

ORDER #468



STATE OF TEXAS

§

IN THE COMMISSIONERS COURT

COUNTY OF COMAL

§

**ORDER PROHIBITING SOLID WASTE DISPOSAL AND PROCESSING
IN CERTAIN AREAS OF COMAL COUNTY**

WHEREAS, Section 363.112 of the Texas Health and Safety Code authorizes a county to prohibit the disposal of municipal or industrial solid waste in certain areas of the county; and

WHEREAS, Section 364.012 of the Texas Health and Safety Code authorizes a county to prohibit the disposal of municipal or industrial solid waste in the county if the disposal of the municipal or industrial solid waste is a threat to the public health, safety, and welfare; and

WHEREAS, the Commissioners Court of Comal County, Texas has the responsibility and the authority to take action to protect the public health, safety, and welfare; and

WHEREAS, the Commissioners Court of Comal County, Texas recognizes that the Edwards Aquifer serves as an important source of groundwater for the residents of Comal County; and

WHEREAS, the Commissioners Court of Comal County understands the importance of protecting floodplains from landfill development in order to protect groundwater and surface water resources from contamination; and

WHEREAS, the Commissioners Court of Comal County recognizes the long-term impacts of landfills due to their permanent nature; and

WHEREAS, the Commissioners Court of Comal County finds that the disposal of municipal or industrial solid waste in the county is a threat to the public health, safety, and welfare, and the geographic scope of this threat should be minimized; and

WHEREAS, this Order defining and limiting where a solid waste facility may be located within the unincorporated areas of Comal County is necessary to protect the general health, safety, and welfare of the citizens of Comal County and does not impose an unreasonable burden.

WHEREAS, public hearing notices regarding the proposed order were published in a newspaper of general circulation in the county for two consecutive weeks before the Commissioners Court considered this Order; and

WHEREAS, a public hearing was held on October 21, 2021 before the order was considered by the Commissioners Court, and any interested citizen of the county was allowed to testify at the hearing; and

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF COMAL COUNTY, TEXAS, that the following provisions be adopted this 21st day of October, 2021:

ORDER #468

SECTION 1. GENERALLY

1.1. PURPOSE

The purpose of this Order is to preserve and protect the public health, safety, and welfare of the residents of Comal County, Texas through the designation of areas which are suitable and unsuitable for the placement of solid waste disposal sites.

1.2. AUTHORITY

The Commissioners Court is authorized to enact this Order by Chapters 363 and 364 of the Texas Health and Safety Code.

1.3. SCOPE

The Comal County Commissioners Court recognizes that it is not tasked with permitting solid waste facilities, and its intent here is not to approve the siting of any specific solid waste facility in Comal County, Texas. Thus, the designation of areas where solid waste facilities are not prohibited should not be interpreted as a finding that siting a solid waste facility in such an area is appropriate, recommended or otherwise compatible with surrounding land uses pursuant to 30 Texas Administrative Code Section 330.61.

SECTION 2. DEFINITIONS

2.1. “**Disposal**” is defined as the discharge, deposit, injection, dumping, spilling, leaking, or placing of solid waste or hazardous waste, whether containerized or un-containerized, into or on any land or water so that the solid waste or hazardous waste or any constituent thereof may be emitted into the air, discharged into surface water or groundwater, or introduced into the environment in any other manner.

2.2. “**Industrial Solid Waste**” is defined as waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations.

2.3. “**Municipal Solid Waste**” is defined as solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.

2.4. “**Processing**” means activities including, but not limited to, the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of waste, designed to change the physical, chemical, or biological character or composition of any waste to neutralize such waste, or to recover energy or material from the waste, or render the waste safer to transport, store, or dispose of, or make it amenable for recovery, amenable for storage, or reduced in volume.

2.5. “**Solid Waste**” means garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and institutional activities.

2.6. “**Solid Waste Facility**” means all contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The term includes a publicly or privately owned solid waste facility consisting of several processing, storage, or disposal operational units such as one or more landfills, surface impoundments, or a combination of units.

ORDER #468

SECTION 3. AREAS NOT PROHIBITED

3.1. The processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is not prohibited in the area of Comal County east of Farm to Market Road 1101 and within 4,000 linear feet on either side of Kohlenberg Road, further depicted on Exhibit A, attached hereto and incorporated herein.

SECTION 4. AREAS PROHIBITED

4.1. The processing or disposal of municipal or industrial solid waste or the operation of a solid waste facility is prohibited in all other portions of Comal County, Texas not included in Section 3 above.

SECTION 5. APPLICABILITY

5.1. This Order does not apply to applications for municipal solid waste permits or other authorizations, as defined in 30 Texas Administrative Code Section 330.57(a), that have been filed with, are administratively complete and are pending before the Texas Commission on Environmental Quality as of the date that this Order is effective.

5.2. This Order does not apply to municipal solid waste permits or other authorizations that have already been issued by the Texas Commission on Environmental Quality as of the date that this Order is effective.

5.3 This Order does not apply inside the corporate limits of any municipality.

SECTION 6. ENFORCEMENT

6.1. Violations of this Order are subject to criminal penalties to the extent allowed by state law.

6.2. The Comal County Commissioners Court may bring a legal action to enjoin violations of this Order and seek judgment for civil penalties.

SECTION 7. CONFLICTING LAWS; CUMULATIVE EFFECT

7.1 In case any or more of the provisions contained in this Order are found to be in conflict with any other provision of local, state, or federal law, the more stringent conflicting rule or law shall control.

7.2 The authority under this Order is cumulative of other laws, rules, and regulatory authority that Comal County may have to regulate municipal or solid waste disposal within its jurisdiction.

SECTION 8. SEVERABILITY

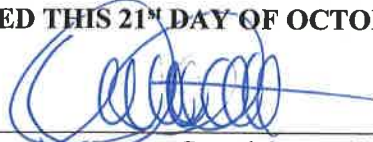
8.1. In case any one or more of the provisions contained in this Order shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Order, and this Order shall be construed as if the invalid, illegal, or unenforceable provision had never been included.

SECTION 9. EFFECTIVE DATE

9.1. This order shall be in full force and effect on October 21, 2021.

ORDER #468

ORDERED THIS 21ST DAY OF OCTOBER, 2021



Sherman Krause, Comal County Judge



Donna Eccleston, County Commissioner Pct. 1



Scott Haag, County Commissioner Pct. 2



Kevin Webb, County Commissioner Pct. 3



Jen Crownover, County Commissioner Pct. 4

ATTEST:



Bobbie Koepf, County Clerk

