

**ORDINANCE NO. 20131003-097**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 15-5 RELATING TO THE REGULATION OF ON-SITE SEWAGE FACILITIES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** City Code Chapter 15-5, Article 1 (*Regulation of On-Site Sewage Facilities*) is amended to read:

***ARTICLE 1. REGULATION OF ON-SITE SEWAGE FACILITIES.***

**Division 1. General Provisions.**

**§ 15-5-1 APPLICABILITY.**

This chapter applies to a structure that discharges sewage into an on-site sewage facility within:

- (1) the full purpose boundaries of the City; and
- (2) an area annexed in the limited purpose boundaries of the City where the City's health and safety ordinances apply.

**§ 15-5-2 DEFINITIONS.**

Words and phrases in this chapter have the same meaning they have in Chapter 366 (*On-Site Sewage Disposal Systems*) of the Texas Health and Safety Code and in Chapter 285 (*On-Site Sewage Facilities*) of Title 30 of the Texas Administrative Code. The following terms also are applicable to this chapter:

- (A) BARTON SPRINGS SEGMENT means all watersheds that contribute recharge to Barton Springs, including those portions of the Barton, Williamson, Slaughter, Onion, Bear and Little Bear Creek watershed located in the Edwards Aquifer recharge or contributing zones.
- (B) BARTON SPRINGS SEGMENT OF THE EDWARDS AQUIFER CONTRIBUTING ZONE means all land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone.
- (C) CONTROL ELEVATION means the 492.8-foot mean sea level elevation contour around Lake Austin which constitutes the normal water level of the lake.

- (D) DESIGNER means the property owner, installer, professional engineer, or professional sanitarian who prepares the planning materials for an OSSF.
- (E) DIRECTOR means the director of Austin Water or their Designee.
- (F) EDWARDS AQUIFER CONTRIBUTING ZONE means all land generally to the west and upstream of the Edwards Aquifer recharge zone that provides drainage into the Edwards Aquifer recharge zone. The contributing zone is identified as a geographic area delineated on official maps located with the City.
- (G) EDWARDS AQUIFER RECHARGE ZONE means, in addition to the area defined in 30 TAC §285.2, all land over the Edwards Aquifer that recharges the aquifer, as determined by the surface exposure of the geologic units comprising the Edwards Aquifer, including the areas overlain with quaternary terrace deposits. The recharge zone is identified as a geographic area delineated on official maps located with the City.
- (H) INDICATIONS OF GROUNDWATER means physical characteristics of the soil that are determined by the City to be evidence of a seasonally saturated zone (typically, the presence of gray redoximorphic depletions with contrasting masses, pore linings, or concretions), or observations of the water table.
- (I) LOW-PRESSURE DOSING means the pumping of effluent under low pressure into perforated piping in a drainfield to uniformly distribute the effluent within the drainfield.
- (J) NITROGEN REDUCTION SYSTEM means a treatment system to be used for nitrogen reduction that is verified through the Environmental Protection Agency/NSF International Environmental Technology Verification-Protocol, or a treatment system that can demonstrate (by actual data or established design criteria) total nitrogen effluent levels of equal to or less than 20 mg/L as an annual average.
- (K) OSSF means an on-site sewage facility or disposal system.
- (L) WATER SAVING DEVICES means plumbing fixtures that comply with ANSI A112.18-1-Plumbing Fixtures (Flow Capacity) or Chapter 372 of the Health and Safety Code of the State of Texas, whichever is more stringent.

### **§ 15-5-3 ADOPTION OF STATE LAW, RULES, AND DESIGN CRITERIA.**

This chapter adopts and incorporates by reference:

- (1) Chapter 366 (*On-Site Sewage Disposal Systems*) of the Texas Health and Safety Code;
- (2) Chapter 285 of Title 30 (*On-Site Sewage Facilities*) of the Texas Administrative Code; and
- (3) the Design Criteria For On-Site Sewage Facilities promulgated by the Texas Commission on Environmental Quality.

#### **§ 15-5-4 AUTHORITY.**

- (A) A City official or employee with a duty under Chapter 366 (*On-Site Sewage Disposal Systems*) of the Texas Health and Safety Code or Chapter 285 (*On-Site Sewage Facilities*) of Title 30 of the Texas Administrative Code is authorized to perform that duty.
- (B) The [~~director of the Austin Water Utility~~] Director is the designated representative to enforce this chapter.
- (C) A [~~Water Utility~~] City employee who exercises the authority of the designated representative must be approved and certified by the Texas Commission on Environmental Quality.

