

COUNTY OF KAUFMAN §

STATE OF TEXAS §

AFFIDAVIT

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

My name is Laura Hughes, 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 Clerks Office for the County of Kaufman, Texas. Attached hereto are five (5) pages of records known as Order Adopting Rules of Kaufman County, Texas for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Kaufman, 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.

Laura Hughes

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Laura Huges, 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 10th day of August, 2006



Cassi Prestidge
Notary/Public, State of Texas
My commission expires:

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

PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality 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, 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 Kaufman County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Kaufman, Texas; and

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

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

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

SECTION 3. THAT an Order for Kaufman 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 order for Kaufman County.

SECTION 5. CHAPTER 366.

The County of Kaufman, 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 Texas Health and Safety Code (H&SC) 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.

(A) The Rules shall apply to all the area lying in Kaufman County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

(B) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Kaufman County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Kaufman 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 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of Kaufman 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 Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules are attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS.

The County of Kaufman, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local Rule shall take

precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Rules adopted by Kaufman County, Texas:

- (A) Persons in Kaufman County, regardless of the amount of land owned, on which a private on-site sewage facility is to be installed must obtain a permit from the licensing authority prior to commencing the construction or installation of the on-site sewage facility. Persons will be required a soil evaluation test. All private on-site sewage facilities will be constructed or installed according to 30 TAC 285 Rules.
- (B) The construction or installation of an on-site sewage facility on a lot or tract that is smaller than one (1) acre shall not be allowed. However, on such smaller lots or tracts, recorded with the County in its official plat recorded prior to January 1, 1988, an on-site sewage facility may be permitted to be constructed and licensed to operate on a lot smaller than one (1) acre if it is demonstrated by a thorough investigation of a Registered Professional Engineer or Registered Professional Sanitarian (either having demonstrated expertise in on-site sewage facility design) that an on-site sewage facility on one of these lots can be operated without causing a threat or harm to an existing or proposed water supply system or to the public health, or creating the threat of pollution or nuisance conditions.
- (C) A variance may be granted for individual tracts of land smaller than one (1) acre recorded after January 1, 1988, if they are not part of a subdivision. The request for the variance must be thoroughly reviewed by the County Sanitarian and the Commissioners Court and/or the appropriate County Commissioner in which precinct the property is located. The on-site sewage facility for a lot less than one (1) acre must be designed by a Registered Professional Engineer or Registered Professional Sanitarian that has expertise in on-site sewage facility design. It must be demonstrated that the system can be operated without causing a threat or harm to existing or proposed water supply system or to the public health, or creating the threat of pollution or nuisance conditions. All State and County construction Standards must be followed. A variance will not be granted for a subdivision that has been platted and recorded since March 23, 1990. No less than one (1) acre per residence for an on-site sewage facility will be allowed in any subdivision planed after March 23, 1990. Under no circumstances will a variance be granted if the total land is less than 1/2 acre per residence.
- (D) Upon construction of an on-site sewage facility, if the on-site sewage facility fails the inspection, a reinspection fee set by the Authorized Agent shall be assessed to the installer of record each time a reinspection is required.
- (E) All on-site sewage facility designs must be performed by a Registered Sanitarian or a Registered Professional Engineer that have expertise in on-site sewage facility design.
- (F) Any on-site sewage disposal system using aerobic treatment shall have a maintenance contract on that system.

- (G) All contracted maintenance of an on-site sewage disposal system using aerobic treatment shall be conducted by a certified maintenance provider. There shall be no homeowner/property owner maintenance of an on-site sewage disposal system using aerobic treatment unless the property owner/homeowner is a certified maintenance provider for that aerobic treatment unit.
- (H) The authorized agent may periodically inspect the on-site sewage disposal system using aerobic treatment for a single-family residence that is maintained directly by the owner of the system regardless of when the authorized agent conducted the last inspection.
- (I) No construction or installation of any type of on-site sewage facility by a homeowner or property owner. Installer must hold a current and proper level of license to install any On-Site Sewage Facility within the unincorporated areas of Kaufman County, Texas.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Kaufman County, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to Kaufman County, Texas.

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 Kaufman County, Texas.

SECTION 14. PENALTIES.

This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Kaufman 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, clause, sentence, paragraph,

or section.

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 the Texas Commission on Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 31st DATE OF July, 2006.

APPROVED:

Wayne Lewis
County Judge

ATTEST:

Laura Hughes
County Clerk