## ORDINANCE NO. 66-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAK RIDGE, KAUFMAN COUNTY, TEXAS, ADOPTING RULES FOR ON-SITE SEWAGE FACILITIES, PROVIDING FOR SEVERABILITY, PROVIDING AN EFFECTIVE DATE, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS CONSIDERED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Texas Commission on Environmental Quality ("TCEO") has established Rules for on-site sewage facilities ("OSSF") 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 OSSF in its jurisdiction in order to abate or prevent pollution or injury to the public health arising out of the use of on-site sewage facilities; and

WHEREAS, the City Council of the City of Oak Ridge, Texas ("City") previously passed and approved Ordinance No. 56-19, which adopted certain requirements for the installation or use of OSSF in the City; and

WHEREAS, the City Council seeks to establish further restrictions controlling or prohibiting the installation or use of OSSF in the City; and

WHEREAS, the City Council finds that the use of OSSF in areas of the City not served by a sanitary sewage system is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the City Council has considered the matter and deems it appropriate to enact an Ordinance adopting rules regulating OSSF to abate or prevent pollution, or injury to public health in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAK RIDGE, KAUFMAN COUNTY, TEXAS.

#### ARTICLE I.

That this ordinance is hereby adopted as the City's On-Site Sewage Facilities Ordinance, which shall provide as follows:

# "On-Site Sewage Facilities.

(a) Conflicts. – This Ordinance repeals and replaces any other OSSF ordinances of the City, specifically including Ordinance 56-19.

- (b) OSSF Regulation and Enforcement. The City clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating OSSF, and will fully enforce Chapter 366 of the Texas Health and Safety Code ("THSC") and Chapters 7 and 37 of the Texas Water Code ("TWC"), and associated rules referenced in Paragraph (e), below.
- (c) Area of Jurisdiction. This Ordinance shall apply to all areas lying within the corporate limits of the City.
- (d) OSSF Rules. Any permit issued for an OSSF within the jurisdictional area of the City must comply with the Rules adopted in Paragraph (e), below.
- (e) OSSF Rules Adopted. Those rules contained in Title 30 Texas Administrative Code ("TAC") Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for OSSF ("Rules") are hereby adopted, and all officials and employees of the City having duties under said Rules are authorized to perform such duties as are required of them under said Rules.
- (f) 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 the rules contained herein.
- (g) Amendments. The City, wishing to adopt more stringent Rules for this Ordinance, understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by the City:
  - Persons in the City, regardless of the amount of land owned, on which a private OSSF is to be installed must obtain a permit from the appropriate licensing authority prior to commencing the construction or installation of the OSSF. Persons will be required a soil evaluation test. All private OSSFs will be constructed or installed in accordance with 30 TAC 285 Rules.
  - The construction or installation of an OSSF 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 Kaufman County in its official plat recorded prior to January 1, 1988, an OSSF 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 Professional Engineer or Professional Sanitarian, as those terms are defined in the Rules, (either having demonstrated expertise in OSSF design) than an OSSF 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.

- (3) 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 appropriate City department and the City Council. The OSSF for a lot less than one (1) acre must be designed by a Professional Engineer or 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 City 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 OSSF will be allowed in any subdivision planned after March 23, 1990. Under no circumstances will a variance be granted if the total land is less than 1/2 acre per residence.
- Upon construction of an OSSF, if the OSSF fails the inspection, a reinspection fee set by the Authorized Agent, as that term is defined in the Rules, shall be assessed to the installer of record each time a re-inspection is required.
- All OSSF designs must be performed by a Professional Sanitarian or a Professional Engineer that have expertise in OSSF design. Systems subject to required maintenance and reporting must register annually. Registration is subject to a fee, which is set by the Authorized Agent. The fee is due upon submission of maintenance contract renewals. The fee for a two (2) year maintenance contract renewal will be twice that of an annual maintenance contract renewal.
- (6) Any on-site sewage disposal system using aerobic treatment shall have a maintenance contract on that system.
- 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 or property owner maintenance of an on-site sewage disposal system using aerobic treatment unless the property owner or homeowner is a certified maintenance provider for that aerobic treatment unit.
- (8) 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.

- (9) No construction or installation of any type of OSSF by a homeowner or property owner. Installer must hold a current and proper level of license to install any OSSF within City limits.
- (h) Duties and Powers. The OSSF Designated Representative (30 TAC §285.2(17)) of the City must be certified by the TCEQ before assuming the duties and responsibilities.
- (i) Collection of Fees. All fees collected for permits and/or inspections shall be made payable to the City. An additional fee of ten dollars (\$10.00) shall also be collected for each OSSF permit issued to be paid to the credit of the TCEQ Water Resources Management Account as required by THSC, Chapter 367.
- (j) Appeals. Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Municipal Court of the City of Oak Ridge, Texas.
- (k) Enforcement Plan. The City clearly understands that, at a minimum, it must follow the requirements in 30 TAC §285.71, Authorized Agent Enforcement of OSSF. This Ordinance adopts and incorporates all applicable provisions related to OSSF, 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.
- (1) Relinquishment. In the event the City Council decides that it no longer wishes to regulate OSSF in its area of jurisdiction, the City Council, as authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC §285.10(d)(5) and §285.14 after the date that delegation has been relinquished."

### ARTICLE II.

All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

#### ARTICLE III.

It is hereby declared to be the intention of the City Council Texas, that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections.

#### ARTICLE IV.

This Ordinance will take effect immediately after its passage and the publication of the caption, and its approval by the TCEQ as the law in such cases provides.

# PASSED AND APPROVED this the \_\_ day of January, 2022.

Al Rudin, Mayor

Attest:

Donna Sprague, City Secretary