsible party, or parties, that will own or operate the on-site sewage facilities shall be formally identified and designated. The roles each party shall play in owning or operating the on-site sewage facilities shall be clearly outlined in an enforceable legal document that is entered into by all parties involved in the operation of the on-site sewage facilities. The legal document shall be submitted to the Department at the time of application for an on-site sewage facility permit.~~

(B) All requirements set forth in Section 10.1(a)(3) apply to condominium complexes.

(CB) Each individual condominium unit shall be equipped with a flow meter capable of measuring the wastewater flow from each individual condominium unit in the complex.

(DE) Maintenance of the OSSF for a condominium complex are subject to the applicable maintenance, testing and reporting requirements of TCEQ's Chapter 285 Rules and all maintenance shall be provided by a Maintenance Company registered with

~~TCEQ under such rules. On-going maintenance of the condominium complex on-site sewage facility must be provided by a maintenance provider registered with the Texas Commission on Environmental Quality. The maintenance contract shall meet the contract provisions and submittal requirements of 30 TAC Section 285.7(e).~~

(b) Lot Size Averaging. The minimum acreage requirements set forth in Tables 10.1(A), 10.1(B) and 10.1(C) may be obtained by averaging the size of all Lots within a platted development so long as the only Lots with acreage exceeding the minimum set forth in such table that may be included in the averaging calculation shall be: (i) Lots reserved by plat note for use as a publicly dedicated and accepted park, or a private greenbelt in which all owners or residents of the subdivision hold an equal, unrestricted and indivisible right of access and use, or (ii) Lots larger than five acres restricted by a plat note prohibiting all development other than one Single Family Residence or other development excluded from the term "Regulated Activities" under the Edwards Aquifer Rules of the Texas Commission on Environmental Quality (30 TAC Chapter 213), but without regard to the aquifer over which the development occurs. Only platted development may take advantage of these averaging provisions.

(1) Notwithstanding the averaging allowed above or anything else to the contrary in this Paragraph 10, no on-site sewage facility shall be permitted on any Lot smaller than the minimum lot size permitted under Chapter 366 of the Texas Health and Safety Code and the Regulations promulgated thereunder (30 TAC Chapter 285).

10.2 Minimum Required Separation Distances for On-Site Sewage Facilities.

(a) The minimum separation distances set forth in Table X of the Rules for soil absorption systems, unlined ET Beds and surface application areas for Lots created or platted after the Effective Date of these Rules are supplemented as follows:

- | | |
|---|------------|
| (1). Barton Creek, Bear Creek, Blanco River, Cottonwood Creek, Cypress Creek, Little Bear Creek, Lone Man Creek, Long Branch, Onion Creek, Purgatory Creek, Roy Creek, San Marcos River, Sink Creek, Smith Creek, Willow Creek, and Wilson Creek (measured from the bank at average pool height): | 150' |
| (2). Property lines: | |
| Soil Absorption Systems & Unlined ET Beds | 20' |
| Surface Application Areas | 40' |
| <u>Individual Sprinkler Heads of Surface Application Areas</u> | <u>60'</u> |
| (3). Vegetable gardens or orchards: | 20' |

(4). Single or Multi Family Residential Living Units:
Surface Application Areas 40'

10.3 Water Well Set Backs and Sanitary Easements.

(a) Individual Lots in which a Private Well is to be located shall provide, within the boundary of each Lot, an area with a one hundred (100) foot radius around the well in which no on-site sewage facility may be located. This area shall be designated as a private water well set back and shall be clearly shown and labeled on any planning material submitted to the Department in support of an application for an on-site sewage facility permit. Variances from the Private Well set back requirement will be considered if the Private Well has been, or will be, completed in accordance with requirements outlined in the Water Well Drillers and Water Well Pump Installers Rules under 16 TAC Chapter 76, or the applicable rules of the groundwater conservation district that has jurisdiction over the area where the Private Well and the on-site sewage facility are located. In no case shall the Private Well set back distance be less than 50 feet.

(b) Public Water Wells shall comply with the sanitary control easements required under 30 TAC Chapter 290, as amended.

