

Order Adopting Rules of the
Williamson County & Cities Health District
for On-Site Sewage Facilities (OSSF)

Effective April 22, 2008

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

May 1, 2008

Mr. Arlen Zander
Chair, Williamson County Board of Health
Health District Administration Office
303 Main Street
Georgetown, Texas 78626

Re: On-Site Sewage Facilities Order for WCCHD

Dear Mr. Zander:

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

Should you have any questions, please contact Mr. Ren Berra, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program, MC-178 at 512-239-4775.

Sincerely,

A handwritten signature in black ink that reads "Robert Mann".

Robert Mann, Manager
Regulatory Compliance Section, MC-178
Compliance Support Division

Enclosures: Certified Order
Recipient Mail List

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APPLICATION BY WILLIAMSON COUNTY AND CITIES HEALTH DISTRICT
TO AMEND THEIR ON-SITE SEWAGE FACILITY ORDER

Mr. Arlen Zander
Chair, Williamson County Board of Health
Health District Administration Office
303 Main Street
Georgetown, Texas 78626

Dr. James K. Morgan, MD, MPH
WCCHD Executive Director/Local Health Authority
Health District Administration Office
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Mr. Paulo Pinto, RS
Director of Environmental Services
WCCHD
303 Main Street
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Texas Commission on Environmental Quality
Ms. Patty Reeh, Regional Director
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Texas Commission on Environmental Quality
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Reynold Berra, OSSF Program, Regulatory Compliance Section, MC-178

Williamson County

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On APR 22 2008 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the Williamson County and Cities Health District, ("Applicant" or "WCCHD"), 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 Williamson County and Cities Health District Order should be approved.

FINDINGS OF FACT

1. The Williamson County and Cities Health District drafted a proposed amendment to its order which regulates on-site sewage facilities.
2. On February 6, 7, and 8, 2008, the Williamson County and Cities Health District caused notice to be published, in newspapers regularly published and of general circulation, in the Applicant's area of jurisdiction, of a public meeting to be held on Wednesday, February 13, 2008.
3. The Williamson County and Cities Health District held a public meeting to discuss the proposed amendment to its order on February 13, 2008, 2007.
4. The Williamson County and Cities Health District's Order regulating on-site sewage facilities was adopted on March 6, 2008.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Williamson County and Cities Health District 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.

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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 Williamson County and Cities Health District is hereby authorized to implement its Order which regulates on-site sewage facilities.
2. Any amendments to the Williamson County and Cities Health District 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 and the Applicant's adopted order, ordinance, or resolution, marked as Exhibit "A", 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: **APR 22 2008**



Executive Director
Texas Commission on Environmental Quality

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EXHIBIT "A"

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ORDER ADOPTING RULES
OF THE WILLIAMSON COUNTY AND CITIES HEALTH DISTRICT
FOR ON-SITE SEWAGE FACILITIES

PREAMBLE

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

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

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

WHEREAS, the Williamson County and Cities Health District of Williamson County, Texas finds that the use of on-site sewage facilities in Williamson County, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Williamson County and Cities Health District 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 that other portions of Williamson County are in the Contribution Zone of the Edwards Aquifer; and

WHEREAS, the Williamson County and Cities Health District through public meetings, has received public comment from residents seeking more stringent rules for the use of On-Site Sewage Facilities in Williamson County; and

WHEREAS, the Williamson County and Cities Health District 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

WHEREAS, the Williamson County and Cities Health District of Williamson 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 Williamson, County, Texas.

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NOW, THEREFORE, BE IT ORDERED BY THE WILLIAMSON COUNTY AND CITIES HEALTH DISTRICT OF WILLIAMSON 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 Williamson County, Texas is causing pollution or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for the Williamson County and Cities Health District of Williamson County, Texas be adopted entitled "On-Site Sewage Disposal," which shall read as follows:

AN ORDER ENTITLED ON-SITE SEWAGE DISPOSAL

SECTION 4. CONFLICTS.

All Orders or parts of the Orders of Williamson County and Cities Health District not consistent with or in conflict with the provisions of this Order are hereby repealed.

SECTION 5. ADOPTING CHAPTER 366.

The Williamson County and Cities Health District, 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 (TH&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:

The Rules shall apply to all the area lying in Williamson County, Texas, except for the area regulated under an existing Rule. These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Williamson County and Cities Health District, Williamson County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permitted structure discharging sewage into an on-site sewage facility within the jurisdictional area of Williamson County and Cities Health District must comply with the Rules adopted in Section 8 of this Order.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

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

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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 Design criteria is attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS.

