AN ORDINANCE ADOPTING RULES OF THE CITY OF UHLAND, TEXAS, FOR ON-SITE SEWAGE FACILITIES

PREAMBLE

WHEREAS, the Texas Natural Resource Conservation commission has established Design Criteria 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 disposal 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 meeting and public hearing to determine whether the City Council of the City of Uhland, Texas, should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the City of Uhland, Texas; and

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof, and the evidence and arguments there presented were considered by the City Council of the City of Uhland, Texas; and

WHEREAS, the City Council of the City of Uhland, Texas, finds that the use of on-site sewage facilities in the City of Uhland, Texas, is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the City Council of the City of Uhland, Texas, has considered the matter and deems it appropriate to enact an Ordinance adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in the City of Uhland, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF UHLAND, 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 the City of Uhland, Texas, is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT the Code of Ordinances of the City of Uhland, Texas,. BE amended entitled "On-Site Sewage Disposal", which shall read as follows:

AN ARTICLE ENTITLED ON-SITE SEWAGE DISPOSAL

SECTION 4. CONFLICTS.

All Ordinances or parts of Ordinances of the City of Uhland, Texas, not consistent with or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 5. ADOPTING CHAPTER 366.

The City of Uhland, Texas, clearly understands the technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage

facilities, does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

SECTION 6. AREA OF JURISDICTION.

(a) The Rules adopted by this Ordinance shall apply to all the incorporated area of the City of Uhland, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any structure discharging sewage into an on-site sewage facility within the jurisdictional area of the City of Uhland, Texas, must comply with the Rules adopted in Section 8 of this Ordinance.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules ("Design Criteria For On-Site Sewage Facilities" and Administrative Rules 30 TAC 285.1-285.91) attached hereto, promulgated by the Texas Natural Resource Conservation Commission for on-site sewage systems are hereby adopted, and all officials and employees of City of Uhland, 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 Design Criteria 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 Design Criteria is attached to these Rules as Appendix 1.

SECTION 10. AMENDMENTS.

The City of Uhland, Texas, wishing to adopt more stringent Rules for its On-Site Sewage Facility Ordinance understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Natural Resource Conservation Commission requirement. Listed below are the more stringent Rules adopted by the City of Uhland, Texas:

(a) ONE ACRE MINIMUM LOT SIZE. No on-site sewage facility shall be installed on a lot, or tract of land, of less that one acre in area within the jurisdiction of the City of Uhland, Texas. If a specially engineered system is designed, and expressly approved by the City Council of the City of Uhland, Texas, the prohibition may be waived, and such use may be permitted if the installation conforms in all respects to the special design. This rule requires that there be a one acre minimum for each on-site sewage facility for a single family residence, e.g., two facilities may not be installed on a tract of one and one-half acres..

(b) APPROVED ON-SITE SEWAGE FACILITY REQUIRED TO RECEIVE WATER CONNECTION. No water meter shall be installed, nor water delivered, to any lot which does not have an approved on-site sewage facility, except on a temporary basis for testing purposes.

(c) PERMITS, DURATION AND EXPIRATION. A permit for the installation of an on-site sewage facility shall expire at the end of six months after issuance unless construction has been started within that time; once construction has started the permit shall expire at the end of ninety days thereafter.

(d) CERTIFICATE OF OCCUPANCY. No residence shall be occupied for residential purposes until the Chief Sanitarian issues a Certificate of Occupancy after final inspection of the installation. If the Chief Sanitarian finds that an installation has not been installed properly, or the permit has

expired because of lapse of time, he shall notify the water utility supplying the property, in writing, to disconnect any meters or connection to the water supply system, and such utility shall comply with the direction to disconnect.

(e) COMMERCIAL FACILITIES. The Chief Sanitarian shall issue permits for on-site sewage facilities for commercial establishments in compliance with the spirit of these rules on a case by case basis to insure that the facilities will abate or prevent pollution, or injury to public health.

SECTION 11. DUTIES AND POWERS.