10.4 Variances.

Requests for variances from the requirements of these Rules shall be considered in accordance with the criteria specified in Section 285.3(h) of the TCEQ's Rules and the following additional criteria:

(a) Only lots platted in accordance with the Hays County Subdivision and Development Regulations or legally in existence prior to the Effective Date of these OSSF Rules will be eligible for a variance; ~~and~~

(b) Site Specific ~~Materials and Site~~ Evaluation Materials must be submitted with the preliminary ~~plan~~plat application for each ~~L~~lot for which a variance is sought, with detailed soil profile analysis of the proposed absorption field site demonstrating soil characteristics that meet or exceed the criteria for suitable soils set forth in 30 TAC Section 285.91 Table V of the TCEQ's Rules; ~~:-~~

(c) ~~The Department Commissioners Court~~ shall have discretion to approve or deny an application for a variance and may approve an application for a variance only upon ~~determining a finding that~~ (i) ~~(a)~~ that development pursuant to the proposed variance will provide equivalent protection of the public health and environment as development in strict accordance with these Rules, including Paragraph 10, and (ii) ~~(b)~~ that there are special circumstances or conditions affecting the land involved such that strict application of the provisions of these Rules would deprive the applicant of the reasonable use of his land, and (iii) that failure to approve the variance would result in undue hardship to the applicant. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship; ~~:-~~

(d) If the requested variance involves an issue with significant public policy impacts, the Department may elect to refer the decision on the granting of a requested variance to the Commissioners Court;

(e) Any applicant for a variance who disagrees with a decision of the Department may appeal the decision to the Commissioners Court. Any such appeal shall be filed within ten days from the date of a written decision by the Department on the variance request.

10.5 Permitting Procedures and Additional Requirements

The Hays County Commissioners Court or the Department may from time to time adopt local procedural requirements for applications, permitting and inspection procedures for On-Site Sewage Facilities.

10.6 Amendment to Section 285.34(b)(2) (Pump Tank Sizing)

Pump tanks shall be sized to contain *one day's flow* between the alarm-on level and the *manufacturer's inlet* to the pump tank. (Amended portion in italics).

Comment: This more stringent standard affords a greater level of public health protection by assuring that households will be able to continue using their wastewater facilities for up to one day following a system failure. Hays County is a rural area served by a limited number of wastewater pumping services and it is unrealistic to expect that pumps can be repaired or replaced sooner than one day after a failure.

10.7 Amendment to Section 285.33 Criteria for Effluent Disposal Systems

Comment: This more stringent standard is adopted to prevent excessive deviation in longer trenches, which would contribute to surface failures at the lowest elevation of the trench.

For all effluent disposal systems utilizing trenches or beds containing disposal media, the bottom of the excavation shall be level to within one inch over each 25 feet of excavation, *but in no event shall there be more than two inches of fall over the entire length of the excavation. For the purposes of this amendment, gravel-less drainpipe shall be required to meet this standard.* (Amended portion in italics).

10.8 Amendment to Section 285.33 (a)(1)(B) (Porous Media)

Chipped tires or iron slag are not a permitted medium.

Comment: Unacceptable levels of iron bacteria have been detected in approximately seventy percent (70%) of wells in Hays County. Hays County has no shortage of gravel for drainfield media and thus there is less need for alternative media.

10.9 Amendment to Section 285.7 (Additional Requirements for Surface Application Systems)

The following requirements are imposed in addition to those set forth in Section 285.7 for an On-Site Sewage Facility utilizing surface application systems:

(a) Licenses to operate an On-Site Sewage Facility utilizing surface application shall be valid for two years. The Owner of the On-Site Sewage Facility shall be responsible for processing a renewal application for the renewal of the license prior to the expiration date of the current permit.

(b) Surface application shall be limited to sprinkler application only.

(c) All On-Site Sewage Facilities utilizing surface application shall be designed to facilitate periodic sampling.

(d) The site for a surface application system shall be cleared of exposed rock, or the exposed rock shall be covered with at least 4 inches of soil of suitable composition to support vegetative growth.

(e) The individual sprinkler heads installed for a surface application area shall have a maximum application radius of 20 feet based on the manufacturer's specifications for a maximum operating pressure of 40 pounds per square inch. The individual sprinkler heads shall have a maximum operating height of 12 inches.

