

First Reading
_____, 19 __

ORDINANCE NO. 93-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BEACH CITY, TEXAS, ADOPTING RULES FOR THE CITY OF BEACH CITY, TEXAS FOR THE REGULATION, LICENSING, AND INSPECTION OF ON-SITE SEWAGE FACILITIES WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF BEACH CITY, TEXAS

WHEREAS, the Texas Water Commission has established construction standards 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 disposal 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 meeting and public hearing to determine whether the City Council of the City of Beach City, Texas, should enact an ordinance controlling or prohibiting the installation or use of on-site sewage facilities in the City of Beach City, Texas; and

WHEREAS, said meeting and public hearing were held in accordance with the notice thereof, and the evidence and arguments there presented were considered by the City Council of the City of Beach City, Texas; and

WHEREAS, the City Council of the City of Beach City, Texas, finds that the use of on-site sewage facilities in the City of

Beach City, Texas, is causing or may cause pollution, and is injuring or may injure the public health: and

WHEREAS, the City Council of the City of Beach City, Texas, has considered the matter and deems it appropriate to enact an Ordinance adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in the City of Beach City, Texas:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEACH CITY, 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 the City of Beach City, Texas is causing or may cause pollution or is injuring or may injure the public health.

SECTION 3. THAT the City Council desires to adopt an Ordinance of the City of Beach City, Texas, entitled "On-site Sewage Disposal," which shall read as follows:

SECTION 4. CONFLICTS.

All Ordinances or parts of Ordinances of the City of Beach City, Texas, not consistent with or in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. ADOPTING CHAPTER 366.

The City of City of Beach City, Texas, clearly understanding the technical standards, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, does adopt and will fully enforce Chapter 366 of the Texas Health and Safety Code.

SECTION 6. AREA OF JURISDICTION.

The Rules adopted by this ORDINANCE shall apply to all of the incorporated area of the City of Beach City, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Where a public sanitary sewer is not available, any structure discharging sewage into an on-site sewage facility within the jurisdictional area of the City of Beach City, Texas, must comply with the Rules adopted in Section 8 of this Ordinance.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules ("Construction Standards For On-Site Sewage Facilities" and Administrative Rules 31 TAC 285.11 - 285.18) attached hereto, promulgated by the Texas Water Commission for on-site sewage systems are hereby adopted, and all officials and employees of the City of Beach City, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

The City Secretary of the City of Beach City, Texas, or any person designated by City Council is herewith declared the designated representative for the enforcement of these rules within its jurisdictional area. The designated representative shall have the following duties and concomitant powers:

1. To enforce these Rules and to make appropriate recommendations to proper city officials when instances of noncompliance with these Rules have been determined.
2. To make statutorily mandated inspections of proposed, new and existing on-site sewage facilities.

3. To collect fees set by the authorized agent as necessary to recover the reasonable costs incurred in meeting the requirements of these Rules.

4. To make semi-annual reports to the authorized agent on all actions, including legal actions, taken concerning these Rules.

5. To perform all other duties necessary to meet the requirements of these Rules.

SECTION 9. COLLECTION OF FEES

All fees collected for permits and for inspections shall be made payable to the City of Beach City, Texas.

SECTION 10. LICENSE TO OPERATE.

Each new on-site sewage facility shall be inspected and approved by the designated representative prior to the final covering of the facility.

1. The applicant or registered installer shall notify the designated representative that an inspection is desired at least (5) working days prior to the need for inspection.

2. The applicant or registered installer shall provide whatever reasonable assistance the designated representative requests in order to make the inspection.

3. The applicant or registered installer must be present at the time of the inspection for that facility.

Any person owning or controlling the property upon which a sewage treatment and disposal system is installed shall be responsible for the following system maintenance.

1. Sewage treatment and disposal systems shall be maintained at all times to prevent seepage or discharge of sewage or effluent to the surface of the ground or to surface waters.

2. Sewage treatment and disposal systems shall be checked, and the contents of the septic tank removed, periodically to ensure proper operation of the system.

3. All mechanical components shall be maintained functional at all times.

Maintenance Contracts shall be required for the following systems:

1. All systems utilizing pumps or siphons (such as surface irrigation and low pressure dosing systems):

2. Filtration systems:

3. Aerobic treatment units

4. Drip emitter systems and

5. Any other systems as required by the City of Beach City, Texas.

A contract shall be executed between the system owner and a maintenance company prior to the issuance of a License to operate. The contract shall include:

1. Specific requirements for maintenance and operation;

2. Responsibilities of the owner and system operator; and

3. Provisions that the contract shall be in effect for as long as the system is in use, and other requirements for the continued proper performance of the system.

Maintenance of the on-site system shall be performed by the maintenance company at the frequency specified for that

particular system. The maintenance company shall report the results of their maintenance findings to the designated representative at the specified reporting frequency or whenever an inspection is necessary. When the maintenance findings indicate the need for a system repair, the maintenance company shall notify the designated representative within 48 hours in order to obtain a permit.

1. The maintenance company shall be responsible for assuring routine maintenance procedures in accordance with the conditions of the License to Operate and the contract.

2. The designated representative shall routinely review the performance and operation reports submitted by the maintenance company and shall perform an on-site inspection of that system if there is reason to believe that the submitted report is in error or fraudulent.

SECTION 11. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the City Council of the City of Beach City, Texas.

SECTION 12. ENFORCEMENT.

The designated representative may routinely inspect on-site sewage facilities to assure continued compliance with these Rules.

The designated representative shall inspect any on-site system that is believed to be causing pollution, a threat to the public health, or nuisance conditions, or illegally installed or to be altered without complying with these Rules based on a

creditable complaint or other information available and may inspect any new on-site sewage facility should the conditions existing at the time of licensing be found to have changed. If upon inspection, it is found that pollution, a threat to public health, or nuisance condition occurring, or an unpermitted installation or alteration was performed, the owner of the on-site sewage facility will be notified in writing and include what problems must be remedied in order to achieve compliance, and set a reasonable amount of time to achieve compliance. The on-site sewage facility shall be reinspected at the expiration of the allotted time.

1. If the facility is found to be compliant, a license therefore may be issued or the existing license may be modified.

2. If the facility is found to be noncompliant, appropriate enforcement shall be taken.

SECTION 13. PENALTIES.

The City of Beach City, Texas, adopts the criminal penalties provisions as set forth in the Section of 366.091 of the Texas Health and Safety Code and/or any other such penalties that may be provided by State Law. Each day of a continuing violation is a separate offense and is punishable as such. The penalty becomes effective upon filing the complaint in Municipal Court. Each day the violation occurs must be filed in Municipal Court as a separate offense.

SECTION 14. EMERGENCY REPAIR.

An emergency repair to an on-site sewage facility without a permit is not an offense under these Rules if the following

procedures are carried out:

1. The repair is made for the purpose of abatement of an immediate dangerous and serious health hazard;

2. That said repair does meet minimum state construction standards;

3. That said repair does not constitute an alteration of the on-site system;

4. That notification of such repair, including a detailed description of the method and materials used in said repair, is made to the authorized agent within 48 hours of the date of the repair; and

5. That said repair must be inspected for compliance with the state's construction standards.

SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the City Council of the City of Beach City, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance 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 ordinance, since the same would have been enacted by the City Council without incorporation in this ordinance of such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 16. EFFECTIVE DATE

This Ordinance 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 Water Commission.

AND IT IS SO ORDAINED:

PASSED AND APPROVED THIS 24th **DAY OF** August, 1993.

ATTESTED:

Margaret A. Amici
CITY SECRETARY

(SEAL)

APPROVED:

J. E. Handridge
MAYOR