

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 4, 2024

The Honorable Todd Little, County Judge
Ellis County Courthouse
101 West Main Street
Waxahachie, Texas 75165

RE: Ellis County
On Site Sewage Facility No. 620068

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/cb

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
ELLIS COUNTY	§	COMMISSION ON
FOR A TEXAS HEALTH AND SAFETY	§	ENVIRONMENTAL
CODE §366.031 ORDER	§	QUALITY

On March 28, 2024, the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of Ellis 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 Ellis County has satisfied the requirements of §366.031, THSC. The Commission finds that the Ellis County Order should be approved.

FINDINGS OF FACT

1. Ellis County drafted a proposed Order which regulates on-site sewage facilities.
2. On January 31, 2024, Ellis County caused notice to be published, in a newspaper regularly published and of general circulation, in Ellis County's area of jurisdiction, of a public meeting to be held on February 6, 2024.
3. Ellis County held a public meeting to discuss its proposed Order on February 6, 2024.
4. The Ellis County Order regulating on-site sewage facilities was adopted on February 6, 2024.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the Ellis 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 Ellis County's intent to adopt a new Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. Ellis County agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The Ellis 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. Ellis County is hereby authorized to implement its new Order regulating on-site sewage facilities.
2. Any amendments to the Ellis 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 Ellis County adopted Order, marked as Exhibit "A," to Ellis 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: March 28, 2024



Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

COUNTY OF ELLIS §
STATE OF TEXAS §

AFFIDAVIT

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

My name is Krystal Valdez, and 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 Ellis, Texas. Attached hereto are eleven (11) pages of records known as **ORDER ADOPTING RULES OF ELLIS COUNTY, TEXAS FOR ON-SITE SEWAGE FACILITIES.**

The records are kept by me as County Clerk, County of Ellis, 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.

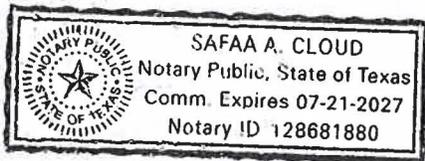


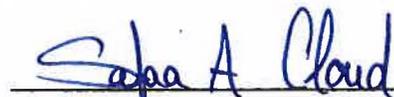
Krystal Valdez
County Clerk – Ellis County

Before me, the undersigned authority, a Notary Public in and for Ellis County, Texas, on this day personally appeared Krystal Valdez, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

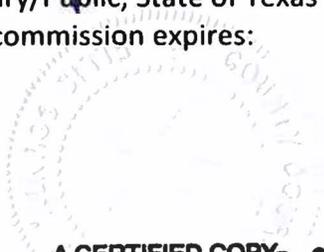
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 07 day of February 2024

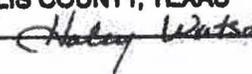
(SEAL)





Notary/Public, State of Texas
My commission expires:



A CERTIFIED COPY
ATTEST: **FEB 21 2024** 1 of 11
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY  DEPUTY

**ORDER ADOPTING RULES
OF ELLIS 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 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 in order to eliminate and prevent health hazards from the use of on-site sewage facilities; and,

WHEREAS, the County of Ellis, 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)

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

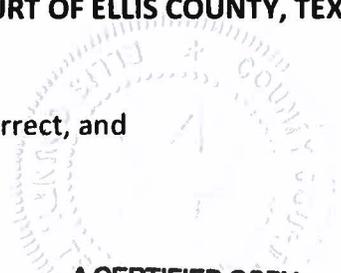
WHEREAS, the Commissioners Court of Ellis County, Texas, finds that the use of on-site sewage facilities in Ellis County, Texas, is causing or may cause pollution and is injuring or may injure the public health; and,

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

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

SECTION 1.

That the matters and facts recited in the preamble are true and correct, and



A CERTIFIED COPY
ATTEST: **FEB 21 2024**
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY *Naley Winters* DEPUTY

SECTION 2.

That the use of on-site sewage facilities in Ellis County, Texas is causing or may cause pollution or is injuring or may injure the public health, and;

SECTION 3.

This Order repeals and replaces any other On-Site Sewage Facility (OSSF) Order for Ellis County, Texas, and

SECTION 4.

That an Order for Ellis County, Texas be adopted entitled "On-Site Sewage Facilities," which shall read as follows:

SECTION 5.

That the County of Ellis, 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 the unincorporated areas of Ellis County, Texas, except for the areas regulated under an existing Order, Ordinance, or Resolution, or in areas where a current and approved interlocal agreement exists with that governmental entity.

SECTION 7. COMPLIANCE WITH ORDER.

