

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 14, 2022

Honorable Hal Richards, County Judge
Kaufman County Courthouse
100 W. Mulberry St.
Kaufman, Texas 75142

Re: On-Site Sewage Facility Order for KAUFMAN COUNTY
Authorized Agent ID: 620116

Dear Judge Richards:

Enclosed is a certified copy of the approved On-Site Sewage Facilities Order issued by the Commission on February 11, 2022.

Should you have any questions, please contact Mrs. Tanya Mitchell, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program at 512-239-1937, or by email at tanya.mitchell@tceq.texas.gov.

Sincerely,

A handwritten signature in cursive script that reads "M. Gates".

Marilyn Gates, Section Manager
Program Support and Environmental Assistance Division, MC-235
Office of Compliance and Enforcement

cc: Brent Candler, Water Section Manager; TCEQ Region 4 DFW
Tanya Mitchell, OSSF Program, MC-235

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

February 14, 2022

The Honorable Hal Richards, County Judge
Kaufman County Courthouse
100 West Mulberry Street
Kaufman, Texas 75142

RE: Kaufman County
On-Site Sewage Facility No. 620116

This letter is your notice that the Texas Commission on Environmental Quality (TCEQ) executive director (ED) has acted on the above-named application. According to 30 Texas Administrative Code (TAC) Section 50.135 the ED's action became effective on the date the ED signed the permit or other action. A copy of the final action is enclosed and cites the effective date.

For certain matters, a **motion to overturn**, which is a request that the commission review the executive director's action on an application, may be filed with the chief clerk. Whether a motion to overturn is procedurally available for a specific matter is determined by Title 30 of the Texas Administrative Code Chapter 50. According to 30 TAC Section 50.139, an action by the ED is not affected by a motion to overturn filed under this section unless expressly ordered by the commission.

If a motion to overturn is filed, the motion must be received by the chief clerk within 23 days after the date of this letter. An original and 7 copies of a motion must be filed with the chief clerk in person or by mail. The Chief Clerk's mailing address is Office of the Chief Clerk (MC 105), TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. On the same day the motion is transmitted to the chief clerk, please provide copies to the Environmental Law Deputy Director (MC 173), and the Public Interest Counsel (MC 103), both at the same TCEQ address listed above. If a motion is not acted on by the commission within 45 days after the date of this letter, then the motion shall be deemed overruled.

You may also request **judicial review** of the ED's action. The procedure and timelines for seeking judicial review of a commission or ED action are governed by Texas Water Code Section 5.351.

Individual members of the public may seek further information by calling the TCEQ Public Education Program, toll free, at 1-800-687-4040.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/tm

cc: Vic McWherter, TCEQ Public Interest Counsel (MC 103)

Kaufman County
Laura Hughes
County Clerk

Instrument Number: 2022-0008077

Billable Pages: 9
Number of Pages: 10

FILED AND RECORDED – REAL RECORDS	CLERKS COMMENTS
On: 03/02/2022 at 08:09 AM	WALK IN
Document Number: <u>2022-0008077</u>	
Receipt No: <u>22-6404</u>	
Amount: \$ <u>0.00</u>	
Vol/Pg: <u>V:7500 P:525</u>	



STATE OF TEXAS
COUNTY OF KAUFMAN

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public Records of Kaufman County, Texas.

Laura A. Hughes

Laura Hughes, County Clerk

Recorded By: Ashley Kirby, Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

Record and Return To:

KAUFMAN COUNTY
100 W MULBERRY
KAUFMAN, TX 75142



TRUE AND CORRECT COPY OF
ORIGINAL RECORD FILED IN
KAUFMAN COUNTY, TEXAS
LAURA HUGHES COUNTY CLERK
BY BB DEPUTY

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF THE APPLICATION OF KAUFMAN COUNTY FOR A TEXAS HEALTH AND SAFETY CODE §366.031 ORDER

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§

BEFORE THE EXECUTIVE DIRECTOR OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

On February 11, 2022, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Kaufman County for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), 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 Kaufman County has satisfied the requirements of §366.031, THSC. The Commission finds that the Kaufman County Order should be approved.

FINDINGS OF FACT

1. Kaufman County drafted a proposed Order which regulates on-site sewage facilities.
2. On December 5, 2019., Kaufman County caused notice to be published, in a newspaper regularly published and of general circulation, in the Kaufman County's area of jurisdiction, of a public meeting to be held on December 23, 2019.
3. Kaufman County held a public meeting to discuss its proposed Order on December 23, 2019.
4. The Kaufman County Order regulating on-site sewage facilities was adopted on December 23, 2019.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Kaufman County Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.



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CONCLUSIONS OF LAW

1. The Commission has jurisdiction to issue Orders designating local governmental entities as authorized agents. TEXAS WATER CODE ch. 5 and TEXAS HEALTH & SAFETY CODE ch. 366.
2. The Commission may delegate uncontested matters to the Executive Director provided the required notice was given, the applicant agrees to the action and the application is uncontested. TEXAS WATER CODE § 5.122.
3. Notice of Kaufman County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Kaufman County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Kaufman County's proposed Order incorporates the Commission's rules on abatement or prevention of pollution and prevention of injury to the public health; meets the Commission's minimum requirements for on-site sewage disposal systems. TEXAS HEALTH & SAFETY CODE § 366.032.

