

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

On November 12, 2013 the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the County of Hopkins 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 Hopkins has satisfied the requirements of §366.031, THSC. The Commission finds that the County of Hopkins Order should be approved.

## FINDINGS OF FACT

1. The County of Hopkins drafted a proposed Order which regulates on-site sewage facilities.
2. On September 26, 2013, the County of Hopkins caused notice to be published, in a newspaper regularly published and of general circulation, in the County of Hopkins area of jurisdiction, of a public meeting to be held on September 30, 2013.
3. The County of Hopkins held a public meeting to discuss its proposed Order on September 30, 2013.
4. The County of Hopkins Order regulating on-site sewage facilities was adopted on September 30, 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 Hopkins 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 Hopkins'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 Hopkins agreed to the proposed Order in writing.
5. The proposed Order is uncontested.
6. The County of Hopkins' 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 Hopkins is hereby authorized to implement its new County Order regulating on-site sewage facilities.
2. Any amendments to the County of Hopkins 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 Hopkins's adopted Order, marked as Exhibit "A," to the County of Hopkins 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 12, 2013



Executive Director  
Texas Commission on Environmental Quality

# **EXHIBIT A**

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

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

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

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

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

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

The County of Hopkins, 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 Hopkins 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 Hopkins 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 Hopkins 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 Hopkins, 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 Hopkins County, Texas:

(A) Hopkins County, to provide greater public health and safety protection, shall require an application, permit 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.

(B) In order to provide greater public health and safety protection, Hopkins County shall require maintenance agreements with a TCEQ licensed maintenance provider on all OSSFs using aerobic treatment with fees to be paid to the County for the purposes of tracking and keeping of records. Fees will be set by Commissioners Court.

(C) The homeowner/property owner may do the maintenance on their own aerobic OSSF system if one of the following requirements is met, the county set fee is still in place:

- a. The homeowner/property owner is a TCEQ licensed maintenance provider for their aerobic treatment unit: or
- b. The homeowner/property owner was trained by an installer or manufacturer according to the requirements of HB 2510 [79(R)] prior to adoption of HB2482 [80(R)]: or
- c. The homeowner/property owner holds a valid Class D or higher wastewater treatment license.

(D) Maintenance inspections Reports:

- a. Inspections at a minimum must meet all inspection requirements as set by the Rules, Hopkins County, as well as the inspection requirements outlined by the manufacturer for the brand being inspected
- b. Inspection reports shall address all inspection and testing requirements as set by the Rules, Hopkins County, as well as, the testing requirements outlined by the manufactured for the brand being inspected.
- c. Hopkins County shall require the reporting of the sludge levels in the pump tank, and the condition of the spray area to be included on at least one required testing report specified by the Rules.

(E) All construction, alteration, extension or repair to any type of OSSF shall be by a Licensed Installer. There shall be no property owner/homeowner installations unless the property owner/homeowner is also a Licensed Installer.

(F) Planning materials for all OSSFs in Hopkins County shall be submitted by a Registered Professional Sanitarian or a Licensed Professional Engineer to the Designated Representative for review and approval.

(G) All platted or created subdivisions of single family dwellings using individual OSSF for sewage disposal shall have lots of at least one [1] acre of usable property.

(H) All habitable structures must be connected to either a central wastewater treatment sanitary sewer system or an approved OSSF.

(I) Site evaluations shall only be performed by a Registered Professional Engineer, a Registered Professional Sanitarian holding a valid TCEQ site evaluator license or a Site Evaluator holding a valid TCEQ site evaluator license.

#### SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC 285.2(17)) of Hopkins 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/or inspections shall be made payable to Hopkins 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 Hopkins County, Texas.

#### SECTION 14. ENFORCEMENT PLAN

The County of Hopkins, 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 Hopkins 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 Hopkins 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 30 DAY OF September,  
2013.

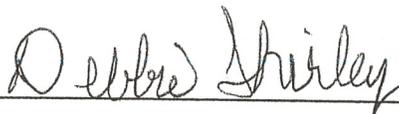
APPROVED:

(SEAL)



County Judge

ATTEST:



County Clerk