The Chief Sanitarian of the City of Uhland, Texas, is herewith declared the designated representative for the enforcement of these Rules within its jurisdictional area. The appointed individual(s) must be approved and certified by the Texas Natural Resource Conservation Commission before assuming the duties and responsibilities of the Designated Representative of the City of Uhland, Texas.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the City of Uhland, Texas.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the Designated Representative may appeal such action or decision to the City Council of the City of Uhland, Texas.

14. PENALTIES.

This Ordinance 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, Chapter 26 of the Texas Water Code, and 30 TAC Chapter 285.

SECTION 15. SEVERABILITY.

It is hereby declared to be the intention of the City Council of the City of Uhland, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance 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 Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 16. RELINQUISHMENT OF ORDER.

If the City Council of the City of Uhland, Texas, decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the City Council shall follow the procedures outlined below.

(a) The City Council shall notify theTexas Natural Resource Conservation Commission by certified mail at least 30 days before the published date of the public hearing notice that it wishes to relinquish its On-Site Sewage Facility Ordinance.

(b) The authorized agent shall post the required public notice in a newspaper regularly published or circulated in the area of jurisdiction at least 30 days prior to the anticipated date of action by the authorized agent.

(c) The authorized agent shall send a copy of the public notice, a publisher's affidavit of public notice, and a certified copy of the minutes to the Texas Natural Resource Conservation Commission.

(d) The executive director shall process the request for relinquishment and may issue an order relinquishing the authority to regulate OSSF's within the authorized agent's jurisdiction or may refer the request to relinquish to the commission.

(e) Prior to issuance of a relinquishment order the local government entity and the executive director shall determine the exact date the authorized agent would surrender its authorized agent designation to the executive director.

SECTION 17. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after the date of approval as required by law and upon the approval of the Texas Natural Resource Conservation Commission.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 3RD DAY OF FEBRUARY, 1999.

APPROVED:

Mayor

(SEAL)

ATTEST:

City Secretary

PUBLIC MEETING NOTICE

For

THE CITY OF UHLAND PROPOSED ON-SITE SEWAGE FACILITY ORDINANCE

The City Council of the City of Uhland, Texas, will conduct a public meeting under the authority of Chapter 366, Texas Health and Safety Code, to consider the regulation of on-site sewage facilities (including septic tanks) in the City of Uhland, Texas, to prevent possible pollution or injury to public health. A copy of the proposed ordinance is available for review at 17 Cotton Gin Road, Uhland, Texas 78640, & from 9:00 a.m. to 5:00 p.m. on Friday, January 29, 1999, and on Monday, February 1, 1999, Tuesday, February 2, 1999, and Wednesday, February 3, 1999, from 9:00 a.m. to 5:00 p.m.. The meeting will be held before the City Council at:

Location:
Uhland Community Center
15 North Old Spanish Trail
Uhland, Texas 78640.
Date: Wednesday, February 3, 1999.
Time: 7:30 p.m.

All interested persons are encouraged to participate in the public meeting.

Dan Roswell
Mayor

CITY OF UHLAND, TEXAS

CITY OF UHLAND §

STATE OF TEXAS §

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared Trudy Busse who, being by me duly sworn, deposed as follows:

My name is Trudy Busse, 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 City Secretary Office for the City of Uhland, Texas. Attached hereto are eighty-four (84) pages of records known as Ordinance #35. The records are kept by me as City Secretary, City of Uhland, 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.

Trudy Busse

Trudy Busse, City Secretary

BEFORE ME, the undersigned authority, a Notary Public in and for said City, Texas, on this day personally appeared Trudy Busse, 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 March, 1999.

(SEAL)

DAN T. SORRELLS
NOTARY PUBLIC
State of Texas
Comm. Exp. 06/09/99

Dan Sorrells

Notary/Public, State of Texas
My commission expires:

CITY OF UHLAND

17 Cotton Gin Road
Uhland, Texas 78640
(512) 398-6700

March 15, 1999

Warren D. Samuelson, P.E.
TNRCC
OSSF Program, MC 178
P.O. Box 13087
Austin, Texas 78711-3087

Dear Mr. Samuelson:

Pursuant to your instructions , please find enclosed the following:

1. Publisher's affidavit of public notice of a public meeting including a copy of the public notice.
2. Certified copy of the minutes of the meeting at which the order was adopted.
3. Certified copy (duplicate originals) of the order.

