



## Comal County

OFFICE OF COMAL COUNTY ENGINEER

June 21, 2013

Mr. Mike Price  
MC-235  
TCEQ  
P.O. Box 13087  
Austin, TX 78711-3087

Re: Proposed Order Adopting Rules of Comal County, Texas for On-Site Sewage Facilities

Dear Mr. Price:

In accordance with the document prepared by the TCEQ regarding Adopting or Amending an OSSF Order/Ordinance/Resolution, Comal County is providing a draft of our proposed Order Adopting Rules of Comal County, Texas for On-Site Sewage Facilities. Comal County is proposing additional more stringent requirements (beyond the more stringent requirements that were approved as part of our October 2001 Order) which are listed below along with justification for each:

- 1) A Contributing Zone Plan or modification to a plan as required by TAC §213.21, shall be approved by the appropriate TCEQ regional office before an authorization to construct may be issued by Comal County for an OSSF located over the Contributing Zone.

**Justification:** To properly protect the public from potential adverse impacts to the Edwards Aquifer due to improper development over the Edwards Aquifer Contributing Zone, Comal County is proposing that developments that require a CZP must obtain that CZP prior to Comal County issuing an authorization to construct (consistent with the requirements for development over the Edwards Aquifer Recharge Zone detailed in §285.40 - §285.42).

- 2) If any portion of the OSSF is proposed to be located in the United States Army Corps of Engineers (USACE) Flowage Easement, applicant must receive approval from the USACE prior to applying for an OSSF Permit with Comal County.

**Justification:** To properly protect the public from potential adverse impacts associated with placing OSSF components within the USACE regulated flowage easement, Comal County is proposing that approval from the USACE is required for placing OSSF components within the USACE Flowage Easement. In addition, there are no separation distances listed in Table X related to flowage easements.

**Comal County**  
**OFFICE OF COMAL COUNTY ENGINEER**

Mr. Mike Price  
June 21, 2013  
Page 2

- 3) For new non-single family residential structures, the planning materials must show adequate land area for doubling the required land needed for the treatment units and disposal area. Areas designated for doubling the treatment unit and disposal area cannot be utilized for uses that are detrimental to its intended purpose (i.e. no structures, water wells, property lines, retention ponds/basins, easements, etc.)

**Justification:** During the review of subdivision or development plans, as required in §TAC 285.4(c), a proposed development that includes a restaurant or buildings with food service establishments, must show adequate land area for doubling the land needed for the treatment units. Comal County is proposing to require the same standards for permitting.

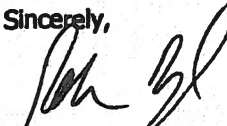
- 4) Under no circumstances shall the separation distance between the property line and the edge of the surface application area be less than 20 feet.

**Justification:** Due to the potential for spray application to occur outside of midnight to 5:00 AM, even when controlled by a commercial irrigation timer, Comal County is proposing to maintain the 20 foot separation distance for all surface application systems.

Please review this proposed order along with our proposed more stringent requirements and justifications and let us know if we can proceed with the next step in adoption.

If you have any questions or need additional information, please contact our office.

Sincerely,



Robert Boyd, P.E.  
Comal County Assistant Engineer

attachments a/s

cc: Comal County Commissioners Court  
Tillman Roots, Comal County Assistant District Attorney

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

October 3, 2013

Mr. Robert Boyd, PE, DR  
Comal County Assistant Engineer  
Comal County  
195 David Jonas Dr.  
New Braunfels, TX 78130

Re: County of Comal On-site Sewage Facility Order

Dear Robert:

The TCEQ staff has reviewed the proposed County of Comal On-Site Sewage Facility Order. Based on our review of your draft proposal submitted June 21, 2013, this order meets minimum State requirements. Please proceed with the adoption process as outlined in Title 30 TAC Chapter 285, Section 285.10 (b)(5)(A)-(C) and 285.10 (b)(6)(A)-(D), with particular consideration of the following items:

1. Publish notice of a public meeting at least 72 hours before the public meeting, but not more than 30 days before the meeting. The notice must appear in a regularly published newspaper(s) of general circulation in the area of jurisdiction and the notice must include the time, date and location of the public meeting.
2. After the public meeting is held, submit a copy of the following items:
  - \* A public notice as it appeared in the newspaper(s);
  - \* A publisher's affidavit from the newspaper(s) in which the public notice appeared;
  - \* A certified copy of the minutes of the meeting when the order was adopted; and
  - \* A certified copy of the order that was adopted by the County of Comal Commissioner's Court.
3. You may also revise your draft order to show your authority to enforce the public nuisance provisions of Texas Health and Safety Code §343. Sample language enclosed.

