

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Kelly Keel, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

November 2, 2023

The Honorable Keith Schroeder, County Judge
Burlson County Courthouse
100 West Buck Street, Suite 306
Caldwell, Texas 77836

RE: Burlson County
On-Site Sewage Facility No. 620346

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 ED'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/erg

cc: Garrett T. Arthur, TCEQ Public Interest Counsel (MC 103)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On October 26, 2023, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Burleson 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 Burleson County has satisfied the requirements of §366.031, THSC. The Commission finds that the Burleson County Order should be approved.

FINDINGS OF FACT

1. Burleson County drafted a proposed Order which regulates on-site sewage facilities.
2. On October 5, 2023, Burleson County caused notice to be published, in a newspaper regularly published and of general circulation, in Burleson County's area of jurisdiction, of a public meeting to be held on October 10, 2023.
3. Burleson County held a public meeting to discuss its proposed Order on October 10, 2023.
4. The Burleson County Order regulating on-site sewage facilities was adopted on October 10, 2023.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Burleson 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 Burleson County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Burleson County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Burleson County 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. Burleson County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Burleson 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 Burleson County adopted Order, marked as Exhibit "A," to Burleson 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: October 26, 2023



Interim Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

COUNTY OF BURLESON

§

STATE OF TEXAS

§

AFFIDAVIT

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

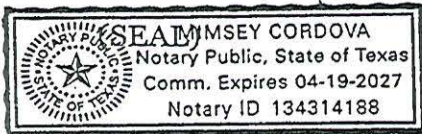
My name is Anna L. Schielack, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of the County Clerk's Office for the County of Burleson, Texas. Attached hereto are seven ^{Adopting Rules of Burleson County, Texas For} (7) pages of records known as (Order) On-site Sewage Facility. The records are kept by me as County Clerk, County of Burleson, 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.

Anna L. Schielack

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Anna L. Schielack, 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 10 day of October 2023



Mimsy Cordova
Notary/Public, State of Texas
My commission expires 04/19/2027

STATE OF TEXAS
COUNTY OF BURLESON
The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in my office.

Thereby, certified on 10/12/2023


Anna L. Schielack
County Clerk
Burleson County, Texas
By Rachel Evans Deputy
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ORDER ADOPTING RULES OF BURLESON COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES

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 Texas Legislature 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 to eliminate and prevent health hazards from the use of on-site sewage facilities; and

WHEREAS, the County of Burleson, Texas understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and may have responsibilities under the following provisions:

Texas Health and Safety Code Chapters 366 (On-Site Sewage Disposal Systems) and 367 On-Site Wastewater Treatment Research;

Texas Water Code Chapters 7 (Enforcement), 26 (Water Quality) and 37 (Occupational Licensing and Registration);

30 Texas Administrative Code Chapters 30, (Occupational Licensing and Registrations) 70 (Enforcement), and 285 (On-Site Sewage Facilities); and

Section 9 of this Order (More Stringent Requirements)(If more stringent requirements are included).

WHEREAS, due notice was given of a public meeting to determine whether the Commissioners Court of Burleson County, Texas should enact an Order regulating the installation and use of on-site sewage facilities in the County of Burleson, Texas; and

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

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

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BURLESON COUNTY, TEXAS:

STATE OF TEXAS
COUNTY OF BURLESON
The document to which this certificate is affixed
is a full, true and correct copy of the original on
file and of record in my office.

Thereby, certified on 10/12/2023



Anna L. Schielack
County Clerk
Burleson County, Texas

By Rachel E. [Signature] Deputy
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SECTION 1. THAT the matters and facts recited in the preamble are true and correct;

SECTION 2. THAT the use of on-site sewage facilities in Burleson County, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. This Order repeals and replaces any other On-site Sewage Facility (OSSF) Order for Burleson County, Texas.

SECTION 4. THAT an Order for Burleson County, Texas be adopted entitled "On-Site Sewage Facilities," which shall read as follows:

ORDER ADOPTING RULES OF BURLESON COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES

SECTION 5. THAT the County of Burleson, Texas wishing to adopt more stringent requirements for its OSSF ORDER understands that the more stringent requirements in this ORDER take precedence over the corresponding TCEQ rule.

SECTION 6. AREA OF JURISDICTION. This Order shall apply to all the areas lying within Burleson County, Texas, except for areas regulated under an existing Order, Ordinance or Resolution.

SECTION 7. COMPLIANCE WITH ORDER.

All on-site sewage disposal systems installed in the jurisdictional area of Burleson County must comply with this Order.

SECTION 8. INCORPORATION BY REFERENCE.

The following statutes and rules, including all future amendments to the statutes and rules, are incorporated by reference specifically, but not limited to:

Texas Health and Safety Code Chapters 366 (On-Site Sewage Disposal Systems) and 367 On-Site Wastewater Treatment Research;

Texas Water Code Chapters 7 (Enforcement), 26 (Water Quality) and 37 (Occupational Licensing and Registration); and

30 Texas Administrative Code Chapters 30, (Occupational Licensing and Registrations) 70 (Enforcement), and 285 (On-Site Sewage Facilities).