Subject to the approval of TNRCC the City of Uhland has appointed Russell C. Cain of San Marcos, Texas, to be Chief Sanitarian. Mr. Cain is a Professional Sanitarian, Serial Number: 3296.

If you find everything to be in order, I will appreciate your returning one copy of the order to me stamped to indicate the approval of TNRCC.

Thank you very much for your assistance.

Sincerely,

Dan T. Sorrells
Mayor

BC: Amy Johnson
Russell Cain

CITY OF UHLAND)(

STATE OF TEXAS)(

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared Trudy Busse,, who, being by me duly sworn, deposed as follows:

My name is Trudy Busse, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein; stated:

I am custodian of the records of the City Secretary Office for the City of Uhland, Texas. Attached hereto are eighty-four (84) pages of records known as Ordinance #35. The records are kept by me as City Secretary, City of Uhland, 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.

Trudy Busse

Trudy Busse, City Secretary

BEFORE ME, the undersigned authority, a Notary Public for said City, Texas, on this day personally appeared Trudy Busse, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 23rd day of April, 1999.

)SEAL)

DAN T. SORRELLS
NOTARY PUBLIC
State of Texas
Comm. Exp. 06/09/99

Dan T. Sorrells

Notary Public, State of Texas
My commission expires: 6-9-99

CERTIFICATE

I, Trudy Busse. hereby certify that:

(1) I am the City Secretary of the City of Uhland, Texas;
(2) That the foregoing and attached document is a true copy of the minutes of a meeting of the Board of Aldermen of the City of Uhland, Texas, which was held on April 7, 1999, and at which a quorum was present.

To certify which witness my hand and the seal of the City of Uhland, Texas, this 23rd day of April, 1999.

Trudy Busse

Trudy Busse
City Secretary

MINUTES OF A MEETING OF THE BOARD OF ALDERMEN OF THE CITY OF UHLAND, TEXAS, HELD ON WEDNESDAY, APRIL 7, 1999

Mayor Sorrells called the meeting to order at 7:30 p.m., a quorum being present to-wit: Aldermen Lawrence, Sassman, and Garcia. Copies of the minutes of the preceding meeting were distributed for review, and after review, were approved.

Mayor Sorrells presented a certification by City Secretary Trudy Busse of non opposed status of candidates for the May 1, 1999, municipal election. The Mayor presented a proposed Order canceling the election and declaring Daniel Heideman, Mike Lawrence, and Jorge Garcia each elected to the office of Alderman.

The proposed settlement of Todd Cauthorn's suit against the City was discussed, the suit had been removed to Federal District Court in Austin. The proposed settlement is to grant a variance to allow four installations, with specially engineered septic systems. The Mayor pointed out that this offer was the same as what the Council had offered to allow prior to his filing suit. Mr. Lawrence moved that the settlement be approved, Mr. Sassman seconded the motion and it was unanimously approved.

Mayor Sorrells presented the OSSF Ordinance adopted on February 3, 1999, for discussion and amendment. He reported that he had a detailed telephone conversation with Ken Graber of the Texas National Resource Conservation Commission (TNRCC).

Mr. Graber presented questions regarding Section 10, AMENDMENTS. He thought the last sentence of subsection (a) was ambiguous, the Mayor agrees and suggested the deletion of such sentence. Mr. Graber thought subsection (b) was outside the scope of the rules regulating on-site sewage facilities, although such a provision may be within the City's governmental authority. Subsection (c) is questionable, but he thinks it will be all right. Subsection (d) has the same objection as a part of the OSSF rules, and should be deleted. Subsection (e) pertaining to commercial facilities is covered in the general TNRCC rules, and is not needed in the ordinance. After discussion, Mr. Lawrence moved that Section 10 of the Ordinance be amended as follows: the last sentence of Subsection (a) be deleted; Subsections (b), (d) and (e) be deleted; and that Subsection (c) be changed to Subsection (b). The motion was seconded by Mr. Garcia and passed unanimously. The Mayor was instructed to make the amendments and submit the amended Ordinance to TNRCC for its approval. He was also instructed to submit New Ordinances pertaining to deleted Subsections (b) and (d), if the City does not have such Ordinances in place, to be adopted under the City's governmental power.

