

COUNTY OF TITUS

§

STATE OF TEXAS

§

AFFIDAVIT

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

My name is Joan Newman, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

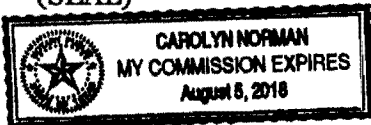
I am the custodian of the records of the County Clerk's Office for the County of Titus, Texas. Attached hereto are **six (6)** pages of records known as **Titus County Orders for On-Site Sewage Facilities**. The records are kept by me as County Clerk, County of Titus, in the regular course of business 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.

Joan Newman

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Joan Newman, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29th day of November, 2016.

(SEAL)



Carolyn Norman
Notary/Public, State of Texas
My commission expires: August 5, 2018

**ORDER ADOPTING RULES OF TITUS COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES
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 (THSC), 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 Titus County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Titus, Texas; and

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

WHEREAS, the Commissioners Court of Titus 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 Titus County, Texas.

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

SECTION 3. THAT an Order for Titus 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 (OSSF) Order for Titus County, Texas.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT.

The County of Titus, 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 (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.

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

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Titus 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 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 Titus 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 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.

SECTION 10. AMENDMENTS.

The County of Titus, Texas wishing to adopt more stringent Rules for its OSSF Order understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by Titus County, Texas:

- (A) **Elimination of 10 acre Exemption for OSSF Permitting:** Titus County, to provide greater health and safety protection, shall require an application, permit and inspection **for all** construction, alteration, extension, or non-emergency repair to a residential, or commercial on-site sewage facility regardless of the size of the tract of land. (plain language Titus County no longer recognizes the 10 acre exemption for OSSF permitting.)
- (B) Designs plans and documents related to the construction **for all** OSSFs in Titus County shall be completed by a Registered Professional Sanitarian or Licensed Professional Engineer before being submitted to the Designated Representative for review and approval. **OSSF systems designated as standard system type in TAC 285.91(9) Table IX, OSSF System Designation may be designed by a licensed OSSF Installer.** The design plans and documents shall be submitted to the DR by the homeowner or their agent (i.e. Installer) along with the permit application, affidavits to the public, a receipt of payment for permit, soil and site evaluation, and all other planning materials.
- (C) All single family dwellings, whether site built, manufactured housing or other, shall have individual OSSF systems. (Each home will have its own individual OSSF.) This does not eliminate the connection of a recreational vehicle (RV) or similar to a homeowner's OSSF for temporary use.
- (D) All platted or un-platted subdivisions of single family dwellings, whether site built, manufactured housing or other, that use OSSFs for sewage disposal shall have individual lots of at least one (1) acre of usable property. (Usable property is less pools, ponds, lakes, flood areas, and easements.)
- (E) All **MANUFACTURED HOME RENTAL COMMUNITIES** shall have individual OSSF systems for each home. (Each home will have its own individual OSSF.)

- (F) All MANUFACTURED HOME RENTAL COMMUNITIES shall have **minimum individual** lot sizing for each manufactured home of one (1) acre of usable property. (Usable property is less pools, ponds, lakes, and flood areas.)
- (G) All platted or un-platted subdivisions of multifamily/multiunit residential housing **maintained for rental purposes and not intended for individual unit ownership** to wit apartments, duplex houses and similar are to have OSSF systems designed with disposal areas calculated at twice the water volume "Q" as established in TAC 285.91(3) Table III. Septic Tank and Aerobic Treatment Unit Sizing shall be based in accordance with TAC 285.91(2) Table II.
- (H) All platted or un-platted subdivisions of multifamily/multiunit residential housing **intended for individual unit ownership**, to wit condominiums, must meet the minimum lot sizing requirement of 1 acre per unit and have individual OSSF systems for each unit or be serviced by a central wastewater treatment sanitary sewage system (municipal waste water treatment plant or package plant).
- (I) All businesses, business parks, RV parks, campgrounds, hotels, motels, and other locations of temporary occupancy that are serviced by OSSF systems shall meet all applicable requirements of TAC 285
- (J) All structures equipped with kitchens, bathrooms, lavatories, toilets, sinks, showers, and bathtubs or similar and serviced by a public water system or by public or private water well must be connected to either a central wastewater treatment sanitary sewage system (municipal waste water treatment plant or package plant) or an approved OSSF.

SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17) of Titus County, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Titus County, Texas. A fee of \$10 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 Commissioners Court of Titus County, Texas.

SECTION 14. ENFORCEMENT PLAN.

The County of Titus, 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 provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Titus 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, clauses, sentences, paragraphs, or sections.

SECTION 16. RELINQUISHMENT OF ORDER.

If the Commissioners Court of Titus 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 TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 28 DAY OF November, 2016.