10.10 Amendment to Section 285.5 (Submittal Requirements for Planning Materials)

The following requirements for the submission of planning materials are imposed in addition to those set forth in Section 285.5:

a. All site plans shall be submitted to a standard engineering scale on a single sheet of paper, providing the exact placement of all existing and proposed development, wells (including wells on adjacent property), driveways, and all wastewater system components. Show features that require minimum separation distances. Show topographic lines at one foot intervals in the area of the proposed OSSF and extending 25' past OSSF location.

b. A flow diagram of the tank battery shall be prepared.

c. An installation detail for subsurface systems shall be provided.

d. Detail all calculations for hydraulic loading, wastewater strength, sizing system components, determining total head, dosing volume and pump tank sizing and reserve capacity.

e. The disposal method for all multi-family residences and for commercial/institutional or nonresidential uses with wastewater flows over 500 gallons per day must be designed with pressurized distribution that assures uniform distribution of effluent.

f. Plugging reports for any wells proposed to be abandoned shall be provided.

g. Calculations for hydraulic and organic load for both normal and peak flows on all multi-family, commercial/institutional or non-residential systems shall be provided showing that both organic and hydraulic overloading of the treatment and/or disposal method is prevented.

h. The Department may require additional planning materials if in its opinion they are warranted for the specific instance.

i. Aerobic plants tested under NSF Standard 40 shall be sized for residential units based on an assumed organic load of at least 100 gallons per day per bedroom.

10.11 Amendment to Section 285.30 (Site Evaluation)

The following requirements for site evaluations are imposed in addition to those set forth in Section 285.30, and in addition to any requirements for properties subject to the Edwards Aquifer Rules (30 TAC Chapter 213):

a. A geologic assessment shall be performed on all property included in a proposed subdivision development, a multi-family development, or commercial or institutional development that proposes the use on-site sewage facilities. The geologic assessment shall be performed by a licensed professional geoscientist. The assessment shall include a summary of the suitability of the property to serve on-site sewage facilities, including the location and nature of any recharge features, caves or karst features.

b. Properties with a total area less than 10 acres are exempt from this requirement except for those properties over the Edwards Aquifer.

10.12 Miscellaneous

(a) A permit will be required for all On-Site Sewage Facilities, regardless of the size of the lot or acreage onto which it is installed. A permit will not be issued for an On-Site Sewage Facility that is on a tract of land that is found to be in violation of the Hays County Subdivision and Development Regulations. Any structure or property used for either residential or commercial purposes shall be connected to an On-Site Sewage Facility permitted by the Department or a centralized sewage treatment facility permitted by the Texas Commission on Environmental Quality.

(b) A construction inspection of an On-Site Sewage Facility must be completed within 12 months from the date of issuance of an Authorization to Construct. Construction of an On-Site Sewage Facility must be completed within 14 months of the date of issuance of an Authorization to Construct.

(c) French drains used to support and protect On-Site Sewage Facilities shall be upgradient of the On-Site Sewage Facility and shall be designed by a registered engineer to prevent stormwater drainage from entering into the On-Site Sewage Facility. An applicant desiring to install a french drain must demonstrate that its use will afford a greater level of public health by diverting stormwater away from the On-Site Sewage Facility.

(d) Effluent holding tanks shall be authorized only for temporary use for 90 days, with one 90 day renewal. The permittee must provide metered water usage and pumping manifests.

(e) Composting, incinerating, and “no water” toilets shall be permitted by the Department under the Rules. Planning material submitted shall clearly identify the type of toilet that will be installed and the site specific location of the proposed toilet. The permitted location shall be required to have hand-washing facilities utilizing potable water. Public parks owned by a political subdivision shall be exempt from the hand-washing facilities requirement.

(f) All buried standard, non-standard and proprietary treatment compartments and pump tanks shall be provided with at least one at-grade riser that can be accessed without digging. The installed riser shall be water tight.

(g) All commercial, institutional and non-residential on-site sewage facilities shall be equipped with a flow metering device capable of measuring and recording the average daily flow rate.