#### **§ 15-5-5 RELINQUISHMENT OF REGULATORY AUTHORITY.**

The City shall comply with Section 285.10(d) (*Delegation to Authorized Agents*) of Title 30 of the Texas Administrative Code before it ceases to regulate on-site sewage facilities within its jurisdiction.

#### **§ 15-5-6 PAYMENT OF FEES.**

A person shall pay a fee assessed under this chapter to the City.

#### **§ 15-5-7 APPEAL.**

A person aggrieved by an action or decision of the designated representative may appeal the action or decision to the [~~City Council~~] Director. A person may appeal a decision of the Director by following the procedures set forth in Section 15-9-191(D).

## **§ 15-5-8 COLLECTION OF FEES.**

All fees collected for permits and/or inspections shall be made payable to the City of Austin, Texas. A fee of \$10 will also be collected for each on-site sewage facility permit to be paid to the credit of the TCEQ Water Resources Management Account as required by the Texas Health & Safety Code, Chapter 367.

## **[§ 15-5-8 PENALTIES.**

~~This chapter adopts and incorporates applicable state law penalty provisions related to on-site sewage facilities, including those prescribed by:~~

~~(A) Chapter 341 (*Minimum Standards of Sanitation and Health Protection Measures*) and Chapter 366 (*On Site Sewage Disposal Systems*) of the Texas Health and Safety Code;~~

~~(B) Chapter 26 (*Water Quality Control*) of the Texas Water Code; and~~

~~(C) Chapter 285 (*On Site Sewage Facilities*) of Title 30 of the Texas Administrative Code.]~~

## **Division 2. Regulations and Permitting Requirements.**

## **§ 15-5-10 OSSF REGULATIONS.**

(A) A designer shall inspect the installation of the OSSF and provide written certification to the City that the OSSF was installed in accordance with the approved planning materials. Designer certification and as-built plans must be submitted to the City prior to the final inspection.

(B) The Director may from time to time administratively adopt non-substantive requirements for applications, permitting, licensing, and inspections for OSSFs.

(C) For a property served by an existing holding tank, when other methods of sewage disposal become feasible in the opinion of the Director, the property is required to connect to the feasible alternative, within 90 days of written notice by the City. Examples of feasibility include, but are not limited to, the development of a private or public wastewater collection system within 100 feet in horizontal distance of the property or technological advancements to OSSFs that allow an alternative treatment and disposal system to be installed on the property.

(D) This subsection establishes sizing requirements for lots using OSSFs.

- (1) Subdivisions of single-family dwellings platted or created after October 14, 2013, and located within the Edwards Aquifer Recharge Zone or the Edwards Aquifer Contributing Zone, must have lots of:

    - (a) at least 1 acre if served by public water system, or
    - (b) at least 2 acres if served by private water supply.
  - (2) Subdivisions of single-family dwellings platted or created after October 14, 2013 that are located within all other areas not subject to Paragraph (D)(1) of this subsection must have lots of:

    - (a) at least 0.75 acres if served by public water system, or
    - (b) at least 1 acre if served by private water supply.
  - (3) When more than one residence with separate OSSFs are proposed on a single tract of land, that land must meet the minimum lot size requirements for the number of residences or structures.
- (E) This subsection establishes requirements for the maintenance of OSSFs.
- (1) At the end of the initial two-year service policy, an owner of a single-family owner-occupied residence (homeowner) utilizing an OSSF that requires maintenance, as specified in Table XII of 30 TAC Chapter 285, may only perform maintenance on the OSSF if they have:

    - (a) taken training and passed the test required for a TCEQ registered maintenance technician, as required in 30 TAC Chapter 30, Section 30.245(b); or
    - (b) taken an equivalent training specifically for homeowners, as determined by the City.
  - (2) The results of the test and proof of attendance at the training must be provided to the City.
  - (3) Within 30 days of receiving a written request from the City, homeowners who own an OSSF must inform the City whether they will do the maintenance themselves or will have it done by a maintenance provider.
  - (4) Homeowners that performs maintenance on their own OSSF must submit to the City the same reports that are required for maintenance providers by the TCEQ.

- (4) Homeowners that performs maintenance on their own OSSF must submit to the City the same reports that are required for maintenance providers by the TCEQ.
- (5) Within one year of receiving a written notice from the City, a homeowner who has previously maintained an existing OSSF that requires a maintenance affidavit must comply with the maintenance and reporting requirements of 30 TAC, Chapter 285, even if compliance was not previously required.
- (6) A copy of the results of all testing related to the maintenance of OSSFs, including analytical results, must be provided to the City.
- (F) This subsection establishes additional design criteria.

