

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



THE STATE OF TEXAS  
COUNTY OF TRAVIS  
I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY  
OF A TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
DOCUMENT, WHICH IS FILED IN THE PERMANENT RECORDS

MAY 28 2021

OF THE COMMISSION, GIVEN UNDER MY HAND AND THE  
SEAL OF OFFICE ON  
*Laurie Charles*  
LAURIE CHARLES, CHIEF CLERK  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

On May 21, 2021, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Bosque 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 Bosque County has satisfied the requirements of §366.031, THSC. The Commission finds that the Bosque County Order should be approved.

FINDINGS OF FACT

1. Bosque County drafted a proposed Order which regulates on-site sewage facilities.
2. On September 9, 2020, Bosque County caused notice to be published, in a newspaper regularly published and of general circulation, in the Bosque County's area of jurisdiction, of a public meeting to be held on September 21, 2020.
3. Bosque County held a public meeting to discuss its proposed Order on September 21, 2020.
4. The Bosque County Order regulating on-site sewage facilities was adopted on September 21, 2020.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Bosque County Order was submitted to the Commission.
7. The Order is at least equivalent to the standards of the Commission.

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 Bosque County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Bosque County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Bosque 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. Bosque County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Bosque 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 Bosque County's adopted Order, marked as Exhibit "A," to Bosque 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: May 21, 2021



Executive Director  
Texas Commission on Environmental Quality

# EXHIBIT A

COUNTY OF BOSQUE

§

STATE OF TEXAS

§

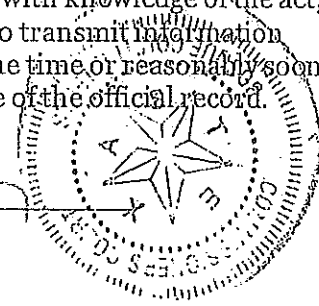
AFFIDAVIT

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

My name is Tabatha Ferguson 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 Bosque, Texas. Attached hereto are five (5) pages of records known as ORDER ADOPTING RULES OF BOSQUE COUNTY, TEXAS FOR ON-SITE SEWAGE FACILITIES. The records are kept by me as County Clerk, County of Bosque, 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.

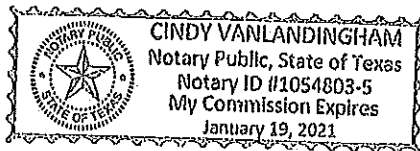
*Tabatha Ferguson*



BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Tabatha Ferguson, 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 21 day of Sept., 2020

*Cindy VanLandingham*  
Notary/Public, State of Texas  
My commission expires: 1/19/2021



Certification:  
True and Correct  
copy of original on  
file in Bosque  
County Clerk's office

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

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

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

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

SECTION 3. THAT an Order for Bosque 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 Bosque County, Texas.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The County of Bosque, 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.

The Rules shall apply to all the areas lying within Bosque 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 Bosque 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 Bosque 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 Bosque, 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 Bosque County, Texas:

(A) PERMITTING REQUIREMENTS

Bosque County shall require an application, permit and inspection for construction, alteration, extension or repair to a residential or commercial on-site facility, regardless of the size of the tract of land.

(B) MAINTENANCE REQUIREMENTS

Maintenance for all aerobic treatment units shall be performed by a TCEQ licensed provider or registered maintenance technician unless:

1. The homeowner/property owner is a TCEQ licensed maintenance provider or registered maintenance technician or;
2. The homeowner/property owner holds a TCEQ Class D or higher Wastewater Treatment license, or;
3. The homeowner/property owner successfully completes a maintenance class approved by Bosque County.
  - a) Homeowners choosing to perform their own inspections must submit a contract, on a form provided by Bosque County indicating that they will conduct the required maintenance and provide periodic inspection reports along with verifiable documentation indicating they are qualified by items 1, 2, or 3 above.
  - b) Should any of the below occur two (2) or more times in a twelve (12) month period, a homeowner performing their own inspections will be required to



contract with a licensed maintenance provider.

1. Failing to submit the required testing and timely reporting results, or;
2. Falsifying the required documents, or;
3. Has confirmed nuisance complaints.

(C) MAINTENANCE INSPECTION AND REPORTS:

Inspections and reporting at a minimum must meet all requirements as set by the Rules of Bosque County and TAC Chapter 285 OSSF Rules. All inspection reports must be submitted on a form provided by Bosque County.

SECTION 11. DUTIES AND POWERS.

The Bosque County TCEQ Designated Representative is herewith declared the Designated Representative (DR) for the administration of these Rules within its jurisdictional area. The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of Bosque 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 shall be made payable to Bosque County. 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 Bosque County, Texas.

SECTION 14. ENFORCEMENT PLAN

The County of Bosque, 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, 343 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 Bosque 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 Bosque 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:

*Don L. Pool*

Don L. Pool, Bosque County Judge

*Marvin Wickman*

Marvin Wickman, Commissioner Pct 1

*Terry Townley*

Terry Townley, Commissioner Pct 2

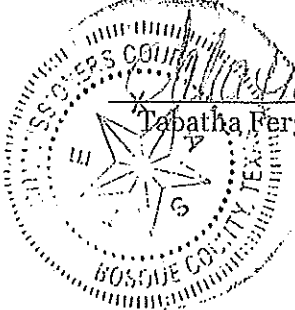
*Larry Philipp*

Larry Philipp, Commissioner Pct 3

*Ronny Lardon*

Ronny Lardon, Commissioner Pct 4

ATTEST:



*Tabatha Ferguson*

Tabatha Ferguson County Clerk

*9/21/2020*

Date

STATE OF TEXAS  
COUNTY OF BOSQUE

I, Tabatha Ferguson, County Clerk of Bosque County, Texas, do hereby certify that the foregoing is a true and correct copy of the original records, now on file in the Commissioners records containing 3 pages.

*4-28-21* Date

Tabatha Ferguson, County Clerk  
Bosque County, Texas

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By *Sandra Wells* Deputy