APPROVED:

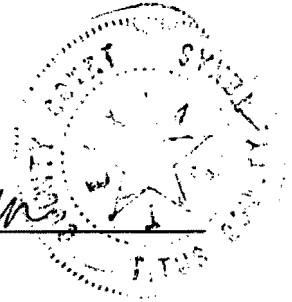
Ben P. Lee

County Judge

ATTEST:

Jean Newman

County Clerk



Attachment "A" Justification

- (A) **Elimination of 10 acre exemption for OSSF Permitting:** Titus County, to provide greater health and safety protection, shall require an application, permit and inspection for all construction, alteration, extension, or non-emergency repair to a residential, or commercial on-site sewage facility regardless of the size of the tract of land. (plain language removal of 10 acre exemption for OSSF permitting) **Justification:** This is to insure the type OSSF installed is compatible with the type soil and terrain so prevent the potential contamination of ground water and surface water.
- (B) Designs plans and documents related to the construction for all OSSFs in Titus County shall be completed by a Registered Professional Sanitarian or Licensed Professional Engineer before being submitted to the Designated Representative for review and approval. **OSSF systems designated as standard system type in TAC 285.91(9) Table IX, OSSF System Designation may be designed by a licensed OSSF Installer.** The design plans and documents shall be submitted to the DR by the homeowner or their agent (i.e. Installer) along with the permit application, affidavits to the public, a receipt of payment for permit, soil and site evaluation, and all other planning materials. **Justification:** This is to insure that all documentation is completed accurately and completely and that systems are designed in accordance with specification required by law.
- (C) All single family dwellings, whether site built, manufactured housing or other, shall have individual OSSF systems. (Each home will have its own individual OSSF.) This does not eliminate the connection of a recreational vehicle (RV) or similar to a homeowner's OSSF for temporary use. **Justification:** The more stringent requirement is an attempt to insure safe and sanitary living conditions at each home that otherwise could be contaminated or infringed on by multiple dwellings using a central OSSF and to eliminate the potential for cluster systems should property be divided and sold.
- (D) All platted or un-platted subdivisions of single family dwellings, whether site built, manufactured housing or other, that use OSSFs for sewage disposal shall have individual lots of at least one (1) acre of usable property. (Usable property is less pools, ponds, lakes, and flood areas, and easements.) **Justification:** Due to the potential for soil saturation from multiple OSSF systems in close proximity to each other leading to unsanitary conditions the increased lot sizing is required.

Attachment "A"
Justification

- (E) All MANUFACTURED HOME RENTAL COMMUNITIES shall have individual OSSF systems for each home. (Each home will have its own individual OSSF.) **Justification:** The more stringent requirement is an attempt to insure safe and sanitary living conditions at each home that otherwise could be contaminated or infringed on by multiple dwellings using a central OSSF and to eliminate the potential for cluster systems should property be divided and sold.
- (F) All MANUFACTURED HOME RENTAL COMMUNITIES shall have **minimum individual** lot sizing for each manufactured home of one (1) acre of usable property. (Usable property is less pools, ponds, lakes, and flood areas.) **Justification:** Due to the potential for soil saturation from multiple OSSF systems in close proximity to each other leading to unsanitary conditions the increased lot sizing is required.
- (G) All platted or un-platted subdivisions of multifamily/multiunit residential housing **maintained for rental purposes and not intended for individual unit ownership** to wit apartments, duplex houses and similar are to have OSSF systems designed with disposal areas calculated at twice the water volume "Q" as established in TAC 285.91(3) Table III. Septic Tank and Aerobic Treatment Unit Sizing shall be based in accordance with TAC 285.91(2) Table II. **Justification:** Due to the inaccuracies in sizing of OSSF systems for rental property and multifamily developments caused by occupancy of individual units exceeding the intended designs, the ordered increase in disposal area is intended with hopes of preventing ground saturation by inadequately treated sewage created in times of over use and which can cause a health and safety hazard.
- (H) All platted or un-platted subdivisions of multifamily/multiunit residential housing **intended for individual unit ownership**, to wit condominiums, must meet the minimum lot sizing requirement of 1 acre per unit and have individual OSSF systems for each unit or be serviced by a central wastewater treatment sanitary sewage system (municipal waste water treatment plant or package plant). **Justification:** Due to individual ownership of the residential units and the property on which they sit, multiple connections to an OSSF would constitute a cluster systems which is not permissible or allowed under TAC 285.3(g) (4).

Attachment "A"
Justification

- (I) All businesses, business parks, RV parks, campgrounds, hotels, motels, and other locations of temporary occupancy that are serviced by OSSF systems shall meet all applicable requirements of TAC 285.

- (J) All structures equipped with kitchens, bathrooms, lavatories, toilets, sinks, showers, and bathtubs or similar and serviced by a public water system or by public or private water well must be connected to either a central wastewater treatment sanitary sewage system (municipal waste water treatment plant or package plant) or an approved OSSF. **Justification:** To insure all applicable premises have sanitary waste water disposal so not to contaminate ground water or surface water.