The approved draft order is enclosed. If further information or assistance is needed, please contact me at (512) 239-2150 or by email at [mike.price@tceq.texas.gov](mailto:mike.price@tceq.texas.gov).

Sincerely,

  
Michael Price  
On-site Sewage Facility Program

Enclosures

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

December 3, 2013

**RECEIVED**

DEC 05 2013

**COUNTY ENGINEER**

The Honorable Sherman Krause  
County Judge  
Comal County  
100 Main Plaza  
New Braunfels, Texas 78130

Re: On-Site Sewage Facilities Order for Comal County

Dear Judge Krause:

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

Should you have any questions, please contact Mr. Michael Price, of the Texas Commission on Environmental Quality On-Site Sewage Facilities Program, MC-235, at 512-239-2150.

Sincerely,

*June Ella Martinez for JEM*

June Ella Martinez, Water Team Leader  
Program Support Section, MC-174  
Office of Compliance and Enforcement

Enclosures: Certified Order  
Recipient Mail List

APPLICATION BY COMAL COUNTY  
TO INITIATE THEIR ON-SITE SEWAGE FACILITY ORDER

The Honorable Sherman Krause  
County Judge  
Comal County  
100 Main Plaza  
New Braunfels, Texas 78130

Mr. Robert Boyd, PE, DR  
Comal County Assistant Engineer  
Comal County  
195 David Jonas Dr.  
New Braunfels, TX 78130

TCEQ - Region 13  
Attn: Javier Anguiano

Mike Price  
OSSF Program  
Filed Operations Program Support Section, MC- 235

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



RECEIVED

DEC 05 2013

COUNTY ENGINEER

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

§ BEFORE THE EXECUTIVE  
§ DIRECTOR OF THE TEXAS  
§ COMMISSION ON  
§ ENVIRONMENTAL  
QUALITY

On November 26, 2013 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Comal 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 the County of Comal has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Comal Order should be approved.

FINDINGS OF FACT

1. The County of Comal drafted a proposed Order which regulates on-site sewage facilities.
2. On October 13, 2013, the County of Comal caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Comal area of jurisdiction, of a public meeting to be held on October 24, 2013.
3. The County of Comal held a public meeting to discuss its proposed Order on October 24, 2013.
4. The County of Comal Order regulating on-site sewage facilities was adopted on October 24, 2013.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the County of Comal 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 the County of Comal's intent to adopt a new County Order was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. The County of Comal agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The County of Comal'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. The County of Comal is hereby authorized to implement its new County Order regulating on-site sewage facilities.
2. Any amendments to the County of Comal 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 County of Comal's adopted Order, marked as Exhibit "A," to the County of Comal and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: November 26, 2013



Executive Director  
Texas Commission on Environmental Quality

**RECEIVED**

**DEC 05 2013**

**COUNTY ENGINEER**

## **EXHIBIT A**



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

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

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

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

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

**SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT**

The County of Comal, 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 Comal 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 Comal 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 Comal 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 Comal, 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 Comal County, Texas:

## 10.1 Definition:

Public Water Supply Line – a water pipe connected to a public water supply system and not separated from the public water supply system by a backflow prevention device.