(h) The following requirements apply to Proprietary Treatment Units:

- a. For Proprietary Treatment Units, all disinfection devices must be listed by the NSF as having passed NSF/ANSI Standard 46 for effluent disinfection devices, or be manufactured or approved by the manufacturer of the treatment unit. Should the treatment unit be upgraded or altered, the disinfection device shall be re-evaluated and shall be upgraded, if necessary, to a device meeting the NSF/ANSI Standard 46 requirements;
- b. All aerobic treatment units shall be installed with a pre-treatment tank. The pre-treatment tank shall be sized at a capacity of at least one-half the average daily flow used to design the aerobic treatment unit(s), but no greater than one full days flow. The pretreatment tank shall be designed in accordance with the requirements Section 285.32(b)(1)(G)
- c. Aerobic plants tested under NSF Standard 40 shall be sized for residential units based on an assumed organic load of at least 100 gallons per day per bedroom.
- d. Homeowners may maintain their own aerobic units if they have obtained a Class “D” Wastewater License or Installer II license in addition to any other state requirements.

10.13 Grandfathering, ~~and~~ Recertification an Re-permitting of Existing Systems.

(a) Grandfathering. An owner of an OSSF is required to comply with the permitting, installation and operational requirements of ~~the~~any Hays County OSSF ordinance, or

any other applicable requirements, in effect at the time the OSSF is installed. Routine maintenance and repairs to an OSSF shall be required to bring the OSSF into compliance with all such applicable requirements.~~If an OSSF is subject to a Hays County OSSF ordinance predating the current ordinance and such OSSF is altered or repaired, then the owner shall apply for recertification within five days following the completion of such alteration or repair. In addition, the Department at any time may require any OSSF creating a nuisance to obtain recertification.~~

(b) Re-certification.

(1) If there is a transfer of ownership of an OSSF, the new owner shall apply for recertification of the OSSF prior to or no later than five (5) days following the effective date of the ownership transfer. In addition, the Department at any time may require an OSSF to obtain recertification if the Department determines that the OSSF is creating a nuisance. The purpose of the recertification process is to ensure that the OSSF continues to meet all requirements applicable to the OSSF.

(2) To obtain recertification of an OSSF~~existing On-Site Sewage Facility~~, a property owner ~~shall~~will be required to submit ~~a Pumping Report to the Department in a form acceptable to the Department containing~~ at least the following information: (i) a pumping report verifying~~verification~~ that the ~~OSSF On-Site Sewage Facility's septic tank~~ has been pumped within the previous three years and showing; (ii) the tank capacity and depth of sludge; ~~and, (ii)(iii) a copy of an OSSF inspection report prepared of the On-Site Sewage Facility performed~~ by a licensed ~~OSSF On-Site Sewage I~~nspector or maintenance company which contains ~~at a minimum the date of inspection, the name and contact information of the person that performed the inspection, and~~ a verification by the inspector that the ~~OSSF On-Site Sewage Facility~~ is functioning in compliance with the applicable ~~OSSF requirements On-Site Sewage Facility Order~~; and, (iii) a geologic assessment performed by a licensed professional geoscientist containing an evaluation of the suitability of the soil profile and infiltration characteristics of the drainfield. Based on a review of the ~~above information Pumping Report~~ and any other available information, the Department may require that the ~~OSSF On-Site Sewage Facility~~ be subject to re-permitting under subsection (c) upgraded to satisfy current technical requirements (other than minimum lot acreage) prior to recertification.

(c) Re-Permitting. If an OSSF is replaced or subjected to a major alteration, the OSSF shall be required to be re-permitted and upgraded to meet all applicable requirements of the current OSSF ordinance, except for minimum lot acreage requirements. In re-permitting an OSSF, the Department may waive one or more of the permitting requirements of the current OSSF ordinance if the Department determines that strict compliance with the current OSSF ordinance would be impracticable or would not result in significant additional environmental protection.

10.14 Amendment to Section 285.70(a) (Duties of Owners With Malfunctioning OSSFs.)

The following requirements for owners with malfunctioning on-site sewage facilities are imposed in addition to those set forth in Section 285.70(a): the owner of a malfunctioning on-

site sewage facility can be given a deadline to initiate and complete repairs to the system of less time than stated in Section 285.70(a) if the Department believes there is an imminent threat to the public health or environment.