Bobby Lockhart was recognized to discuss his proposed subdivision, and possible annexation to the city. Also discussed was his difficulty with Hays County in regard to some land he has already sold.

The Mayor gave a financial report, which was approved.

There being no further business, the meeting adjourned.

Mayor

City Secretary

CITY OF UHLAND

17 Cotton Gin Road
Uhland, Texas 78640
(512) 398-6700

April 24, 1999

Ken Graber
TNRCC
OSSF Program, MC 178
P.O. Box 13087
Austin, Texas 78711-3087

Dear Mr. Graber:

Enclosed please find the following:

1. Duplicate originals of Uhland's amended OSSF Ordinance, certified by the City Secretary;
2. Duplicate originals of the minutes of the Board of Aldermen meeting which adopted the amendment, held on April 7, 1999;
3. Certified original of the OSSF Ordinance adopted February 3, 1999. In our first submission I somehow sent an unsigned signature page, and want to show that we actually did execute the signature page for the record.

If you find everything to be in order, I will appreciate your returning one copy of the amended order to me stamped to indicate the approval of TNRCC.

Thank you very much for your assistance.

Sincerely,

Dan T. Sorrells
Mayor

BC: Amy Johnson
Russell Cain

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

June 16, 1999

Mayor Dan T. Sorrells
City of Uhland
17 Cotton Gin Road
Uhland, Texas 78640

RE: CITY OF UHLAND
Order approving the regulation of an on-site sewage facility

Enclosed is a certified copy of an order issued by the Commission regarding the referenced matter.

Should you have any questions, please contact Jessica Leyendecker of the Texas Natural Resource Conservation Commission's Office of the Chief Clerk (MC 105) at (512) 239-4517.

Sincerely,

LaDonna Castañuela
Chief Clerk

LC/jl

Enclosure

cc: Steve Shepard, Attorney, TNRCC Legal Division (MC 173)
Keneth Graber, TNRCC Compliance Support Division, Installer Certification Section (MC 178)

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

IN THE MATTER OF THE APPLICATION	§	BEFORE THE EXECUTIVE
OF THE CITY OF UHLAND	§	DIRECTOR OF THE TEXAS
FOR A TEXAS HEALTH AND SAFETY	§	NATURAL RESOURCE
CODE §366.031 ORDER	§	CONSERVATION COMMISSION

On MAY 28 1999 the Executive Director of the Texas Natural Resource Conservation Commission ("Commission" or "TNRCC"), considered the application of the City of Uhland, ("Applicant" or "Uhland"), for an Order pursuant to §366.031, Texas Health and Safety Code ("Code"), 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 Applicant has satisfied the requirements of §366.031 of the Code and, therefore, the Commission finds that the Uhland Ordinance No. 35 should be approved.

FINDINGS OF FACT

1. Uhland drafted a proposed ordinance to regulate on-site sewage facilities.

2. On January 28, 1999, Uhland caused notice to be published, in a newspaper regularly published and of general circulation, in Uhland's area of jurisdiction, of a public hearing to be held on Wednesday, February 3, 1999.

3. Uhland held a public meeting to discuss the proposed ordinance on February 3, 1999.

4. Uhland Ordinance No. 35 regulating on-site sewage facilities was adopted on April 7 , 1999.

5. A certified copy of the minutes was submitted to the Texas Natural Resource Conservation Commission.

6. A certified copy of Uhland Ordinance No.35 was submitted to the Texas Natural Resource Conservation Commission.

7. The Ordinance is at least equivalent to the standards of the Texas Natural Resource Conservation Commission.

CONCLUSIONS OF LAW

1. The above facts are conditions sufficient to issue this order pursuant to §366.031 of the Code.

2. Section 5.102 of the Texas Water Code authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of Chapter 366 of the Health and Safety Code.

