TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

On JUL 07 2006 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Bexar, ("Applicant" or "Bexar"), for an Order pursuant to §366.031, Texas Health and Safety Code ("Code"), 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 Applicant has satisfied the requirements of §366.031 of the Code and, therefore, the Commission finds that the Bexar County Order should be approved.

FINDINGS OF FACT

1. The County of Bexar drafted a proposed amendment to the current order which regulates on-site sewage facilities.

2. On May 21, 2006 the County of Bexar caused notice to be published, in a newspaper regularly published and of general circulation, in Bexar's area of jurisdiction, of a public meeting to be held on Tuesday, May 30, 2006.

3. The County of Bexar held a public meeting to discuss the proposed amendment on May 30, 2006.

4. Bexar County Order regulating on-site sewage facilities was adopted on June 6, 2006.

5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.

6. A certified copy of Bexar County Order was submitted to the Texas Commission on Environmental Quality.

7. The order is at least equivalent to the standards of the Texas Commission on Environmental Quality.

CONCLUSIONS OF LAW

1. The above facts are conditions sufficient to issue this order pursuant to §366.031 of the Code.

2. Section 5.102 of the Texas Water Code authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of Chapter 366 of the Health and Safety Code and / or within the Commission's jurisdiction and who provides no comment on other statutory authority.

3. Issuance of this order will effectuate the purposes of Chapter 366 of the Code.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The County of Bexar is hereby authorized to implement Bexar County Order which regulates on-site sewage facilities.

2. Any amendments to Bexar County Order must be approved by the Texas Commission on Environmental Quality.

3. The Chief Clerk of the Commission is directed to forward a copy of this Order to the Applicant and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: JUL 07 2006

Texas Commission on Environmental Quality

For The Commission

ORIGINAL

COUNTY OF BEXAR §

STATE OF TEXAS §

ORDER ADOPTING REGULATIONS OF BEXAR COUNTY, TEXAS FOR ON-SITE SEWAGE FACILITIES

WHEREAS, the Texas Commission on Environmental Quality has established Title 30 Texas Administrative Code (TAC) Chapter 285 and Chapter 30, referred to as the "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, that 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 Bexar County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Bexar, Texas; and

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

WHEREAS, the Commissioners Court of Bexar County, Texas has considered the matter and deems it appropriate to enact an Order adopting regulations for on-site sewage facilities to abate or prevent pollution, or injury to public health in Bexar County, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BEXAR 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 improper use of on-site sewage facilities in Bexar County, Texas is causing or may cause pollution or is injuring or may injure the public health; and

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

BEXAR COUNTY REGULATIONS FOR ON-SITE SEWAGE FACILITIES

SECTION 4. **CONFLICTS.**

This Order repeals and replaces any other On-site Sewage Facility order or regulations for Bexar County.

SECTION 5. **CHAPTER 366.**

The County of Bexar, 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 and 10 of this Order.

SECTION 6. **AREA OF JURISDICTION.**

These Regulations shall apply to all the area lying in Bexar County, Texas, except for the incorporated areas of Elmendorf, Hill Country Village, Hollywood Park, and Shavano Park, which are regulated under their own existing ordinance or rule.

SECTION 7. **ON-SITE SEWAGE FACILITY RULES.**

Any permit issued for an on-site sewage facility within the jurisdictional area of Bexar County, Texas must comply with the Regulations adopted in Section 8 and Section 10 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 Bexar 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 made a part of these Regulations. A copy of the current Rules is attached to this Order as Exhibit B.

SECTION 10. **AMENDMENTS.**

The County of Bexar, Texas, wishing to adopt more stringent Regulations for its On-Site Sewage Facility Order, understands that the more stringent conflicting local Regulations shall take

precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Regulations adopted by Bexar County, Texas:

A. **Registration Requirement for Existing On-Site Sewage Facilities**. All on-site sewage facilities located within this jurisdiction of Bexar County, Texas shall be registered and issued a License to Operate by the designated representative. Commissioners Court shall set the fee for such licensing. No license for an existing system will be issued to cover an improperly functioning system. A licensed professional engineer or registered sanitarian in the State of Texas must prepare all registration materials submitted to the designated representative.

