

**ORDER ADOPTING RULES OF HARRISONCOUNTY, TEXAS
FOR ON-SITE SEWAGE FACILITIES
PREAMBLE**

WHEREAS, the Texas Commission on Environmental Quality 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 Harrison County, Texas should enact an order controlling or prohibiting the installation or use of on-site sewage facilities in the County of Harrison, Texas; and

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

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

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

SECTION 3. THAT an Order for Harrison 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 Harrison County.

SECTION 5. CHAPTER 366.

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

(B) (OPTIONAL) These Rules shall apply to those incorporated cities or towns that have executed intergovernmental contracts with Harrison County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Harrison 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 Harrison 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 are attached to these Rules as Appendix I.

SECTION 10. AMENDMENTS. (OPTIONAL)

The County of Harrison, 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 requirement.

Listed below are the more stringent Rules adopted by Harrison County, Texas:

(A) There will be no refund of Permit Fees.

(B) Harrison County shall require the maintenance, testing, and reporting for all OSSF's utilizing secondary treatment to be performed by a TCEQ registered maintenance provider unless the OSSF serves a single family dwelling that is the primary residence of the property owner, and:

- (1) The property owner is a TCEQ registered maintenance provider for their aerobic treatment unit; or
- (2) Prior to September 1, 2007, the effective date of HB 2482 [80(R)], the property owner received specific on-site maintenance training for their aerobic treatment unit from either their installer or the manufacturer of their unit pursuant to TAC Chapter 285, effective August 3, 2006; or
- (3) On or after September 1, 2007, the effective date of HB 2482 [80(R)], the property owner has satisfactorily completed the Basic Maintenance Provider Course conducted by a TCEQ approved training provider; or
- (4) On or after August 1, 2008, the property owner has satisfactorily completed the Basic Homeowner Maintenance Course conducted by Harrison County Environmental Health. For the public health and safety protection of the residents of Harrison County, only individuals trained in wastewater treatment shall be allowed to maintain aerobic treatment units.

(C) Maintenance Inspections and Reports:

- (1) An above qualified property owner who is not contracted with a TCEQ registered maintenance company to perform testing, reporting, and maintenance on their OSSF shall still be required to submit all required reports and tests that are also required of a TCEQ registered maintenance company to Harrison County along with any required fees (fees required for property owners may be different than those required of registered maintenance providers).
- (2) Inspections at a minimum must meet all inspection requirements as set by the TAC 30 Chapter 285 and Harrison County, Texas.
- (3) Inspection reports shall address all inspection and testing required by Harrison County policies and procedures or the State of Texas, including TAC 30 Chapter 285.

(D) Each OSSF utilizing aerobic treatment shall be subject to a maintenance-tracking fee. The fee shall be paid by the maintenance provider prior to the commencement of the initial maintenance contract, and prior to the commencement of each subsequent maintenance contract. For systems maintained by the property owner, the owner shall pay the fee annually. The fee amount shall be in accordance with the current fee schedule adopted by the Commissioners Court of Harrison County

(E) Property owners maintaining their OSSF who violate any rule or permit must correct the violation within 10 days of notification by the permitting authority. If they do not correct the violation within 10 days, then they must enter into a contract for maintenance of the system. If the same owner commits another violation within three years of the first violation, then they must enter into a contract for maintenance within 10 days of the notice of the violation. Also, if the property owner fails to perform the required testing and maintenance at the required intervals or fails to submit reports on time, the homeowner shall be required to contract with a maintenance provider for the maintenance of their system immediately.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspectors of Harrison 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 Harrison County Environmental Health in Harrison 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 Harrison 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 Harrison 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.