10.15 Amendment to Section 285.7(d)(2) (Weather Resistant Tags)

The following requirements for weather resistant tags are imposed in addition to those set forth in Section 285.7(d)(2): the weather resistant tags shall be approved by the Department in advance of their installation. The maintenance company shall be responsible for submitting a sample tag to the Department for approval. The tags shall be installed outside the control panel or treatment unit device.

10.16 Amendment to Section 285.7(c) (Maintenance Contracts)

The following requirements for maintenance contracts are imposed in addition to those set forth in Section 285.7(c), all maintenance contracts shall include the following information: permit number; on-site sewage facility or wastewater operator license identification; the printed name and signature of the system owner and maintenance company representative; the starting and ending dates of the contract with the starting being the date of the notice of approval to operate; the physical address and phone number of the system location; the physical address, business address, business phone number and emergency phone number of the maintenance company.

10.17 Amendment to Section 285.34(a) (Septic Tank Effluent Filters).

The following requirements for septic tank effluent filters are imposed in addition to those set forth in Section 285.34(a): the outlet pipe from all standard treatment units shall be fitted with an effluent filter.

10.18 Amendment to Section 285.32(c)(1) (Proprietary Treatment Systems - Installation).

The following requirements for proprietary treatment systems are imposed in addition to those set forth in Section 285.32(c)(1): all aerobic treatment units shall be buried in the ground and backfilled to the lid of the tank.

10.19 Amendment to Section 285.33(c)(3)(E) (Vertical Separation Distance).

The following requirements for vertical separation distance are imposed in addition to those set forth in Section 285.33(c)(3)(E): all drip irrigation disposal fields shall be covered with at least 8 inches of soil backfill of suitable composition to support vegetative growth.

10.20 Definitions.

The following terms shall have the meanings ascribed to them below when used in this Order or the attached Tables:

Standard Septic System - On or off site sewerage facilities including septic tanks, sewage holding tanks, chemical toilets, treatment tanks and all other such facilities and systems other than Public Sewer Systems and Permitted Class I On-Site Wastewater Systems.

Contributing Zone of the Barton Springs Segment of the Edwards Aquifer - Any land within the watersheds of Barton, Onion, Slaughter, Williamson, Bear and Little Bear Creeks. In the event an Applicant cannot determine with specificity the location of the boundary of the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department.

Department - The Hays County Environmental Health Department.

Edwards Aquifer Recharge Zone - Any area identified as such by the Edwards Aquifer Rules. In the event an Applicant cannot determine with specificity the location of the boundary of the Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only these Regulations and will not in any manner be binding upon the Texas Commission on Environmental Quality. The Department may require the Applicant to obtain a determination from the Texas Commission on Environmental Quality and any determination by the Texas Commission on Environmental Quality regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.

Edwards Aquifer Rules - The Regulations promulgated by the Texas Commission on Environmental Quality relating to the Edwards Aquifer, currently set forth in Title 30 Texas Administrative Code Chapter 213, as amended from time to time.

Living Unit Equivalent (L.U.E.) - A unit of measure which represents the quantity of wastewater generated on an average annual daily basis from a single-family, detached residence of average size and occupancy and is defined as three hundred fifty (350) gallons per day.

Permitted Class I On-Site Wastewater System - An on-site system of sewage treatment other than a septic tank producing no more than 5,000 gallons of sewage per day, which has been licensed by the Department, utilizing advanced treatment processes to produce Class I effluent (as defined in National Sanitation Foundation Testing Standard 40) and designed to encourage the reuse of wastewater for irrigation on the premises.

Private Well - Any water well other than a Public Water Well.

Public Sewer System - Any public or private sewerage system for the collection of sewage that flows into a treatment and disposal system that is regulated pursuant to the rules of the Texas Commission on Environmental Quality and Chapter 26 of the Texas Water Code.

Public Water Well - A water well providing piped water for human consumption with a potential to serve to at least 15 service connections on a year-round basis or serving at least 25 individuals on a year-round basis. This definition includes all wells defined as a "Community Water System" or a "Public Water System" under Chapter 290 of the Texas Administrative Code.

Rainfall Collection System - An individual potable water supply system approved by the Department and having rainwater as its source and having a capacity sufficient to provide all of the domestic water requirements other than irrigation for development on the Lot. The Department may approve rainfall collection systems using a well for emergency/back-up domestic water requirements on a case by case basis.