The Williamson County and Cities Health District (WCCHD), 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 Williamson County and Cities Health District:

I. DEFINITIONS

- A. Bedroom-A living area which has privacy by a door and has a built-in closet.
- B. Kitchen-An area used for food preparation which has any of the following: a range, a full size refrigerator or a dishwasher.
- C. Living unit- A structure is considered a living unit in which any of the following exists: the structure has more than one bedroom, or has a kitchen, or is larger than 1000 square feet, or has a laundry facility, or has separate electrical or water meter. Structures used for storage, animal sheltering or vehicles are not considered a secondary living structure for the purpose of these rules.

II. RULE CONTROLLING SEWAGE DISCHARGES

After the effective date of these Rules, each new or altered single family dwelling, multi-family dwelling, business, commercial, or industrial structure, regardless of acreage, must be connected to an approved On-Site Sewage Facilities (OSSF) or be connected to an authorized wastewater disposal system.

COMMENT: This more stringent requirement allowed by Chapter 366 of the Health and Safety Code will require all OSSF installed to be permitted regardless of the size of the tract of land on which it is placed. This requirement will assure that all OSSF are installed according to these and State regulations.

III. LICENSING OF ON-SITE SEWAGE FACILITIES

No person, except the person owning or having the right of possession and use of the parcel of land upon which a proposed OSSF is to be located, may apply for an OSSF permit to construct unless written authorization from such person is provided to the Health District.

- A. The license application shall automatically expire if the OSSF is not completed within one year from the date of application. An application may be extended for up to one additional year from "authorization to construct" date with a written request before the expiration date and payment of the appropriate fee.

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- B. The Authorized Agent shall inspect the installation of the OSSF facility as deemed necessary for verification of compliance with these and State Rules.
- C. Unless otherwise excepted upon issuance, the license to operate shall be valid and continue in force until license is canceled or revised and shall be transferable if the property is sold.

COMMENT: This rule will clarify OSSF licensing procedures in Williamson County, Texas. This rule is intended to be consistent with State licensing procedures.

IV. REQUIREMENTS FOR NEWLY PLATTED OR UNPLATTED LOTS UTILIZING ON-SITE SEWAGE FACILITIES

After September 27, 1999, order revision, it shall be a violation for any person to create lots that will use, wholly or in part, On-Site Sewage Facilities without compliance in full with the requirements of the following.

- A. Planning material must identify the source of the potable water for each lot and whether the potable water distribution system has been approved by TCEQ. Lots in which a private well is to be used must identify the proposed location of such well and show an area of one hundred (100) foot radius around the well in which no OSSF disposal unit may be located. A 150' radius is required for public water wells. This area shall be designated as a private well sanitary easement.

COMMENT: This more stringent requirement affords greater public health protection by requiring identification of well location to determine that enough area is available for the OSSF.

- B. All tracts and lots in subdivisions utilizing an OSSF for wastewater disposal shall comply with the minimum size requirements of this subsection. In no case shall the minimum required lot size be smaller than that specified by the provisions of 30 TAC Section 285.4.

- 1. For properties where each lot maintains an individual water supply or is otherwise not served by a public water supply, each lot shall contain at least two (2) acres in surface area. This requirement includes single and multi-family residential lots, non-residential lots, and manufactured housing community lots. Each living unit of a multi-family residence, including duplexes, shall be considered a single-family residence for the purpose of determining lot size. Non-residential lots may require additional acreage depending on specific uses. The required minimum acreage for manufactured housing communities shall equal the number of houses in the tract times the minimum lot size for each house.

COMMENT: More restrictive rules are required due to the classification of soils in Williamson County as "severe". Likewise, modern homes have become larger and, consequently, have increased wastewater generation potential, which frequently requires increased lot sizing. Because of well separation distance requirements, as well as various other separation distance requirements, additional lot size is required.

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2. For properties receiving potable water from a public water supply and an individual water supply is not present, each lot shall contain at least one (1) acre in surface area. This requirement includes single and multi-family residential lots, non-residential lots, and manufactured housing community lots. Each living unit of a multi-family residence, including duplexes, shall be considered a single-family residence for the purpose of determining lot size. Non-residential lots may require additional acreage depending on specific uses. The required minimum acreage for manufactured housing communities shall equal the number of houses in the tract times the minimum lot size for each house.

COMMENT: More restrictive rules are required due to the classification of soils in Williamson County as severe. Likewise, modern homes have become larger and, consequently, have increased wastewater generation potential, which frequently requires increased lot sizing. Because of well separation distance requirements, as well as various other separation distance requirements, additional lot size is required.

3. In calculating minimum lot sizes for compliance with these Rules, recognizable bed and banks of wet weather creeks, bodies of water and dedicated public road easements shall be excluded from the overall square footage of the lot and the remaining square footage of the lot shall be the sole basis for determining minimum lot size.

