

ORDINANCE NO. 2004-1

ON-SITE SEWAGE FACILITIES

AN ORDINANCE OF THE CITY OF BEACH CITY, TEXAS, ADOPTING RULES FOR THE INSTALLATION, REPAIR, MODIFICATION OR USE OF ON-SITE SEWAGE FACILITIES AS PROVIDED BY THE TEXAS HEALTH AND SAFETY CODE, CHAPTER 366, PROVIDING FOR ENFORCEMENT OF THESE RULES BY IMPOSITION OF A CRIMINAL PENALTY AND PROVIDING FOR AN EFFECTIVE DATE THEREOF

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 the Texas Health and Safety Code, Chapter 366, which authorizes a local government to regulate the installation, repair, modification or 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 City Council of the City of Beach City, Texas should enact an Ordinance controlling or prohibiting the installation, repair, modification or use of on-site sewage facilities in 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 the installation, repair, modification or use of 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 ORDERED 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 an Ordinance of the City of Beach City, Texas be adopted and entitled "ON-SITE SEWAGE FACILITIES", which shall read as follows:

AN ORDINANCE ENTITLED "ON-SITE SEWAGE FACILITIES":

SECTION 4. CONFLICTS.

This Ordinance hereby repeals and replaces any other On-site Sewage Facility Ordinances for the City of Beach City including but not limited to Ordinance No. 97-5.

SECTION 5. CHAPTER 366.

The City of Beach City, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating the installation, repair, modification or use of 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 Ordinance.

SECTION 6. AREA OF JURISDICTION.

- (A) The Rules shall apply to all the area lying within the incorporated limits of the City of Beach City, Texas.
- (B) These Rules shall apply to those incorporated cities or counties that have or may in the future execute intergovernmental contracts with the City of Beach City, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for the installation, repair, modification or use of 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, Title 30 Texas Administrative Code (TAC) §285.1-§285.91 and TAC 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for the installation, repair, modification or use of on-site sewage facilities 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.

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 is attached to these Rules as Appendix I.

SECTION 10. DUTIES AND POWERS.

The OSSF Inspector of the City of Beach City, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 11. PERMIT FEES.

- A. All fees collected for permits and/or inspections shall be made payable to City of Beach City, Texas.
- B. Fees shall be in such amounts as the City Council may establish from time to time.

SECTION 12. 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 13. PENALTIES.

This Ordinance 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 14. 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 15. 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 Commission on Environmental Quality.

AND IT IS SO ORDERED:

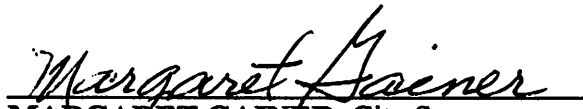
PASSED AND APPROVED this 24th day of August, 2004.

(SEAL)

APPROVED:


GUIDO PERSIANI, MAYOR

ATTESTED:


MARGARET GAINER, City Secretary

APPROVED AS TO FORM:


DANIEL R. JACKSON, City Attorney

STATE OF TEXAS
COUNTY OF CHAMBERS
CITY OF BEACH CITY

I, THE UNDERSIGNED City Secretary of the City of Beach City, Texas, hereby certify that the foregoing is a true and correct copy of Ordinance No. 2004-1 being introduced by Alderman Standridge for approval and adoption; Alderman Walker seconded the approval and adoption and Ordinance No.2004-1 was approved and adopted unanimously on the 24th day of August by the City Council of Beach City, Beach City, Texas, held at the West Chambers County Community Building in said City, on the 24th day of August, which Ordinance No. 2004-1 is on file at the City Secretary's Office for Public Record.

Given under my hand and seal of the said City this 5th day of October, 2004.

Margaret Gainer
City Secretary
Beach City, Texas