B. **On-site Sewage Facility Design Requirements**. All on-site sewage facility designs submitted to Bexar County are to be prepared by a professional engineer or registered professional sanitarian registered by the State of Texas and shall bear the seal of the engineer or sanitarian. The designated representative will not accept designs from persons other than a professional engineer or registered sanitarian. The design will include the following statement of certification: "I hereby certify that this on-site sewage facility design submitted conforms to the Bexar County Regulations for On-Site Sewage Facilities, and with proper use, maintenance, and under normal climatic conditions can be expected to function without creating a nuisance." The engineer or sanitarian will affix his signature and seal below the statement.

C. **Elimination of the Ten-Acre Exemption**. There is no exemption from the Regulations for a single-family dwelling located on a tract of land that is ten acres or greater.

D. **Application Requirements**. A permit application must include the following:

1. Properly completed on-site sewage facility application form;
2. Properly completed basic development permit;
3. Properly completed Flood Zone/Edwards Aquifer Recharge Zone Certification signed by the engineer or sanitarian submitting the application;
4. Properly completed affidavit for temporary electrical service (not allowed for mobile home construction);
5. Subdivision plat or survey of the property and a location map;
6. A site evaluation form with required soil analysis signed by a registered site evaluator or professional engineer;
7. A completed design of the proposed on-site sewage facility on the lot or tract drawn to scale with north arrow including:
    a. the location of all water wells on the subject and adjoining properties,
    b. location of all existing and proposed buildings/structures and their respective on-site sewage facilities;
    c. two foot contours at the subject site;
    d. a cross section detail of the excavation;
    e. location of water supply lines; and
    f. location of all roads, streets, easements, sharp slopes and flood plains
8. any other items deemed necessary by the designated representative in order to determine if an authorization to construct can be issued.

E. **Inspection Requirements.** No inspections will be performed if the absorption system has standing water in it or is saturated due to inclement weather or ground water. Inspections shall be performed as follows for a conventional on-site sewage facility using an absorptive drain field system:

1. **First Inspection**. The installer must contact the designated representative at least 24 hours in advance to schedule a first inspection and must confirm the inspection in the morning on the scheduled day. This inspection will consist of having the tank set in place and the absorption field excavated. The gravel or rock shall be on site; however, no gravel/rock or pipe shall be installed in the absorption system until after the first inspection has passed.
2. **Second Inspection**. The installer must contact the designated representative at least 24 hours in advance to schedule a second inspection and must confirm the inspection in the morning on the scheduled day. In this inspection all gravel, pipe, and appurtenances shall be in place. The installer shall not backfill the absorption system until instructed to do so by the designated representative. A sufficient amount of backfill material must be present on site at the time of the second inspection.
3. **Third inspection**. The installer must contact the designated representative at least 24 hours in advance to schedule a third inspection and must confirm the inspection in the morning on the scheduled day. In this inspection, the absorption will be properly backfilled.
4. **Additional Inspections**. The installer shall call the designated representative for any additional inspections as may be deemed necessary by the designated representative. Commissioners Court shall set the fee for additional inspections.

F. **Minimum time to complete an Installation**. Installation of the on-site sewage facility shall be completed within one week of the first inspection.

G. **Residential Lot Sizing**. The minimum lot size for subdivisions and/or parcels of land requiring the use of on-site sewage facilities for residential development utilizing a central water supply system shall be at least one-half (½) acre of useable land outside of any easements and right-of-way dedications for each individual residence. The minimum lot size for subdivisions and/or parcels of land requiring the use of on-site sewage facilities for residential development utilizing private individual wells shall be at least one and one-half (1½) acre of useable land outside of any easements and right-of-way dedications for each individual residence.

H. **Minimum Set Backs**. The minimum set back requirement for an absorptive drain field from a private well is 150 feet.