COMMENT: More restrictive rules are required due to the classification of soils in Williamson County as severe. It is critical that enough area be provided for the installation of the OSSF and for a reserve area for future repair of the system. Over time many lots will have storage buildings, swimming pools, playscapes, gardens, etc., placed on the lots thereby limiting the reserve space available for OSSF expansion, repair or replacement.

V. SPECIAL RESTRICTIONS AND CONDITIONS

- A. Lot Size: No OSSF may be licensed to serve a lot or tract created after September 27, 1999 if it fails to meet the minimum size requirements set out in Section 10, IV. B. of these Rules. Facilities may be permitted, installed and licensed to operate on lots smaller than the minimum only if it met the lot sizing requirements in place at the time of the lot's creation, and it is demonstrated by a thorough investigation that an On-Site Sewage Facility can be operated without causing a threat of harm to an existing or proposed water supply system or to the public health, without the threat of pollution or nuisance conditions, and without violating any prescribed setback.

COMMENT: This section allows grandfathering of lots existing prior to the creation of these rules.

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- B. Field Monitoring: For monitoring purposes in gravity flow systems, a threaded capped riser with cleanout equal to the size of the outlet pipe shall be provided on the outlet of the tank between the tank and the drainfield(s). Additional capped pipes shall be provided in the drainfield(s) to allow for easy monitoring of liquid depths.

COMMENT: This more stringent requirement provides for greater protection of public health by providing better monitoring of the effluent level in drainfield(s) and to better diagnose any problems with the OSSF.

- C. Pump Tank: In order to provide reserve capacity in the final pump tank in the event of a pump failure, pump tanks shall be sized for one-day flow reserve above the alarm-on level.

COMMENT: This more stringent requirement provides for additional time for the replacement of a failed pump. This will reduce the chance of untreated sewage to surface.

- D. Electronic Monitoring: Surface irrigation systems, systems that use special treatment for high strength waste and any other systems that are required to meet secondary treatment shall be required to have electronic monitoring and automatic notification of the system pump or compressor failure, as well as monitoring of effluent disinfection. Automatic notification shall be provided to the maintenance company. Systems so equipped will not be required to undergo routine inspections by the maintenance company more often than every six months. In such cases that the homeowner is authorized to perform his/her own maintenance he/she will not be required to provide outside electronic monitoring as all others.

COMMENT: Due to the potential public health risks, these systems must be properly maintained by knowledgeable persons at all times. To minimize potential public exposure to untreated sewage, system failures which might result in the release of untreated sewage must be reported to the maintenance company immediately.

- E. Secondary Treatment Requirements: In addition to 30 TAC Chapter 285 requirements, surface irrigation systems and any other systems that are required to meet secondary treatment must comply with the requirements of these Rules.

1. All treatment units required to meet secondary treatment or use special treatment to high strength waste shall automatically cease discharging in the event the unit becomes disabled or lacks disinfectant and provide immediate notification to the monitoring provider concerning the need for corrective action.

COMMENT: This more stringent requirement will prevent an improperly functioning treatment system or one lacking disinfection from continuing to discharge and possibly harm the environment or public health.

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2. Surface irrigation shall be limited to spray application only.

COMMENT: Spray irrigation better distributes surface discharges.

3. Effluent discharge lines shall be equipped with a 100 micron or smaller filter.

COMMENT: This requirement will prevent larger particular matter from being sprayed.

4. Spray heads shall not spray effluent closer than fifty (50) feet to any property line or to any part of a residence or a place of business.

COMMENT: The Health District has documented repeated incidents in which properly functioning systems have sprayed effluent 80-100 feet in 10-15 mph wind speed conditions. According to the National Weather Service the average wind speed in Williamson County is 9.1 mph, with the average speed above 10 mph three months of the year. A 50-foot setback should prevent effluent droplet dispersion across property lines at the average wind speed in Williamson County.

5. Spray irrigation shall be conducted during nighttime hours (after 10:00 PM and before 6:00AM), preferably just before sunrise.

COMMENT: Nighttime operation will reduce the possibility of people coming in contact with sprayed effluent. Sunlight will also aid in the destruction of pathogens.

- F. Maintenance Requirements: In order to provide greater public health and safety protection, the maintenance for all aerobic treatment units shall be performed by a TCEQ registered maintenance company unless:

1. The homeowner/property owner is a TCEQ registered maintenance provider for his/her aerobic treatment unit; or
2. The homeowner/property owner was trained by an installer or manufacturer according to the requirements of HB 2510 [79(R)]; or
3. The homeowner/property owner takes a wastewater D licensing course and passes the examination; or
4. On or after September 1, 2007, the homeowner/property owner receives specific on-site maintenance training for their aerobic treatment unit from either their installer or the manufacturer of the unit or successfully completed the basic maintenance provider course conducted by a TCEQ approved training provider.

