

**COMMISSIONERS' COURT ORDER #0-07-02  
ORDER ADOPTING RULES OF ARANSAS COUNTY FOR  
ON-SITE SEWAGE FACILITIES**

BY THE COMMISSIONERS' COURT OF ARANSAS COUNTY, TEXAS, ADOPTING THE RULES OF ARANSAS COUNTY FOR ON-SITE SEWAGE FACILITIES.

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

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

WHEREAS, the Commissioners' Court of Aransas 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 Aransas County, Texas.

NOW, THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED BY THE COMMISSIONERS' COURT OF ARANSAS 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 Aransas County, Texas, is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Order for Aransas 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 Aransas County.

SECTION 5. CHAPTER 366.

The County of Aransas, 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 Aransas County, Texas, 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 that have executed intergovernmental contracts with Aransas County, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of Aransas 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.

The County of Aransas, 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 Aransas County, Texas:

(A) All construction of, alteration, extension or repair to, on-site sewage facilities shall be permitted and inspected, regardless of the size of the tract of land.

(B) All construction of any type of on-site sewage facility can be performed by only a licensed installer. No property or homeowner will be allowed to do the construction unless they are a licensed installer.

(C) All contracted maintenance of an on-site sewage disposal system using aerobic treatment shall be conducted by a TCEQ registered certified maintenance provider. There shall be no homeowner/property owner maintenance of an on-site sewage disposal system using aerobic treatment.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of Aransas 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 Aransas 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 Aransas 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.

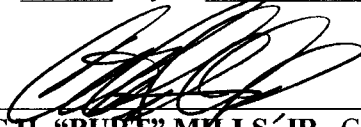
It is hereby declared to be the intention of the Commissioners' Court of Aransas County, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order should be declared unconstitutional by the 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.

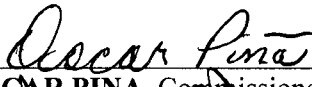
SECTION 16. EFFECTIVE DATE.

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.

AND IT IS SO ORDERED:

PASSED AND APPROVED this 8th day of October, 2007.

  
C.H. "BURK" MILLS, JR., County Judge

  
OSCAR PINA, Commissioner, Precincts 1-1A

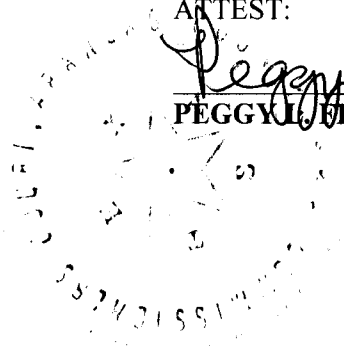
  
CHARLES SMITH, Commissioner, Precinct 3

  
LESLIE CASTERLINE, Commissioner, Pct. 2

  
HOWARD MURPH, Commissioner, Pct. 4- 4A

ATTEST:

  
PEGGY L. FRIEBELE, County Clerk



## **Guidance Document for Designated Representatives Effects of HB 2482**

During the 2007 legislative session, HB 2482 was passed. The legislation amended and repealed certain sections of Chapter 366 of the Health and Safety Code covering maintenance, gave new directives regarding homeowner maintenance, and allowed the TCEQ to implement licensing and training requirements for those who maintain on-site sewage disposal systems for compensation.

The important effects of the legislation are as follows:

### Homeowner Maintenance

- *As of September 1, 2007, all homeowners will be allowed to maintain their own system, with no required training, unless the local order/ordinance prohibits homeowner maintenance. Additionally, these homeowners are neither required to report testing results to the permitting authority nor required to notify the permitting authority if they decide to maintain their own system.*
- *In a county with population of at least 40,000 people, homeowners maintaining their own system who violate any rule, statute 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 notice of the violation.*
- *In a county with population of less than 40,000 people, homeowners will be allowed to maintain their own system, even if the homeowners violate a rule, statute, or permit. If homeowners violate the rules, they are subject to the normal enforcement process, but they cannot be required to enter into a contract for maintenance of their system.*
- *Designated Representatives may inspect any system at any time. Effective September 1, 2007, inspections can be required more than once every five years.*

### Maintenance Providers and Maintenance Companies

- *The rules regarding maintenance providers and maintenance companies will not change on September 1, 2007. The TCEQ will evaluate and potentially revise the rules where there are issues of maintenance licensing and training. Should the rules be revised, the changes would not become effective until the rules are adopted and become effective.*

In summary, the legislation means that on September 1, 2007, all single-family homeowners will be allowed to maintain their own system, without training, unless they live in an area where the Authorized Agent's order prohibits the practice. In counties with a population of 40,000 or more, homeowners who elect to maintain their own system may lose that right if they violate the rules. Under this legislation, homeowners in counties with a population less than 40,000 do not lose their right to maintain their system but are still subject to the TCEQ's enforcement process. Finally, there will be no changes on September 1, 2007 regarding license requirements for maintenance companies and maintenance providers.