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

1. Kaufman County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Kaufman County Order must be approved by the Commission.
3. The Office of Chief Clerk of the Commission is directed to forward a copy of this Order and the Kaufman County's adopted Order, marked as Exhibit "A," to Kaufman County and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: February 11, 2022



Executive Director
Texas Commission on Environmental Quality



TRUE AND CORRECT COPY OF
ORIGINAL RECORD FILED IN
KAUFMAN COUNTY, TEXAS
LAURA MILES, COUNTY CLERK
BY DB DEPUTY

EXHIBIT A



TRUE AND CORRECT COPY OF
ORIGINAL RECORD FILED IN
KAUFMAN COUNTY, TEXAS
LAURA HUGHES COUNTY CLERK
BY BB DEPUTY

COUNTY OF KAUFMAN §
STATE OF TEXAS §

AFFIDAVIT

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

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

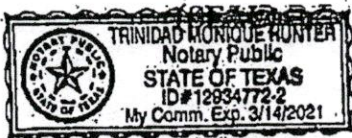
I am the custodian of the records of the County Clerk's Office for the County of Kaufman, Texas. Attached hereto are 6 pages of records known as Order Adopting Rules of Kaufman County, Texas for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Kaufman, in the regular course 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.



Laura Hughes
(Title) County Clerk

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Laura Hughes, 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 30 day of December, 2019.



Trinidad Monique Hunter
Notary/Public, State of Texas
My commission expires:



TRUE AND CORRECT COPY OF ORIGINAL RECORD FILED IN KAUFMAN COUNTY, TEXAS
LAURA HUGHES, COUNTY CLERK
BY: BB DEPUTY

ORDER ADOPTING RULES OF KAUFMAN 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 Kaufman County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Kaufman, Texas; and

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

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

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

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

AN ORDER ENTITLED ON-SITE SEWAGE FACILITIES



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KAUFMAN COUNTY, TEXAS
LAURA HUNTER COUNTY CLERK
BY BB DEPUTY

SECTION 4. CONFLICTS.

This Order repeals and replaces any other On-site Sewage Facility (OSSF) Order for Kaufman County, Texas.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The County of Kaufman, 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 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.

- (A) The Rules shall apply to all the areas lying in Kaufman 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 Kaufman County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Kaufman 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 Kaufman 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 Kaufman, Texas wishing to adopt more stringent Rules for its OSSF Order understands that the more stringent local Rule shall take precedence over

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KAUFMAN COUNTY, TEXAS
LAURA [Signature] COUNTY CLERK
BY [Signature] DEPUTY



the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by Kaufman County, Texas:

- (A) All single family dwellings located on a tract, regardless of acreage size, requires a permit to construct, alter, or repair an on-site sewage facility.
- (B) Platted or unplatted subdivisions of land served by a public water supply, but utilizing on-site sewage facility methods for sewage disposal, platted or subdivided after the effective date of the original order (effective January 1, 1988) shall provide for individual lots having a USEABLE surface area of at least one (1) acre.
- (C) All new lots for single family dwellings, platted or unplatted subdivisions of land, served by individual water systems shall provide for the individual lots having a USEABLE surface area of at least two (2) acres.
- (D) Only a registered professional engineer or registered professional sanitarian (with a current site-evaluator's certification) will perform site evaluations and complete any OSSF designs, as-builts, or system certifications.
- (E) No construction or installation of any type of on-site sewage facility by a homeowner or property owner shall be allowed unless homeowner/property owner holds a current and proper TCEQ level of license to install any On-Site Sewage Facility within Kaufman County, Texas
- (F) All maintenance of an OSSF disposal system using aerobic treatment shall be conducted by a TCEQ registered Maintenance Provider.
- (G) Any on-site sewage disposal system using aerobic treatment shall have a maintenance contract on that system.
- (H) Maintenance Providers shall immediately provide home/property owners with a copy of their signed maintenance contract, any renewals, or terminations. Maintenance Providers must submit a copy to Kaufman County Development Services within seven (7) days of the document's signature date. A Maintenance Provider's failure to properly submit documentation will constitute a violation of this Order.
- (I) Maintenance inspections shall be performed every four (4) months.
- (J) Annual BOD/ TSS testing is required for any non-residential OSSF (or any residential OSSF that also receives wastewater from a non-residential source/use). BOD test results must be submitted to Kaufman County Development Services annually.
- (K) All surface irrigation spray heads shall be subsurface (purple pop-up) heads and set on a spray-time schedule between the hours of 12am and 5am.



SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of Kaufman County, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Kaufman 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 Development Support Committee of Kaufman County, Texas.

SECTION 14. PENALTIES / ENFORCEMENT

The County of Kaufman, 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 penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341, 343 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code 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 Kaufman 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, sentence, paragraph, or section.

SECTION 16. RELINQUISHMENT OF ORDER

If the Commissioners Court of Kaufman 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.

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KAUFMAN COUNTY, TEXAS
LAURIA GIGGS COUNTY CLERK
BY  DEPUTY



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 23rd DAY OF DECEMBER, 2019.

APPROVED:

(SEAL)

Hal Hubbard
County Judge

ATTEST:

Laura Hughes
County Clerk



A CERTIFIED COPY

ATTEST March 2 2022

LAURA HUGHES, COUNTY CLERK
KAUFMAN COUNTY, TEXAS

By Bobbie Bruff Deputy

INST # 2019-0032916
Filed for record in Kaufman County
On: 12/31/19 at 8:06 AM

INST # 2022-0008077
Filed for record in Kaufman County
On: 3/2/22 at 8:09 AM