

STATE OF TEXAS §
 §
COUNTY OF POLK §

**ORDER ADOPTING AND AMENDING RULES OF POLK 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 Polk County, Texas should amend its order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Polk, Texas; and

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

WHEREAS, the Commissioners Court of Polk County, Texas has considered the matter and deems it appropriate to enact an Order amending its Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in Polk County, Texas.

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

SECTION 3. THAT an Order for Polk 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 Polk County.

SECTION 5. CHAPTER 366.

The County of Polk, 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 Polk 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 OSSF intergovernmental contracts with Polk County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Polk 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 Polk 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. DUTIES AND POWERS.

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

SECTION 11. COLLECTION OF FEES.

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

SECTION 12. APPEALS

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Commissioners Court of Polk County, Texas.

SECTION 13. 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 14. SEVERABILITY.

It is hereby declared to be the intention of the Commissioners Court of Polk 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 15. 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 11th DAY OF JANUARY, 2007.

APPROVED:

John P. Thompson
Polk County Judge

ATTEST:

Barbara Middleton
Polk County Clerk



STATE OF TEXAS

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COUNTY OF POLK

AFFIDAVIT

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

My name is Barbara Middleton, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein attached:

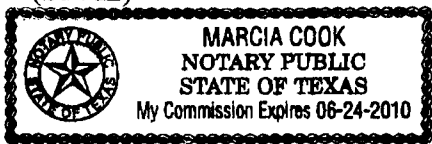
I am the custodian of the records of the County Clerks Office for the County of Polk, Texas. Attached hereto are ORDER ADOPTING AND AMENDING RULES OF POLK COUNTY, TEXAS FOR ON-SITE SEWAGE FACILITIES PREAMBLE (3) pages of records known as (Order) ON-SITE SEWAGE FACILITIES. The records kept by me as County Clerk, County of Polk, 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.

Barbara Middleton
Polk County Clerk

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Barbara Middleton, 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 11th day of January, 2007.

(SEAL)



Notary Public, State of Texas
My Commission Expires:
