

**ORDER OF THE GALVESTON COUNTY HEALTH DISTRICT ADOPTING
RULES FOR ON-SITE SEWAGE FACILITIES**

RECITALS

Whereas, the Texas Commission on Environmental Quality 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;

Whereas, the Legislature has enacted legislation, codified as Texas Health and Safety Code, Chapter 366, to eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems;

Whereas, Chapter 366 of the Texas Health and Safety Code authorizes a local governmental entity to implement and enforce rules to regulate the use of on-site sewage disposal systems in its jurisdiction;

Whereas, the use of on-site sewage facilities within the jurisdiction of the Galveston County Health District (Health District) is or may cause pollution or is or may injure the public health; and

Whereas, notice was given of a meeting and public hearing to determine whether the Galveston County Health District should enact an order regulating the use of on-site sewage facilities in the jurisdiction of the Health District;

Whereas, said meeting and public hearing were held in accordance with the notice thereof, and the evidence and arguments there presented have been considered by the Galveston County Health District; and

Whereas, the Galveston County Health District 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 within the jurisdiction of the Galveston County Health District.

NOW THEREFORE, THIS ORDER OF THE GALVESTON COUNTY HEALTH DISTRICT ADOPTING RULES FOR ON-SITE SEWAGE FACILITIES, ENTITLED ON-SITE SEWAGE FACILITIES, IS HEREBY ADOPTED AS FOLLOWS:

TERMS:

- 1. Recitals.** The Recitals set forth above are true and correct.
- 2. Conflicts.** All prior orders or parts of orders of the Galveston County Health District (Health District) not consistent with or in conflict with the provisions of this Order are hereby repealed.

3. Adopting Texas Health & Safety Code Chapter 366. This Order hereby adopts Chapter 366 of the Texas Health & Safety Code, as amended, entitled On-Site Sewage Disposal Systems. The Health District 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 and Chapters 7 and 37 of the Texas Water Code (TWC) and associated rules referenced in Section 7 of this Order.

4. Area of Jurisdiction. This Order applies to all areas lying within the jurisdiction of the Health District, which includes those incorporated cities or towns that have executed intergovernmental contracts with the Health District by and through its governing body, the Galveston County United Board of Health.

5. On-Site Sewage Facility Rules. Any owner of a building discharging sewage into an on-site sewage facility must comply with this Order. All permits issued under this Order must also comply with the Rules adopted in Section 6 of this Order.

6. On-Site Sewage Facility Rules Adopted. The Rules, Title 30 Texas Administrative Code (T AC) Chapter 285 and Chapter 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage systems are hereby adopted, and all officials and employees of the Galveston County Health District having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

7. Incorporation by Reference. The Rules, 30 T AC Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of this Order. A copy of the current Design Criteria is attached to this Order as Appendix I.

8. Amendment for More Stringent Rules. The Galveston County Health District, wishing to adopt more stringent rules for its On-site Sewage Facilities Order understands that the more stringent conflicting local rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirement. The more stringent rules adopted by the Galveston County Health District are:

a. All on-site sewage facilities regardless of the size of the property on which they are installed must be permitted by the Health District.

b. All construction of any type of on-site sewage facility shall be by a Registered Installer. There shall be no property owner/homeowner installations unless the property owner/homeowner is also a Registered Installer.

c. Any single family dwelling, commercial or institutional facility, multi-unit residential development, recreational vehicle park or any other structure occupied any part of the day or night shall be connected to an on-site sewage facility or other approved method of wastewater treatment and disposal.

d. The groundwater evaluation performed in association with any site evaluation for subsurface OSSF systems proposed for installation on Galveston Island or Bolivar Peninsula, must be evaluated for accuracy by a Health District Designated Representative prior to construction authorization being issued.

A soil pit, needed for the evaluation, must be prepared by the property owner or owner's agent to the specifications required by the Health District in the area of the proposed disposal field. An evaluation fee, set by the Health District, must be paid prior to Health District staff performing the evaluation.

9. Duties and Powers. The Office of Environmental Health Services of the Galveston County Health District is herewith declared the designated representative for the enforcement of this Order. The individuals who are the designated employees working in this program must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the Designated Representative of the Galveston County Health District.

10. Fees. OSSF fees required for the enforcement of this Order, other than the On-Site Wastewater Research Council Fee, shall be set by the Galveston County Health District and all fees shall be made payable to the Galveston County Health District. A list of approved OSSF fees is attached as an addendum to this Order.

11. Appeals

a. Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Chief Executive Officer of the Galveston County Health District. Any such appeal shall be submitted in writing within ten days of the action or decision being appealed. The Chief Executive Officer, or his designee, will then appoint a hearing officer to hear the appeal.

b. Hearings. The hearings provided for in this Order at the request of an aggrieved party shall be conducted by a hearing officer designated by the Galveston County Health District at a time and place designated by the hearing officer. Based on the evidence presented at such hearing, the hearing officer shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the aggrieved party and regulatory authority by the hearing officer. The hearing officer may assess administrative hearing costs in the amount of one hundred dollars (\$100.00) against the nonprevailing party.

12. Penalties. The designated representative may routinely inspect on-site sewage facilities to assure continued compliance with all applicable Rules.

- a.** This Order adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which include but are not limited to those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapter 7, 26 and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.
- b.** A person commits an offense whenever an act is prohibited or is made or declared to be unlawful, or whenever in this Order the doing of an act is required or the failure to do an act is declared to be unlawful. Each day of a continuing violation is a separate offense.
- c.** Any offense under this Order or of a regulation adopted by this Order is a Class C Misdemeanor unless otherwise enhanced.

13. Severability. It is hereby declared to be the intention of the Galveston County United Board of Health of the Galveston County Health District that if any phrase(s), clause(s), sentence(s), paragraph(s), or section(s) 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 Galveston County United Board of Health without incorporation into this Order of such unconstitutional phrases, clause, sentence, paragraph, or section.

14. 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.

IT IS SO ORDERED.

PASSED AND APPROVED the 25th day of August, 2004, and amended on the second reading on this the 21st day of December 2005.

Approved:

Signature on file

John A. Zendt

Chairman,

Galveston County United Board of Health

Signed before me this 21 day of December, 2005.

Nancy E. Morecraft

Signature on file

Notary Public for the State of Texas