Single Family Residence - Any habitable structure constructed on, or brought to, its site and occupied by members of a family, including but not limited to manufactured homes situated on leased space.

Site Evaluation Materials - The site evaluation materials described in Section 285.30 of the Rules.

Site Specific Materials - The facility planning materials described in Sections 285.4 of the Rules and, if applicable, Sections 285.5, 285.6, 285.7 and 285.40 of the Rules.

Surface Water - Water from streams, rivers or lakes or other bodies of water above the surface of the ground and obtained without pumping or extracting underground water. Water that is obtained from groundwater or other underground sources through wells, pumps or other means designed to accelerate natural flows from such underground source and which is then stored in a surface reservoir shall not be considered surface water. In the event any water supply system relies primarily on surface water, with reliance upon groundwater only for back-up supplies or a small percentage of the total water supplied, the Commissioners Court may, on a case by case basis, approve an application to consider such water supply system as qualifying as a Surface Water system under these Rules.

SECTION 11. DUTIES AND POWERS.

The Director of the Environmental Health Department of Hays County, Texas, and any individuals approved pursuant to the succeeding sentence, are herewith declared the designated representative(s) for the enforcement of the Rules within the jurisdictional area of Hays County. The appointed individual(s) must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of Hays County.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the Hays County Treasurer.

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 Hays County, Texas.

SECTION 14. PENALTIES.

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

A person commits an offense if the person violates a requirement of these Rules. An offense under this provision is a Class C misdemeanor punishable by fine.

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 seek one or all of the following:

- (a) Enjoin the violation or threatened violation of a requirement established by or adopted by the Commissioners Court under these Regulations; and
- (b) Seek civil or criminal penalties as provided by law; and
- (c) 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 Code, Chapters 7, 26 and 37 of the Texas Water Code, and 30 TAC Chapters 30 and 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Hays 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, paragraph, 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. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Hays County, Texas, decides that it no longer wishes to

regulate on-site sewage facilities in its areas of jurisdiction, the Commissioners Court shall follow the procedures outlined below:

(a) The Commissioners Court shall inform the Texas Commission on Environmental Quality by certified mail at least thirty (30) days before the published date of the public hearing notice that it wishes to relinquish its On-Site Sewage Facilities Order.

(b) The authorized agent shall post the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least thirty (30) days prior to the anticipated date of action by the authorized agent.

(c) The authorized agent shall send a copy of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes to the Texas Commission on Environmental Quality.

(d) The executive director shall process the request for relinquishment and may issue an order relinquishing the authority to regulate On-Site Sewage Facilities within the authorized agent's jurisdiction or may refer the request to relinquish to the Commission.

(e) Prior to issuance of a relinquishment order the local governmental entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designation to the executive director.

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 IT IS SO ORDERED:

PASSED AND APPROVED THIS _____ DAY OF _____, 200__.

APPROVED:

County Judge

ATTEST:

County Clerk

MINIMUM LOT SIZING - HAYS COUNTY RULES TABLES 10.1 (A,B, & C) - EFFECTIVE _____

WASTEWATER APPLICATION	LOT LOCATION	A. Surface Water or Rainwater Collection Minimum Lot Size	B. Public Well Water Supply Minimum Lot Size	C. Private Well Water Supply or Any Source Other Than (A) or (B)
Permitted Class - I Wastewater Systems	Within Edwards Aquifer Recharge Zone	1.5 acres	2.5 acres	3 acres
	Within Contributing Zone of Barton Springs Segment of the Edwards Aquifer	1 acres	1.5 acres	2 acres
	All Other Areas	0.5 acres	1 acre	1.5 acres
Conventional Septic	Within Edwards Aquifer Recharge Zone	2 acres	4.5 acres	5 acres
	Within Contributing Zone of Barton Springs Segment of the Edwards Aquifer	1.5 acres	2.5 acres	3 acres
	All Other Areas	1 acre	1.5 acres	2 acres

ADDITIONAL RULES

Setbacks:	Barton, Bear, Cottonwood, Cypress, Little Bear, Lone Man	
	Onion, Purgatory, Roy, Sink, Smith, Willow, & Wilson Creeks	
	<u>Blanco River, Long Branch, & San Marcos River</u>	<u>150'</u>
	<u>Property Lines, vegetable gardens, & orchards</u>	<u>20'</u>

Pump Tanks: Sized for one day flow above alarm level

Excavations: No less than 18" wide, level with 1" fall over each 25', no more than 2" fall over entire length.