  - (1) A spray irrigation system may only be used for a single-family residence. Spray irrigation may only be conducted during nighttime hours (after 12:00 AM and before 5:00 AM). The minimum setback to a property line or the residence from the edge of the spray area shall be 25 feet for a spray irrigation system.
  - (2) Soil Absorption Systems following septic tank treatment require a minimum depth to Indications of Groundwater of 36 inches, measured from the bottom of the media or the bottom of the excavation, whichever is applicable. The use of drip irrigation or Low-pressure Dosing after septic treatment reduces this vertical separation requirement to 24 inches.
  - (3) An impervious liner must be used between the excavated surface and an evapotranspiration system where 36 inches of suitable soil (as referenced in 30 TAC §285.91 Table XIII) does not exist between the excavated surface and Indications of Groundwater.
  - (4) A drainfield may not be installed within the Edwards Aquifer Recharge Zone, as it is defined in Section 15-5-2, unless it follows a City-approved Nitrogen Reduction System.
  - (5) If a site is not suitable for a standard absorption system based on the criteria of 30 TAC §285.91 (Table V) and the additional vertical separation criteria of this ordinance, a City-approved Nitrogen Reduction System must be installed within the Barton Springs Segment of the Edwards Aquifer Contributing Zone.

- (6) A drainfield may not be installed within 75 feet of the Control Elevation of Lake Austin unless it follows a City-approved Nitrogen Reduction System.
- (7) All aerobic treatment units must be installed with a pretreatment tank or chamber sized at a capacity of at least one-half the average daily design flow. The pretreatment unit must also be designed in accordance with the requirements of 30 TAC §285.32.
- (8) Chipped tires are not a permitted drainfield media.
- (9) Pump tanks must be large enough to provide at least one day's total average flow between the inlet flow line and the alarm-on level (one day of reserve capacity).
- (10) All aerobic treatment units must be buried in the ground with access ports at ground level or above.
- (11) An OSSF for nonresidential sites must dedicate twice the proposed area required for the proposed OSSF for future drainfield expansion unless the Director determines otherwise upon application by the property owner.
- (12) An OSSF for nonresidential sites must install a flow meter to verify flow rates to the system unless the property owner requests an exemption for the property, and the requested exemption is approved by the Director.
- (13) The portion of an irrigation system which irrigates a drainfield area shall be valved in order to be isolated from the remainder of the irrigation system. This is necessary in order to prevent over-saturation of a disposal system.
- (14) When a 10-foot separation between water irrigation lines and OSSF components cannot be obtained, the irrigation systems must be protected by a backflow prevention assembly acceptable to the City to protect the system's water source from contamination. The backflow prevention assembly must be placed at the head of the irrigation system.
- (G) This subsection establishes additional plan requirements.
  - (1) The installer of an OSSF must follow the approved permitted plan. Any deviation from the approved permitted plan by the installer requires the prior approval of both the system Designer and the City.

- (2) The Designer of any professionally designed system will provide both the property owner and the City with an operation and maintenance guide specific for that system. The guide will be reviewed and approved for adequacy by the City prior to the issuance of the Permit to Construct.
- (3) All profile holes will be required to have a depth of 36 inches below the bottom of the proposed excavation depth or to a restrictive horizon, whichever is less. Profile holes must be as specified: minimum two feet wide, to the proper depth, and terraced every two feet for access. The soil profile must be examined by either a site evaluator or a professional engineer to determine if there are Indications of Groundwater within 36 inches of the bottom of the excavation.

#### **§ 15-5-11 PERMITTING.**

- (A) If a property owner has an OSSF that was installed before December 1, 1983, the owner must obtain a new permit before adding square footage to any structure served by the OSSF. The OSSF must be upgraded to meet all applicable requirements of the current OSSF regulations.
- (B) Regardless of the size of property, all property owners must obtain a Permit to Construct from the City before installing an OSSF.
- (C) A Permit to Construct must be obtained from the City prior to commencing the installation of, or a modification or repair of (excluding emergency repairs as defined in 30 TAC §285.35) an OSSF.
- (D) Any permit issued for an on-site sewage facility within the jurisdictional area of the City must comply with this chapter.
- (E) If a Permit to Construct has not been issued within twelve months of the original submission date of an OSSF application, the application will expire and a new application will be required.
- (F) A Permit to Construct will expire after twelve months from the date of original issuance or when a License to Operate has been issued, whichever occurs first. The City will conduct construction inspections as specified in the Permit to Construct.
- (G) The domestic use of less than 400 gallons per day of graywater will be subject to the permitting and inspection requirements of §25-12 of the City of Austin Code.