I. **Excavation Depth, Width Minimum, Distance between Excavations and Maximum Trench Length.** The absorption unit shall be a minimum of 24 inches deep at the shallowest point along the trench/bed, and the bottom of the trench/bed shall be level. The minimum trench width for absorption trenches shall be 36 inches. Standard width

absorption trenches shall have a minimum of nine feet separation between them from edge to edge. Individual trench lines shall not be longer than 100 feet.

J. **Pipe Slope From Tank to Absorptive Drain field.** The grade differential from the invert of the tank outlet to the bottom of the absorption trench/drain field shall be a minimum of 12 inches.

K. **Suitable Backfill.** After placement of the gravel (if required), piping, and geo-textile fabric in accordance with the approved design, The balance of the trench or bed shall be filled with sand having a texture range on grain size from 2.0 to 1.05 mm, as based on the Unified Soils Classification system, or acceptable substitute as approved by the designated representative. Under no circumstances shall Class III soils, clay soils, large rocks or boulders be placed back into the absorption trenches or beds because this would interfere with the evaporation from the system.

L. **License to Operate/Renewal.** The designated representative shall require such tests and inspections as outlined in these Regulations and any other tests and inspections as the designated representative deems necessary before a License to Operate may be issued. Upon finding that the use of the on-site sewage facility will not cause pollution, injury to the public health, or nuisance conditions and is in accordance with these Regulations, a License to Operate will be issued to the applicant. Licenses to Operate issued under the authority of these Regulations will remain in effect for a five-year period. Upon expiration, the owner is required to renew the license to ensure the existing on-site sewage facility is still in compliance with these regulations. The renewal process may include an on-site inspection by the designated representative if deemed necessary, along with the appropriate fee.

M. **Revocation or Suspension of License to Operate.** Neither the revocation of a license nor any other provision of these Regulations shall impede the designated representative or any other governmental entity from taking the proper steps to prevent or curtail pollution, to abate a nuisance, or to protect public health. The designated representative may revoke or suspend a license for any of the following causes:

1. A change in volume of wastewater being treated by the on-site sewage facility.
2. Failure of the holder of the license to properly maintain the on-site sewage facility.
3. Malfunction of the on-site sewage facility.
4. Evidence that the on-site sewage facility is causing or will cause pollution.
5. Failure to comply with the terms or conditions of the license or any part of these regulations.
6. Any other reason the designated representative determines to be a reason to revoke or suspend.

N. **Minimum Tank Capacity for Manufactured Housing or Mobile Home Parks, Travel-Trailer or Recreational Vehicle (RV) Parks.** The minimum tank capacity for any and all applications in Manufactured Housing or Mobile Home Parks shall be 1000 gallons, and each mobile home shall have its own separate tank. The minimum tank

capacity for travel trailer or RV Parks shall be 750 gallons, with no more than four Units per one 750 gallon tank.

O. **Development of Organized Disposal/Sanitary Sewer Systems.** It is the stated policy of the Texas Department of Health to encourage the development and use of organized disposal/sanitary sewer systems to serve the waste disposal needs of the citizens of the State and to prevent pollution, protect the public health, and maintain and enhance the quality of water in the State. The following requirement has been established by the City of San Antonio and will apply to the City's incorporated area. The Unified Development Code (UDC) for the City of San Antonio, Section 34-199, Connection to Sanitary Sewer, requires every residence, place of business or other building or place where persons reside, congregate or are employed, which there is a public sanitary sewer which is within 200 feet of a public sanitary sewer, shall be connected to the sewer by the owner of agent of the premises in the most direct manner possible and with a separate connection for each home, building or place.

P. **Electrical Releases to the City Public Service Board.** A release to the City Public Service Board will be granted by the designated representative after an approved sewage facility has been installed and/or is deemed to be in compliance with these Regulations, in accordance with Bexar County Commissioners Court Order of April 13, 1973, amended May 28, 1981. Approval of a subdivision plat is not in itself the grant of a release; it can only be granted after the sewage facility has been properly installed and licensed or after it has been ascertained that an existing facility installed prior to this order is proven to be operating satisfactorily, has not been substantially modified from its original intended use, and meets the requirements of these Regulations.