FEE SCHEDULE

SERVICE DESCRIPTION	\$ COST
DEVELOPMENT PERMIT APPLICATION Single Family Residence (SFR) Commercial Non - SFR	\$ 200 \$ 400
FLOODPLAIN DEVELOPMENT PERMIT (SFR) Class "A" Class "B"	\$ 35 \$ 150
FLOODPLAIN DEVELOPMENT PERMIT (NON - SFR) Class "A" Class "B"	\$ 35 \$ 150 + \$.10/ sq.ft. of Building Space
DESIGN REVIEW FEE Single Family Residence Commercial Non - SFR	\$ 100 \$ 150
CERTIFICATION Well Only	\$ 125 + \$9 Lab fee for water well cert \$ 50 + \$ 9
SITE VISIT (PERC TEST/ SOIL PROFILE ANALYSIS)	\$ 75
REINSPECTION FEE	\$ 50
DAY CARE INSPECTION	\$ 25
FOOD HANDLER CERTIFICATION	\$ 10

EFFLUENT LOADING REQUIREMENTS BY SOIL CLASSIFICATION

SOIL CLASS	Ra - GAL/ AREA/ DAY
Ia	> 0.50
Ib	0.38
II	0.25
III	0.20
IV	0.10

SEPTIC TANK MINIMUM LIQUID CAPACITY

Determine wastewater usage rate (Q), calculate minimum septic tank volume (V).

- Q - WASTEWATER USAGE RATE (Gal/Day)	■ V - ■ MINIMUM TANK VOLUME ■ (Gal)
Q ≤ 250	V = 750
251 ≤ Q ≤ 350	V = 1000
351 ≤ Q ≤ 500	V = 1250
501 ≤ Q ≤ 1000	V = 2.5 * Q
Q ≥ 1001	V = 1750 + 0.75 * Q

S.D.W. WASTEWATER USAGE RATE

S.F.D. #BEDROOMS / S.F.	USAGE RATE GPD W/O Water saving devices	USAGE RATE GPD With Water saving devices
2 BR - <1500 S.F.	225	180
3 BR - < 2500 S.F.	300	240
4 BR - < 3500 S.F.	375	300
5 BR - < 4500 S.F.	450	360
6 BR - < 5500 S.F.	525	420
>5500 S.F., each additional 1500 s.f. increment thereof	75	60
Mobile Home (1-2 BR)	225	180
(each additional BR)	75	60

LIVING UNIT EQUIVALENT (LUE)

2-4-97 Texas State Rules - 400 GAL PER ½ ACRES PER DAY

8-29-97 Hays County Rules - 350 GAL PER 1 ACRE PER DAY

OTHER FACILITY WASTEWATER USAGE RATES

TYPE OF FACILITY	USAGE RATE - GPD W/O Water saving devices	USAGE RATE GPD WITH Water saving devices
Condo, Townhouse with 1-2 BR	225	180
each additional BR	75	60
Country Clubs (per member)	25	20
Apartment houses (per BR)	125	100
Boarding schools (per room capacity)	50	40
Day care centers (per child w/ kitchen)	25	20
(per child w/o kitchen)	15	12
Factories (per person per shift)	15	12
Hospitals (per bed)	200	160
Hotels and motels (per bed)	75	60
Nursing homes (per bed)	100	80
Laundries (self service per machine)	250	200
Lounges (bar and tables per person)	10	8
Movie theaters (per seat)	5	4
Office building (no food - showers/occupant)	5	4
(with food service per occupant)	10	
Parks (with bathhouse per person)	15	12
(w/o bathhouse per person)	10	
Restaurants (per seat)	35	28
(fast food)	15	
Schools (w/ food service & gym per student)	25	20
(w/o food service)	15	
Service stations (per vehicle)	10	8
Stores (per washroom)	200	160
Swimming pool bathhouse (per person)	10	8
Travel trailer / RV parks (per space)	50	40
Vet clinic (per animal)	10	8
Construction sites (per worker)	50	40
Youth camps (per camper)	30	24

