

**ORDER ADOPTING RULES OF LIBERTY COUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES**

PREAMBLE

WHEREAS, Liberty County by Order of Commissioner's Court adopted Rules for On-site Sewage Facilities in 1997, twelve (12) years ago.

WHEREAS, Liberty County Commissioner's Court recognizes that during this time new rules have been established and there is at this time a necessity to adopt a new Order for On-site Sewage Facilities.

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, 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 Liberty County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Liberty, Texas; and

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

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

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

SECTION 3. THAT an Order for Liberty 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 Liberty County.

SECTION 5. CHAPTER 366.

The County of Liberty, 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 Liberty County, Texas, and other such areas that Liberty County deems it necessary to have approved an Order for an Inter-Local Agreement, 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 herein referred that have executed intergovernmental contracts with Liberty County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Liberty 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 Liberty 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 effective June 26, 2008 and September 11, 2008 are attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS.

The County of Liberty, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Order understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality (TCEQ) requirement. Listed below are the more stringent Rules adopted by Liberty County, Texas:

(A) Any tract, lot or parcel of land proposed to be occupied by more than one residence herein referred to "Multi-Residential Development" shall provide additional planning materials as referred in the current Rules under 285.4. Facility Planning, (c), (1), (A) through (H), Liberty County feels this requirement will provide equity for all residences on the tract, lot or parcel and provide the County additional information on how multiple residences will impact the area for the health and welfare of the area involved.

(B) Site Evaluators, Professional Engineers, Registered Sanitarians, Installers and Maintenance Providers will use the standardized forms provided by the Liberty County Engineering Permit Division. Liberty County believes the use of standardized forms will provide less confusion for the public especially in the form of Maintenance Agreements.

(C) A re-inspection fee in the amount of (One Hundred Dollars) \$100 will be assessed to the Installer if the installed system does not pass the Final Inspection and the County Inspector must return for an additional trip. The fee must be paid by check or money order to the Permit Clerk or Field Inspector prior to the re-inspection. This rule is necessary to offset additional time and fuel cost to travel to the inspection site.

(D) Homeowners must keep in force a Maintenance Agreement by a licensed Maintenance Company for the first two (2) years of operation.

(E) For the modification of an existing OSSF, a permit fee of \$90 (ninety dollars) plus \$10 (ten dollars to TCEQ) shall be charged along with all design calculations and drawings for the modification are provided. Since the initial permit fee was charged, the less amount will be charged for modifications.

(F) The Liberty County Engineering and Permit Department reserves the right at some future date to implement a County Operated Maintenance Inspection Department for all OSSF systems with an inspection fee assessed to the Home Owner in lieu of inspections by third party maintenance providers.

(G) Latitude and Longitude shall be provide by Site Evaluator for all boreholes dug on the proposed OSSF site. This is necessary for field inspectors to locate test holes.

(H) All Site Evaluations, Septic Designs and any planning material must have original Signature, date and seal. This includes Site Evaluators, Registered Sanitarians and Professional Engineers. The seal must be acceptable to Liberty County and/or the State of Texas. The original signature and seal are necessary to prevent fraudulent documents or un-authorized changes to documents.

(I) The fee for an OSSF permit is \$240.00 to Liberty County and \$10. to The State of Texas. The increase is necessary to off-set additional fuel costs and overhead.

SECTION 11. DUTIES AND POWERS.

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

SECTION 12. COLLECTION OF FEES.

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

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 Liberty County, Texas.

SECTION 14. 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 15. SEVERABILITY

It is hereby declared to be the intention of the Commissioners Court of Liberty 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 16. 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 (TCEQ).

AND IT IS SO ORDERED:


PASSED AND APPROVED THIS THE 26 DAY OF July, 2011.

APPROVED:



Craig McNair
County Judge

ATTEST:



Paulette Shivers Williams
County Clerk