SECTION 11. **DUTIES AND POWERS.**

The OSSF Designated Representative of Bexar County, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities. The Commissioners Court of Bexar County designates the Environmental Services Division of its Infrastructure Services Department to act as the designated representative, performing or requiring the performance of all the functions necessary to meet the requirements of these regulations. The designated representative shall have the following powers:

A. To enforce all the regulations contained herein.

B. To make reasonable inspections of all on-site sewage facilities located or to be located within the area of jurisdiction covered by these regulations.

C. To collect all fees set by Commissioners Court necessary to recover all costs incurred in meeting the requirements of these regulations.

D. To develop the necessary procedures, including the development of application forms and the establishment of reasonable record keeping, to carry out the function of these regulations.

E. To perform all other duties necessary in the enforcement of these regulations.

SECTION 12. **COLLECTION OF FEES.**

All fees collected for permits and/or inspections shall be made payable to Bexar County Clerk of Bexar County, Texas. The approved fee schedule is attached as Exhibit A to this Order.

SECTION 13. **APPEALS.**

A. A person desiring an exception to any requirement of these regulations shall file a written statement with the designated representative stating: the nature of the exception; the reason the exception should be granted; and, any other information the designated representative reasonably requests.

B. The designated representative shall review the request and reply in writing within 30 days, either granting or denying the request. If the request is denied, the designated representative shall include in its reply the reasons for denial.

C. Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Bexar County, Texas in writing within thirty 30 days from the date on the document giving notice of the action or decision by the designated representative. The matter shall be placed on the next available Commissioners Court agenda at the discretion of the County Judge.

SECTION 14. **PENALTIES.**

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which include, but are 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.

SECTION 15. **SEVERABILITY**

It is hereby declared to be the intention of the Commissioners Court of Bexar 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 6 DATE OF June, 2006

NELSON W. WOLFF
County Judge

COMMISSIONER
SERGIO "CHICO" RODRIGUEZ
Precinct 1

COMMISSIONER PAUL ELIZONDO
Precinct 2

COMMISSIONER LYLE LARSON
Precinct 3

COMMISSIONER TOMMY ADKISSON
Precinct 4

EXHIBIT A

ON-SITE SEWAGE FACILITY (OSSF) PERMIT FEES

PER OSSF SYSTEM APPLICATION

County Permit Fee	$ 150.00	
State Permit Fee	$ 10.00	
Basic Development Permit	$ 20.00	(For New Construction Only)

TOTAL	**$ 180.00**
Additional Fee for Other Than Conventional	$ 50.00
Registration for Existing OSSF (without inspection)	$ 30.00*
Registration for Existing OSSF (with inspection)	$ 60.00*
Fee for additional Inspection during Installation	$ 40.00
Variance Request to Regulations	$ 30.00
License Name Transfer	$ 20.00
Electrical Release (without OSSF permit)	$ 20.00
OSSF Suitability Subdivision Plat Review (incorporated areas)	$ 200.00

*Includes $10.00 State Fee

COUNTY OF BEXAR §

STATE OF TEXAS §

AFFIDAVIT

Before me, the undersigned authority, personally appeared Bexar County Clerk Gerry Rickhoff, who being by me duly sworn, deposed as follows:

My name is Gerry Rickhoff, 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 Bexar, Texas. Attached hereto are 9 pages of records known as Bexar County Regulations for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Bexar, 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.

BY: _____
GERRY RICKHOFF,
County Clerk

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Gerry Rickoff, 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 20th day of June, 2006

(SEAL)

_____
Notary/Public, State of Texas
My commission expires:

DELORES M. SIMS
NOTARY PUBLIC
STATE OF TEXAS
My Comm. Expires 09-03-2008