- (H) Applicants shall be responsible for complying with all other City regulations.

**§ 15-5-12 WATER CONSERVATION.**

- (A) Water Saving Devices will be required in all new building construction as part of the OSSF design.
- (B) An alteration of an OSSF to current standards will require that the plumbing fixtures in the building be replaced with Water Saving Devices.
- (C) Once installed, it is an offense to replace any of these Water Saving Devices unless an equal or greater water conservation device is used.

**Division 3. Enforcement.**

**§ 15-5-14 OFFENSE.**

- (A) A property owner commits an offense if the property owner fails to be in compliance with this chapter for an OSSF in operation on or before the date specified by the Director in the Director's written notice of the defect.
- (B) A property owner commits an offense if the property owner fails to stop the exposure of sewage and to remediate the site within 24 hours after the property owner receives notice from the City of exposed sewage on their property.
- (C) Each day or part of the day during which non-compliance occurs constitutes a separate offense.

**§ 15-5-15 CRIMINAL PENALTY.**

A person who violates this chapter commits an offense, punishable under Section 1-1-99 (Offenses; General Penalty) by a fine not to exceed \$500.

#### **§ 15-5-16 CIVIL PENALTY.**

- (A) If a person violates this chapter or fails to take action to comply with this chapter, or federal, state, or local regulations, the City Attorney may initiate a suit for:
- (1) civil penalties, authorized under Texas Local Government Code Section 54.017(Civil Penalty);
  - (2) injunctive relief;
  - (3) recovery of expenses, loss, or damage to City property or equipment; and
  - (4) other available relief.

#### **§ 15-5-17 CITY ACTION TO CORRECT VIOLATIONS.**

- (A) If sewage is exposed on the ground, or there is an immediate public health and safety issue identified by the Director, the Director is to notify and direct the property owner to repair or construct facilities to meet City requirements by a specific date. If the property owner does not repair or construct the facilities to meet City requirements on or before the date specified by the Director, the City may temporarily terminate water utility service and/or electric utility service until such time the Director determines the property owner is in compliance with this chapter.
- (B) If the property owner is served by a non-municipally owned water utility and/or electric utility provider, but located within the City's jurisdiction for this Chapter, these utility providers will temporarily terminate water utility service and/or electric utility service upon the request of the Director, and continue the temporary termination until the Director notifies the utility provider that the property owner has complied with this chapter.
- (C) Non-compliance with this chapter also may result in fines issued by City employees.

#### **§ 15-5-18 CUMULATIVE REMEDIES.**

The remedies authorized under this chapter are cumulative unless specifically prohibited by state or federal regulation.

## PART 2. RELINQUISHMENT OF ORDINANCE.

If the City Council of the City of Austin, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the City Council, as the authorized agent, and the TCEQ shall follow the procedures outlines in Title 30 Texas Administrative Code § 285.10 (d)(1) through (4).

After relinquishing its OSSF authority, the authorized agent understands that it may be subject to charge-back fees in accordance with Title 30 Texas Administrative Code § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

## PART 3. SEVERABILITY.

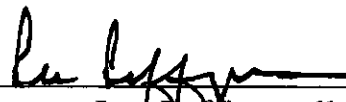
Any provision, section, sentence, clause, or phrase of this ordinance, or the application of the same to any person or set of circumstances, if for any reason held to be unconstitutional, void, invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby; it being the intent of the City Council of the City of Austin in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation of this ordinance.

**PART 4.** This ordinance takes effect on October 14, 2013.

## PASSED AND APPROVED

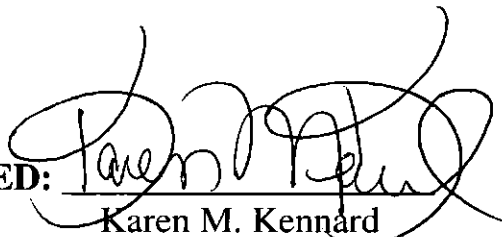
October 3, 2013

§  
§  
§



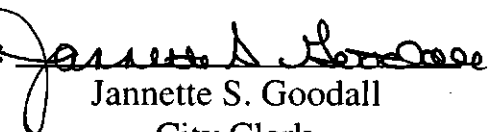
Lee Leffingwell  
Mayor

APPROVED:



Karen M. Kennard  
City Attorney

ATTEST:



Jannette S. Goodall  
City Clerk