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5. Homeowners so qualified and choosing to perform their own inspections must submit a Health District provided "contract form" to the Health District indicating that they will conduct the required maintenance and provide periodic inspection reports.
6. Homeowners failing to submit a completed "contract form", or required testing and timely reporting results or falsifying the required documents, will be required to contract with a registered maintenance provider.

COMMENT: Due to the potential public health risks, these systems must be properly maintained by knowledgeable persons at all times including homeowners who choose to maintain their own systems.

- G. The required maintenance inspections and test report, conducted by the above prescribed qualified homeowner/property owner or the TCEQ registered maintenance company, which must be submitted to the permitting authority shall:
- 1 Meet all inspection requirements as set by the order of the WCCHD and the TCEQ Rules, as well as, the inspection requirements outlined by the manufacturer for the brand being inspected; and
 - 2 Address all inspection and testing requirements as set by the order the WCCHD and the TCEQ Rules, as well as, the testing requirements outlined by the manufacturer for the brand being inspected; and
 - 3 Report of the sludge levels in the pump tank and the condition of the spray area to be included on each required testing report specified by the Rules.

COMMENT: Due to the potential public health risks, these systems must be properly maintained and its inspections must be properly document with the WCCHD.

- H. Permit Revocation: In the event that the property owner unless qualified pursuant to "G" above does not possess a current OSSF maintenance contract on any OSSF required to meet secondary treatment or if a system is otherwise creating a public health nuisance, its license will be cancelled. The system will not be re-licensed until the maintenance contract is renewed or the nuisance is abated, and the OSSF renewal fee is paid to the Health District.

COMMENT: This more stringent requirement will better regulate the use of OSSFs requiring routine maintenance or those that are creating a public health nuisance. A re-licensing requirement will help ensure the Health Districts ability to assure maintenance contracts are in effect and to better abate public health nuisances.

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- I. License Transfer: A License Transfer Application shall be submitted to the Authorized Agent within thirty (30) days of transfer of the ownership of an OSSF that is required to meet secondary treatment and shall include the required license transfer fee. A current maintenance inspection report and a copy of the current maintenance contract or if qualified pursuant to "G" above a homeowner's contract must accompany the License Transfer Application.

COMMENT: This more stringent requirement is needed in order to verify that maintenance contracts are up to date and valid. It is imperative that compliance is established at the time of transfer of ownership to better protect public health and the environment.

- J. License Expiration: The license to operate OSSF systems required to meet secondary treatment shall be valid for two (2) years. At the end of two (2) years, if the system is receiving the required inspections, is properly operating and a valid maintenance contract or a homeowner's contract pursuant to "G" above is in effect, the license may be renewed upon payment of the renewal fee in accordance with a fee schedule adopted by the Board of Health.

COMMENT: In order to verify that maintenance contracts are being kept up to date and that the system is operating properly, this office will periodically verify compliance. Non-compliance with maintenance requirements would pose a greater risk to public health and the environment.

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SECTION 11. DUTIES AND POWERS.

The Williamson County and Cities Health District of Williamson County, Texas, is herewith declared the authorized agent of the Texas Commission on Environmental Quality for the enforcement of these Rules within its jurisdictional area. Designated representatives of the Health District must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of Designated Representative of Williamson County and Cities Health District.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Williamson County and Cities Health District.

SECTION 13. APPEALS.

A person affected by an action or decision of a Designated Representative may appeal such action or decision to the Executive Director of Williamson County and Cities Health District of Williamson 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.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Williamson County and Cities Health District 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 judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order, since the same would have been enacted by the Williamson County and Cities Health District 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 6th DAY OF MARCH, 2008.

APPROVED:

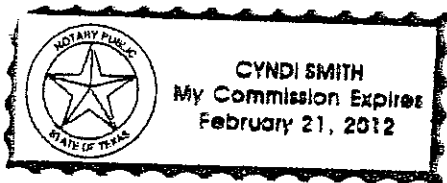
James K. Morgan, MD, MPH
James K. Morgan, MD, MPH
Executive Director, Williamson County and Cities Health District

ATTEST:

Arlen Zander
Arlen Zander
Chair, Williamson County Board of Health

State of Texas
County of Williamson

Before me, Cyndi Smith, on this day personally appeared James K. Morgan, MD, MPH and Arlen Zander, known to me to be the persons whose marks are made on the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this 1st day of April, 2008.



Cyndi Smith
Notary Public's Signature

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