

COUNTY OF MILLS §

STATE OF TEXAS §

AFFIDAVIT

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

My name is Carolyn Foster, 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 Mills, Texas. Attached hereto are (4) pages of records known as Order Adopting Rules of Mills Coutny, Texas for On-Site Sewage Facilities. The records are kept by me as County Clerk, County of Mills, 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.

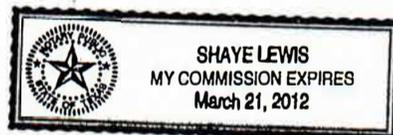
Carolyn Foster
Carolyn Foster, County Clerk
By: Joy Nowell, Deputy

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Joy Nowell, 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 15th day of December, 2009.

(SEAL)

Shaye Lewis
Notary/Public, State of Texas
My commission expires: 3-21-12



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

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

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

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

SECTION 3. THAT an Order for Mills 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 Mills County.

SECTION 5. CHAPTER 366.

The County of Mills, 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 area lying in Mills County, Texas, except for the area regulated under an existing Rule and the areas within incorporated cities.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Mills 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 Mills 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 Mills, 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 Mills County, Texas:

(A) A permit shall be required for all OSSF's regardless of acreage.

(B) All maintenance of an on-site sewage-disposal system using aerobic treatment shall be conducted by a TCEQ registered maintenance company/provider

There shall be no maintenance of an on-site sewage disposal system using aerobic treatment by the homeowner of a single family residence unless:

- (1) The homeowner is a maintenance provider registered/licensed by the TCEQ; or**
- (2) The homeowner takes a course approved by County of Mills and TCEQ.**

A homeowner conducting his/her own maintenance prior to the effective date of this Order shall be allowed to continue to self maintain his/her on-site sewage disposal system until such time as the system is altered or repaired or is causing a nuisance. The homeowner shall then be subject to the maintenance requirements set forth in this order.

SECTION 11. DUTIES AND POWERS.

The OSSF Designated Representative (DR) (30 TAC § 285.2(17)) of Mills 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 Mills County, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the On-Site Wastewater Treatment Research Council 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 Mills County, Texas.

SECTION 14 ENFORCEMENT PLAN

The County of Mills, 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 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 Mills 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 Mills 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 14th DATE OF December, 2009.

SIGNED AND ENTERED ON THE ABOVE DATE BY THE FOLLOWING MEMBERS OF THE COMMISSIONERS COURT.



**Kirkland A. Fulk
County Judge**


**John Mann
County Commissioner Prec. 1**
**Jed Garren
County Commissioner Prec. 2**

**William Crawford
County Commissioner Prec. 3**
**Wayne Wilcox
County Commissioner Prec. 4**

ATTEST:


Carolyn Foster, Mills County Clerk
By: Gary Howell, Deputy