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

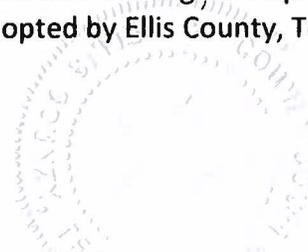
SECTION 8. INCORPORATION BY REFERENCE.

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 minimally required by 30 TAC Chapter 285. Ellis County, Texas has determined that more stringent requirements are necessary to protect human health and the environment. The justification for the more stringent requirements is in Exhibit A of this Order. The following more stringent requirements are adopted by Ellis County, Texas in this Order:



A CERTIFIED COPY
ATTEST: **FEB 21 2024**
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY Chaley Watson DEPUTY

APPLICATION

- (a) To provide greater public health and safety protection, Ellis County shall require an application, permit fee, and inspection for construction, alteration, extension, or repair to a residential or commercial on-site sewage facility, regardless of the size of the tract of land.
- (1) An application and permit shall be obtained from the Ellis County Department of Development or other department authorized by the Commissioners' Court for all structures using on-site sewage facilities for sewage disposal prior to their construction.
 - (2) Upon their completion, all habitable structures shall be connected to either a central wastewater treatment sanitary sewer system or an approved sewage disposal system.
 - (3) Planning materials for all OSSFs submitted to the Ellis County Department of Development or other department as authorized by the Ellis County Commissioners' Court shall be designed by a Registered Professional Sanitarian (RS) or a Professional Engineer (PE) for its review.
 - (4) Site evaluations shall only be performed by a Professional Engineer (PE) or a registered professional sanitarian (RS) holding a valid TCEQ site evaluator license.
 - (5) All on-site sewage facility detailed designs shall be of professional quality and designed by a licensed professional with a scaled drawing that is legible and easy to read.
 - (6) All proposed and existing structures shall be included in the design, including but not limited to secondary residences, guest houses, septic systems, outbuildings, pools, pavement, barns, sheds, etc. Waterlines, meters, wells, overhead electric lines, driveways, and access easements shall also be shown. Other items may be required upon further review.

REQUIREMENTS

- (b) Any tract of land utilizing on-site sewage facilities, whether subdivided from a larger tract or through the platting process, shall meet the following requirements:
- (1) Shall be a minimum of one (1) acre, if the property is/will be served by a public or private water supply, or;
 - (2) If the property is to be served by a private water well, the property shall have a minimum of two (2) acres, or as approved by Prairielands Groundwater Conservation District (PGCD), provided it is a minimum of one (1) acre.

INSTALLATION, MAINTENANCE & CONTRACTS

- (c) There shall be no property owner/homeowner installations unless the property owner/homeowner is also a licensed Installer with a valid license.

- (d) To provide greater public health and safety protection, Ellis County shall require a maintenance contract for all OSSFs identified in Chapter 285.91(12) to be fulfilled by a TCEQ-registered maintenance provider with a valid license, unless:
- (1) Exemptions to the required contract by the maintenance provider shall include the following listed below, but does not waive the required reporting mentioned in paragraph (g):
 - (i) The homeowner/property owner is a TCEQ-registered/licensed maintenance provider with a valid license, or
 - (ii) The homeowner/property owner was trained by an installer or takes a basic homeowner maintenance course approved by Ellis County with a valid certificate,
 - (2) Contract renewals shall not be accepted unless all maintenance reports from the previous contract period have been submitted.
- (e) Maintenance Inspections and Reports:
- (1) Inspections and inspection reports, shall meet all inspection and testing requirements set by the Rules, Ellis County and the inspection and testing requirements outlined by the manufacturer for the brand being inspected.
 - (2) A homeowner of a single-family residence conducting their own maintenance shall comply with all inspection, testing, and reporting requirements identified in Chapter 285.91(12). Failure to provide and submit to Ellis County inspection and testing reports for at least six (6) consecutive months shall result in forfeiting homeowner maintenance and shall require a maintenance contract with a registered maintenance provider.
 - (3) Ellis County shall require the reporting 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.

SYSTEM SPECIFICATIONS & DESIGN

- (f) Surface Application Systems:
- (1) Surface application systems shall not be equipped with an automatic override switch/float below the high-water alarm level.
 - (2) The site for surface application systems shall be clear of all exposed rock, or the exposed rock shall be covered with at least four (4) inches of soil suitable to support vegetative growth, such as ground cover, with either seed or sod, with the County inspector making such a determination.
 - (3) All surface spray systems shall have timers to be set to go off between 12:00 AM and 5:00 AM.

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ATTEST: **FEB 21 2024**
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY *Halley Winters* DEPUTY

- (g) **Minimum Sizing:**
- (1) For new structures, the minimum sizing factor for any structure up to 1,500 square feet shall be one hundred eighty (180) gallons per day, including recreational vehicles, guest houses, offices, apartments, etc., (does not include RV parks).
 - (2) Recreational vehicle parks shall be designed for a minimum wastewater usage of one hundred (100) gallons per day per recreational vehicle.