CRITERIA FOR STANDARD SUBSURFACE DISPOSAL METHODS

FACTORS	SUITABLE	UNSUITABLE
Topography	Slopes 0-30%	Slopes greater than 30% Complex slopes
Subsoil Texture	Soil Class Ib, II, III Sandy Soils, Loamy Soils	Soil class Ia & IV Clayey soils (Except for pumped effluent systems in Class IV soils)
Subsoil Structure	Class Ib & II Structure not Significant	Platy structure Fractured rock. Massive clayey soil
Soil Depth	Suitable soils greater than 24 inches below bottom of excavation	Suitable or provisionally suitable soil less than 24 inches below excavation bottom
Restrictive Horizon	No restrictive horizon within 24 inches of the bottom of the proposed excavation	Restrictive horizon within 24 inches of the bottom of the proposed excavation bottom
Groundwater	No indication of groundwater within 24 inches of the bottom of the proposed excavation	Drainage mottles within 24 inches of the bottom of the proposed excavation
Flood Hazard	No flooding potential	Areas located in the regulatory floodway Depressional areas without adequate drainage
Other	Fill material	Potential health hazards or groundwater contamination

OSSF EXCAVATION LENGTH - 3 FOOT WIDE TRENCHES PER SOIL CLASS

Daily sewage Flow (Q)	CLASS Ib	CLASS II	CLASS III	Daily sewage Flow (Q)	CLASS Ib	CLASS II	CLASS III
100	53	80	100	325	171	260	325
125	66	100	125	350	184	280	350
150	79	120	150	375	197	300	375
175	92	140	175	400	211	320	400
200	105	160	200	425	224	340	425
225	118	180	225	450	237	360	450
250	132	200	250	475	250	380	475
275	145	220	275	500	263	400	500
300	158	240	300				

MINIMUM SEPARATION DISTANCES FOR ON-SITE SEWAGE FACILITIES

TO

FROM	Sewage Treatment or Holding Tanks	Soil Absorption Systems & Unlined ET Beds	Lined ET Beds	Sewer Pipe with Watertight joints	Surface Irrigation (Spray Area)	Drip Irrigation
Public Water wells	50	150	150	50	150	150
Public Water Supply Lines	10	10	10	10	10	10
Private Water Well	50	100	50	20	100	100
Private Water Well (pressure Cemented or grouted to 100' or Watertable)	50	50	50	20	50	50
Streams, Ponds, Lakes, Rivers, (Measured from Normal Pool Elevation and Water Level): Salt Water Bodies (High Tide Only)	50	75, (Secondary Treatment & Disinfection) - 50	50	20	50	25 when Ra <= 0.1 75 when Ra > 0.1
Foundations, Buildings, Surface Improvements, Property Lines, Easements, Swimming Pools, & Other Structures	5	5	5	5	None/ Property Lines- 10 Swimming Pools - 25	None/ Property Lines - 5
Sharp Slopes, Breaks	0 special support may be required for zero separation	25	5	10	25	10 when Ra <= 0.1 25 when Ra > 0.1
Edwards Aquifer Recharge Features	50	150	50	50	150	100 when Ra <= 0.1 150 when Ra > 0.1

EQUATIONS

SIZING TYPE	EQUATION	NOTES
GENERAL	$A = Q / Ra$	
BED	$A = (L*W) + 2 (L+W)$	
TRENCH	$L = A / (W+2)$	
ET SIZING	$A = 1.6 Q / Ret$	Ret = 0.14
LEACHING CHAMBERS	$L = 0.6 A (W+2)$	
SPRAY	$A = Q / Ri$	Ri = 0.064

WHERE: **A** = Surface area in square feet **Ra** = Rate of application - effluent to soil
 Q = Daily wastewater usage **Ret** = Rate of evapotranspiration locally
 L = Length of excavation **Ri** = Effluent loading rate in gal / sq. ft. / day
 W = Width of excavation

AUTHORIZED PIPE

SDR35 3" OR 4"
 ASTM F405 4"
 ASTM F810 3" or 4"
 ASTM 2729
 SCH40

CONVERSIONS

1 ACRE = 43,560 SQ. FT.
 1 MILE = 5280 FT

SOIL TEXTURE