- 10.2 Platted or unplatted subdivisions served by public water supply: Subdivisions of land created after January 1, 1988 and served by a public water supply but utilizing individual OSSF methods of sewage disposal, shall provide for individual lots having surface areas of at least 1 acre, thus being in agreement with Comal County Subdivision Rules and Regulations concerning water availability. Subdivision plats approved by the Comal County Commissioners Court prior to the adoption of this order are exempt from this lot size requirement. The location of an OSSF under this paragraph shall be in accordance with 285.91(10).
- 10.3 Platted or unplatted subdivisions served by individual water systems: In subdivisions of land created after January 1, 1988, 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 5.01 acres, thus being in agreement with Comal County Subdivision Rules and Regulations concerning water availability. Subdivision plats approved by the Comal County Commissions Court prior to the adoption of this order are exempt from this lot size requirement. The location of an OSSF under this paragraph shall be in accordance with 285.91(10).
- 10.4 A permit shall be required for all On-Site Sewage Facilities within Comal County's area of jurisdiction regardless of acreage.
- 10.5 To ensure floodplain issues are addressed a determination must be made by the Comal County Flood Plain Administrator that the property is in compliance with the Comal County Flood Damage Prevention Order.
- 10.6 Upon request by Comal County, installers and apprentices must present documentation at the job-site verifying their valid certifications or registration.
- 10.7 A reinspection fee shall be assessed to the Installer of record each time a reinspection is required. The reinspection fee shall be set by the County and the County may revise this fee from time to time.
- 10.8 In no case shall the sewer line diameter be reduced to a size smaller than the building's sewer stub out.

CERTIFIED TO BE A TRUE  
AND CORRECT COPY

JOY STREATER,  
Comal County Clerk  
Page 4 of 6  
PAGE 17 OF 19

- 10.9 No man-made items such as, but not limited to, picnic tables, play equipment, or BBQ pits shall be placed within the surface application spray area.
- 10.10 A Contributing Zone Plan or modification to a plan as required by TAC §213.21, shall be approved by the appropriate TCEQ regional office before an authorization to construct may be issued by Comal County for an OSSF located over the Contributing Zone.
- 10.11 If any portion of the OSSF is proposed to be located in the United States Army Corps of Engineers (USACE) Flowage Easement, applicant must receive approval from the USACE prior to applying for an OSSF Permit with Comal County.
- 10.12 For new non-single family residential structures, the planning materials must show adequate land area for doubling the required land needed for the treatment units and disposal area. Areas designated for doubling the treatment unit and disposal area cannot be utilized for uses that are detrimental to its intended purpose (i.e. no structures, water wells, property lines, retention ponds/basins, easements, etc.)
- 10.13 Under no circumstances shall the separation distance between the property line and the edge of the surface application area be less than 20 feet.

RECEIVED

DEC 05 2013

#### SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of Comal County, Texas, must be certified by the TCEQ before assuming the duties and responsibilities.

COUNTY ENGINEER

#### SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Comal 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 Commissioners Court of Comal County, Texas.

#### SECTION 14. ENFORCEMENT PLAN

The County of Comal, 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.

(REV 01/12)

Page 5 of 6  
PAGE 18 OF 19  
JOY STREATER,  
Comal County Clerk  
NOTED TO BE A TRUE  
AND CORRECT COPY

## SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Comal 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 Comal 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).

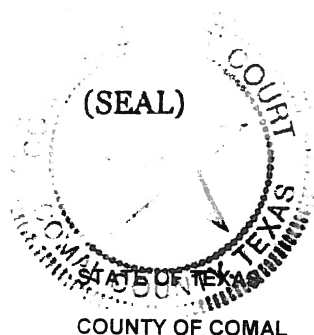
After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

## 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:

PASSED AND APPROVED THIS 24th DAY OF OCTOBER, 2013.



APPROVED:

[Signature]  
County Judge

ATTEST:

[Signature]  
County Clerk

I certify this to be a true and correct copy of a portion of the Term Minutes RECORDED in the Comal County Commissioners Court Term Minutes of October 24, 2013, in a secured network drive for Commissioners Court Term Minutes.

Joy Streater  
County Clerk

(REV 01/12)

By: [Signature]

Deputy Clerk

CERTIFIED TO BE A TRUE  
AND CORRECT COPY

JOY STREATER,  
Comal County Clerk

PAGE 6 OF 6 OF 19