

1-1 By: Deuell S.B. No. 1296
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; May 3, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 May 3, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1296 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to development regulations for certain unincorporated
1-11 areas associated with the watersheds of Cedar Creek Lake, the
1-12 Trinity River, and the East Fork of the Trinity River; providing a
1-13 penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Chapter 231, Local Government Code, is amended
1-16 by adding Subchapter L to read as follows:

1-17 SUBCHAPTER L. DEVELOPMENT REGULATIONS IN KAUFMAN COUNTY

1-18 Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The
1-19 legislature finds that:

1-20 (1) almost all of Kaufman County is located within the
1-21 watersheds that drain into Cedar Creek Lake, the Trinity River, and
1-22 the East Fork of the Trinity River;

1-23 (2) the area that surrounds Cedar Creek Lake, the
1-24 Trinity River, and the East Fork of the Trinity River in Kaufman
1-25 County is or will be frequented for recreational purposes by
1-26 residents from every part of the state;

1-27 (3) orderly development of the area and the watersheds
1-28 is of concern to the entire state; and

1-29 (4) without adequate development regulations, the
1-30 area and the watersheds will be developed in ways that endanger and
1-31 interfere with the proper use of that area as a place of recreation
1-32 to the detriment of the public health, safety, peace, morals, and
1-33 general welfare.

1-34 (b) The powers granted under this subchapter are for the
1-35 purpose of:

1-36 (1) promoting the public health, safety, peace,
1-37 morals, and general welfare;

1-38 (2) encouraging recreation; and

1-39 (3) safeguarding and preventing the pollution of the
1-40 state's rivers and lakes.

1-41 Sec. 231.252. AREAS SUBJECT TO REGULATION. (a) This
1-42 subchapter applies only to the unincorporated areas of Kaufman
1-43 County except that for an unincorporated area located in the
1-44 extraterritorial jurisdiction of a municipality, this subchapter
1-45 applies only if the Commissioners Court of Kaufman County requests
1-46 and receives permission from the municipality to regulate the area
1-47 under this subchapter.

1-48 (b) This subchapter does not apply to:

1-49 (1) an area located in Kaufman County that has been
1-50 annexed by a municipality in accordance with Chapter 43; or

1-51 (2) an unincorporated area located in Kaufman County
1-52 that is subject to an existing agreement relating to development
1-53 regulation.

1-54 Sec. 231.253. DEVELOPMENT REGULATIONS GENERALLY. The
1-55 Commissioners Court of Kaufman County may regulate:

1-56 (1) the percentage of a lot that may be occupied or
1-57 developed;

1-58 (2) population density;

1-59 (3) the size of buildings;

1-60 (4) the location, design, construction, extension,
1-61 and size of streets and roads;

1-62 (5) the location, design, construction, extension,
1-63 size, and installation of water and wastewater facilities,

2-1 including the requirements for connecting to a centralized water or
2-2 wastewater system;

2-3 (6) the location, design, construction, extension,
2-4 size, and installation of drainage facilities and other required
2-5 public facilities;

2-6 (7) the location, design, and construction of parks,
2-7 playgrounds, and recreational areas; and

2-8 (8) the abatement of harm resulting from inadequate
2-9 water or wastewater facilities.

2-10 Sec. 231.254. COMPLIANCE WITH COUNTY PLAN. Development
2-11 regulations must be:

2-12 (1) adopted in accordance with a county plan for
2-13 growth and development of the county; and

2-14 (2) coordinated with the comprehensive plans of
2-15 municipalities located in the county.

2-16 Sec. 231.255. DISTRICTS. (a) The commissioners court may
2-17 divide the unincorporated area of the county into districts of a
2-18 number, shape, and size the court considers best for carrying out
2-19 this subchapter.

2-20 (b) Development regulations may vary from district to
2-21 district.

2-22 Sec. 231.256. PROCEDURE GOVERNING ADOPTION OF REGULATIONS
2-23 AND DISTRICT BOUNDARIES. (a) A development regulation adopted
2-24 under this subchapter is not effective until it is adopted by the
2-25 commissioners court after a public hearing. Before the 15th day
2-26 before the date of the hearing, the commissioners court must
2-27 publish notice of the hearing in a newspaper of general circulation
2-28 in the county.

2-29 (b) The commissioners court may establish or amend a
2-30 development regulation only by an order passed by a majority vote of
2-31 the full membership of the court.

2-32 Sec. 231.257. DEVELOPMENT COMMISSION. (a) The
2-33 commissioners court may appoint a development commission to assist
2-34 in the implementation and enforcement of development regulations
2-35 adopted under this subchapter.

2-36 (b) The development commission must consist of an ex officio
2-37 chairman who must be a public official in Kaufman County and four
2-38 additional members.

2-39 (c) The development commission is advisory only and may
2-40 recommend appropriate development regulations for the county.

2-41 (d) The members of the development commission are subject to
2-42 the same requirements relating to conflicts of interest that are
2-43 applicable to the commissioners court under Chapter 171.

2-44 Sec. 231.258. SPECIAL EXCEPTION. (a) A person aggrieved
2-45 by a development regulation adopted under this subchapter may
2-46 petition the commissioners court or the development commission, if
2-47 the commissioners court has established a development commission,
2-48 for a special exception to a development regulation adopted by the
2-49 commissioners court.

2-50 (b) The commissioners court shall adopt procedures
2-51 governing applications, notice, hearings, and other matters
2-52 relating to the grant of a special exception.

2-53 Sec. 231.259. ENFORCEMENT; PENALTY. (a) The
2-54 commissioners court may adopt orders to enforce this subchapter or
2-55 an order or development regulation adopted under this subchapter.

2-56 (b) A person commits an offense if the person violates this
2-57 subchapter or an order or development regulation adopted under this
2-58 subchapter. An offense under this subsection is a misdemeanor
2-59 punishable by a fine of not less than \$500 or more than \$1,000. Each
2-60 day that a violation occurs constitutes a separate offense. Trial
2-61 shall be in the district court.

2-62 Sec. 231.260. COOPERATION WITH MUNICIPALITIES. The
2-63 commissioners court by order may enter into agreements with any
2-64 municipality located in the county to assist in the implementation
2-65 and enforcement of development regulations adopted under this
2-66 subchapter.

2-67 Sec. 231.261. CONFLICT WITH OTHER LAWS. If a development
2-68 regulation adopted under this subchapter imposes higher standards
2-69 than those required under another statute or local order or

3-1 regulation, the regulation adopted under this subchapter controls.
3-2 If the other statute or local order or regulation imposes higher
3-3 standards, that statute, order, or regulation controls.

3-4 SECTION 2. This Act takes effect immediately if it receives
3-5 a vote of two-thirds of all the members elected to each house, as
3-6 provided by Section 39, Article III, Texas Constitution. If this
3-7 Act does not receive the vote necessary for immediate effect, this
3-8 Act takes effect September 1, 2005.

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