NON-SINGLE FAMILY SYSTEMS

- (h) Any building/structure other than a single-family dwelling using an on-site sewage facility and receiving secondary treatment of the effluent with water usage of less than or equal to five hundred (500) gallons per day (GPD) and/or a Biological Oxygen Demand (BOD) level of less than or equal to sixty-five (65) shall be required to have a maintenance contract performed by a TCEQ-licensed maintenance provider. These numbers shall be rounded up or down to the nearest whole number.
- (1) Testing and reporting frequency shall be once every four (4) months.
 - (2) One (1) BOD and Total Suspended Solids (TSS) Grab sample shall be required once each year.
 - (3) Results of each testing shall be sent to the Department of Development within fourteen (14) days after the test is performed.
 - (4) Annual water bill shall be provided upon request.
 - (5) The OSSF system does not require any additional treatment components.
- (i) Any building/structure other than a single-family dwelling using an on-site sewage facility and receiving secondary treatment of the effluent with water usage of five hundred and one (501) gallons per day (GPD) and/or a Biological Oxygen Demand (BOD) level of sixty-six (66) or more shall be inspected and maintained monthly by a contracted TCEQ-licensed maintenance provider. These numbers shall be rounded up or down to the nearest whole number.
- (1) A chlorine residual or fecal coliform test shall be made at each site visit where disinfection is required.
 - (2) One (1) BOD and Total Suspended Solids (TSS), Grab Sample Test, shall be conducted per year.
 - (3) The test results shall be sent to the Department of Development within fourteen (14) days after the test is performed.

A CERTIFIED COPY
ATTEST: **FEB 21 2024**
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY Haley Watson DEPUTY

- (4) Annual water bill shall be provided upon request.
- (5) A metering device capable of measuring and recording effluent flow shall be installed. This value shall be included in each monthly report.

IMMEDIATE THREAT

(j) Immediate Health & Safety Threat:

If the Authorized Agent determines an on-site sewage facility exhibiting an immediate threat to public health with sewage exposed aboveground, the property owner shall have the on-site sewage facility pumped immediately. The property owner shall be given ten (10) days after the initial violation notice date to initiate repairs or replace the malfunctioning on-site sewage facility. The applicable fines shall range from a minimum of \$150.00 but not exceed \$500.00 each day the violation occurs for non-compliance.

SECTION 10. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Ellis County, Texas. A fee of \$10 shall also be collected for each on-site sewage facility permit to be paid to the TCEQ Water Resources Management Account, as required by the THSC Chapter 367.

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 Ellis County, Texas.

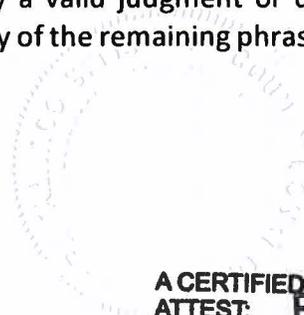
SECTION 12. ENFORCEMENT PLAN

The County of Ellis, 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 Ellis 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 of decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order.



A CERTIFIED COPY
ATTEST: FEB 21 2024
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY Haley Watson DEPUTY

SECTION 14. RELINQUISHMENT OF ORDER

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

After relinquishing its OSSF authority, the local government 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 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.

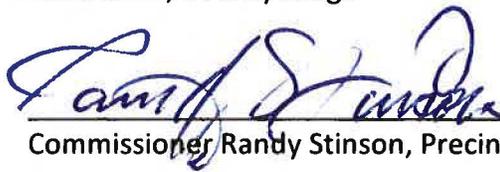
This Order shall be in full force and effect from and after its date of approval as required by law and upon the approval of TCEQ.

AND IT IS SO ORDERED:

PASSED, APPROVED, AND ADOPTED IN OPEN COURT BY THE COMMISSIONERS' COURT OF ELLIS COUNTY, TEXAS, ON THIS THE 10 DAY OF February 2024.



Todd Little, County Judge



Commissioner Randy Stinson, Precinct No. 1



Commissioner Lane Grayson, Precinct No. 2

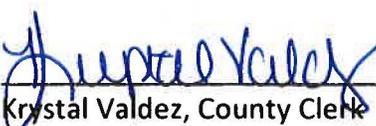
Absent

Commissioner Paul Perry, Precinct No. 3



Commissioner Kyle Butler, Precinct No. 4

ATTEST:



Krystal Valdez, County Clerk



A CERTIFIED COPY
ATTEST: FEB 21 2024
KRYSTAL VALDEZ, COUNTY CLERK
ELLIS COUNTY, TEXAS
BY Chaley Wilson DEPUTY