SECTION 9. MORE STRINGENT REQUIREMENTS

30 TAC § 285.10 allows local governmental entities to propose more stringent standards than

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County Clerk
Burleson County, Texas

[Signature] Deputy
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minimally required by 30 TAC Chapter 285. Burleson County has determined that more stringent requirements are necessary to protect human health and the environment. The Justification for the more stringent requirements is in Attachment A of this ORDER. The following more stringent requirements are adopted by Burleson County, Texas in this ORDER:

(A) A permit is required for all on-site sewage facilities within Burleson County's area of jurisdiction regardless of acreage.

(B) Platted or unplatted subdivisions served by a public water supply: Subdivisions of single-family dwellings created after the effective date of this order, and served by a public water supply may not use individual OSSF methods of sewage disposal for individual lots having surface areas of less than 1 acre. Each living unit of a multi-family dwelling, including duplexes, shall be considered a single-family dwelling for the purpose of determining lot size. Subdivision plats approved by Burleson County Commissioners Court prior to the adoption of this order are exempt from this lot size requirement but must comply with the requirements set forth in Title 30 TAC Chapter 285.

(C) Platted or unplatted subdivisions served by individual water systems: Subdivisions of single-family dwellings created after the effective date of this order, and where each lot is not served by a public water supply but utilizing individual OSSF methods for sewage disposal, shall provide for individual lots having surface areas of at least 2 acres. Each living unit of a multi-family dwelling, including duplexes, shall be considered a single-family dwelling for the purpose of determining lot size. Subdivisions plats approved by the Burleson County Commissioners Court prior to the adoption of this order are exempt from this lot size requirement but must comply with the requirements set forth in Title 30 TAC Chapter 285.

(D) Construction, installation, alteration, and extension of all on-site sewage facilities must be performed by a licensed installer. Home owners or property owners may not construct, install, extend or alter an on-site sewage facility of any type.

(E) Burleson County will aggressively enforce the provisions of this Order, both criminally and civilly, to assure compliance with this Order by all persons or entities subject to it, and especially those who would consciously seek to circumvent it.

(F) Recreational vehicle (RV) park, as defined in 30 TAC Chapter 285.2 (59), shall use a daily flow rate of 80 gallons per space per day for on-site sewage facility design.

(G) All on-site sewage facility permit applications that include flows from manufactured homes, recreational vehicles (RV), travel trailers or multi-family developments, must comply with the infrastructure requirements in the Burleson County Subdivision Regulations.

SECTION 10. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Burleson 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.

STATE OF TEXAS
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County Clerk
Burleson County, Texas

By Rachel Evans Deputy
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SECTION 11. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Burleson County, Texas.

SECTION 12. ENFORCEMENT PLAN

The County of Burleson, Texas understands that, at a minimum, it must follow the requirements in 30 Texas Administrative Code § 285.71 Authorized Agent Enforcement of OSSFs. This includes timely investigating complaints, notifying complainants of findings, and taking appropriate action related to any documented violations. Records related to these activities shall be retained for review by TCEQ.

The County shall take appropriate and timely action on all documented violations, which may include any available penalties and remedies, pursuant to all applicable provisions related to on-site sewage facilities, including those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7 and 26 of the Texas Water Code, and 30 Texas Administrative Code Chapter 285.

SECTION 13. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Burleson 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 void by a valid judgment or decree of any court of competent jurisdiction the judgment or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order.

SECTION 14. RELINQUISHMENT OF ORDER

If the Authorized Agent of Burleson County, Texas decides to relinquish its authority to regulate on-site sewage facilities in its area of jurisdiction, the local governmental entity (previously the Authorized Agent) and the TCEQ shall follow the procedures in 30 TAC § 285.10 (d) (1) through (4).

After relinquishing its OSSF authority, the local governmental entity understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14.

SECTION 15. TITLE VI COMPLIANCE

If necessary, based on the need for access to information in a language other than English by the community, the Authorized Agent shall provide information regarding this Order, including notice, applications, and enforcement actions, in an alternative language. The Authorized Agent may base its determination on all relevant factors including: whether

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COUNTY OF BURLESON
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Thereby, certified on 10/12/2023



Anna L. Schielack
County Clerk
Burleson County, Texas

By [Signature] Deputy
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the elementary or middle school nearest to the site is required to provide a bilingual education program as required by Texas Education Code, Chapter 29, Subchapter B; whether there is newspaper regularly published in an alternative language; or if the AA has historical knowledge.

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 TCEQ.

AND IT IS SO ORDERED:

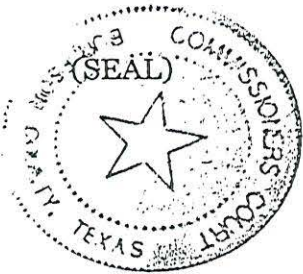
PASSED AND APPROVED THIS 10th DAY OF October, 2023.

APPROVED:

[Signature]
County Judge

ATTEST:

[Signature]
County Clerk



STATE OF TEXAS
COUNTY OF BURLESON
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Thereby, certified on 10/12/2023



Anna L. Schielack
County Clerk
Burleson County, Texas

By [Signature] Deputy
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