3. Issuance of this order will effectuate the purposes of Chapter 366 of the Code.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION THAT:

1. Uhland is hereby authorized to implement Uhland Ordinance No. 35 which regulates on-site sewage facilities.

2. Any amendments to Uhland Ordinance No. 35 must be approved by the Texas Natural Resource Conservation Commission.

3. The Chief Clerk of the Commission is directed to forward a copy of this Order to the Applicant and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: MAY 28 1999

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

For The Commission

ATTEST:

LaDonna Castañuela, Chief Clerk

LOCAL ON-SITE SEWAGE FACILITY (OSSF) REGULATIONS

ADOPTION AND AMENDMENT PROCEDURES

NOTE: Please follow these procedures, authorized by the Texas Natural Resource Conservation Commission (TNRCC) closely. Failure to do so may result in unnecessary delays in obtaining approval by the TNRCC.

I. Adoption Procedures

(a) Requirements/Procedures.

(1) Local governmental entities which desire to become authorized agents of the commission shall request such in writing to the executive director (to the attention of the OSSF Program, MC-178).

(2) Upon request, the executive director shall forward to the entity a description of the process of delegation and a copy of the model order/ordinance. Any changes to the model order/ordinance by the local entity based on local conditions must be consistent with 30 Texas Administrative Code (TAC), Chapter 285. The executive director shall be the sole and final authority in determining the acceptability of proposed changes from the model order/ordinance. A local government entity which wants to be designated an authorized agent for the OSSF program shall follow the following procedures:

(A) Upon request, the executive director shall provide model orders or ordinances to local entities.

(B) The executive director consults with local authorities as to specific procedures and requirements to obtain authorized agent status.

(C) The local government entity shall draft an order or resolution regulating OSSFs within its jurisdiction which meets the requirements of § 366.032 of the Texas Health and Safety Code. In the event that the local government entity drafts a proposed order which is different from the model order/ordinance, the local government entity shall submit the proposed order/ordinance to the executive director for review and comment prior to notice being published. If a local government entity proposes more stringent rules, each rule shall be justified in writing based upon greater public health and safety protection. Within 30 days of receipt of the proposed order/ordinance, the executive director shall review the proposal and provide comment to the local government entity on whether the proposed order/ordinance meets the agency's minimum requirements.

(D) The local government entity shall cause notice to be published, in a newspaper regularly published and of general circulation in the area of jurisdiction, of a public meeting to be held to discuss the adoption of the proposed order or resolution. The public notice must be published at least 72 hours prior to the public meeting. The local government entity shall send a copy of the publisher's affidavit of the public notice and a copy of the notice*.

(E) The local government entity shall hold a public meeting to discuss the proposed order or resolution.

(F) The local government entity shall adopt that order or resolution.

(G) The local government entity shall send a certified copy of the minutes of the meeting which adopted the order or resolution*.

(H) The local government entity shall send a certified copy of the order or resolution*.

(I) Upon receipt of the complete package requesting delegation, the executive director will review to see that it complies with the requirements of 30 TAC, Chapter 285 and Chapter 366 of the Health and Safety Code. If found to be compliant, the executive director will notify the local entity by mail of their authorized agent status and the date the authorized agent shall assume jurisdiction of the OSSF program. The authorized agent shall administer its OSSF program in accordance with its approved OSSF waste disposal order/ordinance. All authorized agents shall maintain their orders/ordinances in accordance with the minimum requirements of 30 TAC, Chapter 285.

II. Amendment Procedures

The amendment procedure may be initiated by the authorized agent in accordance with the adoption procedures. The executive director may require periodic revisions or renewals of OSSF orders/ordinances for compliance with new rules or regulations.

*Send to: TNRCC, OSSF Program, MC-178, P.O. Box 13087, Austin, Texas 78711-3087