



Water & Wastewater Commission Review and Recommendation

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| Commission Meeting Date: | June 13, 2018 |
| Council Meeting Date: | June 28, 2018 |
| Department: | Austin Water |
| Client: | Bart Jennings and Kevin Critendon |
| Agenda Item | |
| Approve an ordinance amending City Code Chapter 15-5 related to on-site sewage facilities and liquid waste hauling. | |
| Amount and Source of Funding | |
| N/A | |
| Purchasing Language: | N/A |
| Prior Council Action: | October 3, 2013- Council approved Ordinance No. 20131003-097, amending Chapter 15-5 of the Austin City Code related to on-site sewage facilities. |
| Boards and Commission Action: | June 13, 2018- To be reviewed by the Water and Wastewater Commission. |
| MBE/WBE: | N/A |

An on-site sewage facility (“OSSF”, a.k.a. septic system) is a system that collects, treats, and disposes of wastewater in which the amount of wastewater treated is less than 5,000 gallons per day, and the treatment and disposal systems are generally located on the same property that the wastewater is generated. Article 1 of Chapter 15-5 of the Austin City Code (“City Code”) establishes the requirements for property owners to design, construct, install, operate, and maintain on-site sewage facilities for the treatment and disposal of wastewater. The City adopted its current version of Chapter 15-5 in 2013. The City Code adopts by reference minimum state requirements established in Title 30, Chapter 285 of the Texas Administrative Code. Austin Water is the State’s authorized representative to manage the City’s OSSF program. The City’s jurisdiction includes its corporate limits and limited purpose areas annexed for public health and safety. The City’s jurisdiction currently contains approximately 3,100 OSSFs.

The City, similar to its neighboring governmental entities such as Hays County, has identified the need to adopt more stringent standards to better manage OSSFs within its jurisdiction. The proposed revisions correct administrative language, clarify maintenance requirements of homeowners and licensed professionals, and provide permitting and licensing flexibility to the City. These changes impact those OSSFs that have secondary and tertiary treatment requirements.

Article 2 of this Chapter 15-5 of the Austin City code establishes permitting, operating, inspecting and manifest documentation requirements applicable to transporters and generators of “hauled liquid waste.” Hauled liquid waste includes waste from OSSF, as well as waste from grease traps, grit traps, portable toilets and sludge from water and wastewater treatment plants.

Major amendments to Chapter 15-5 include:

- 1) Requires that Texas Commission on Environmental Quality (“TCEQ”) licensed professional maintenance providers maintaining advanced treatment OSSFs to register with the City. There is no registration fee.
- 2) Allows the City to suspend a TCEQ licensed maintenance provider’s City registration for six months for noncompliance with any of the following: 1) TCEQ license and administrative requirements, (2) TCEQ maintenance reporting requirements, (3) deadlines administratively established by the City, or (4) other non-compliance issues. A TCEQ licensed maintenance provider may not submit new or renewal contracts to the City while under suspension. The suspended provider may still provide maintenance for existing contracts within the City’s jurisdiction.
- 3) Requires that while on suspension, additional violations of regulatory codes and requirements will result in a registration revocation for a period of one-year. During that period, a licensed maintenance provider may not submit new or renewal contracts to the City while under registration revocation and must temporarily terminate all existing OSSF maintenance service contracts within the City’s jurisdiction. Homeowners maintaining advanced treatment OSSFs that continue to be in non-compliance will be required to contract with a TCEQ license professional maintenance provider.

- 4) Provides conditions for termination of licenses to operate an OSSF such as:
 - (a) the OSSF fails;
 - (b) the OSSF receives more wastewater than the amount approved in the license to operate;
 - (c) the structure served by the OSSF violates the terms of the license to operate;
 - (d) the property on which the OSSF is located is used for a purpose other than that described in the original construction permit application; and
 - (e) the OSSF is operated in a manner that does not conform to the design and the use approved by the license to operate.
- 5) Allows for a one-time, twelve-month extension to a permit to construct if Austin Water has conducted at least one construction inspection. Also, waives City re-permitting fees on unmodified permit resubmissions but still collects the required \$10 State Permit fee.
- 6) Provides a definition of permit required for liquid waste haulers, and clarifies the authority of Austin Water's Director to adopt and administer the applicable regulations, and eliminates confusion regarding the appeal of permit revocation decisions.
- 7) Modifies permit application and renewal process for liquid waste haulers and extends the maximum duration of a permit issued from one year to two years.
- 8) Allows the City, with reasonable advanced notice, to inspect a liquid waste hauler or otherwise gain access to a source of liquid waste at any reasonable time. This right of entry provision applies to the liquid waste hauler's premises, records or equipment.

City staff has obtained citizen input into the creation of the ordinance through two stakeholder meetings.

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 15-5 REGARDING
REGULATION OF ON-SITE SEWAGE FACILITIES AND LIQUID WASTE
HAULERS.

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

PART 1. City Code Section 15-5-1 (*Applicability*) is amended to read:

§ 15-5-1 APPLICABILITY.

This article [~~chapter~~] applies to a structure that discharges sewage into an onsite 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.

PART 2. City Code Section 15-5-2 (*Definitions*) is amended to read:

§ 15-5-2 DEFINITIONS.

Words and phrases in this article [~~chapter~~] have the same meaning they have in Chapter 341 (*Minimum Standards of Sanitation and Health Protection Measures*), Chapter 366 (*On-Site Storage 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 article [~~chapter~~]:

PART 3. City Code Section 15-5-3 (*Adoption of State Law, Rules and Design Criteria*) is amended to read:

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

This chapter adopts and incorporates by reference:

- (1) Chapter 341 (*Minimum Standards of Sanitation and Health Protection Measures*) of the Texas Health and Safety Code;
- (2) [~~4~~] Chapter 366 (*On-Site Sewage Disposal Systems*) of the Texas Health and Safety Code;
- (3) [~~2~~] Chapter 285 of Title 30 (*On-Site Sewage Facilities*) of Title 30 of the Texas Administrative Code; and

(4) [3] The Design Criteria for On-Site Sewage Facilities promulgated by the Texas Commission on Environmental Quality.

PART 4. City Code Section 15-5-4 (*Authority*) is amended to read:

§ 15-5-4 AUTHORITY.

(A) A City official or employee with a duty under Chapter 341 (*Minimum Standards of Sanitation and Health Protection Measures*), Chapter 366 (*On-Site Sewage Disposal Systems*) of the Texas Health and Safety Code and [ø] Chapter 285 (*On-Site Sewage Facilities*) of Title 30 of the Texas Administrative Code is authorized to perform that duty.

(B) The director is the designated representative to enforce this chapter.

(C) A City employee who exercises the authority of the designated representative under this article must be approved and certified by the Texas Commission on Environmental Quality.

PART 5. City Code Section 15-5-7 (*Appeal*) is amended to amend the title and to read:

§ 15-5-7 ADMINISTRATIVE HEARING [APPEAL].

A person aggrieved by an action or decision made by [ø] the designated representative under this article, may appeal the action or decision to the director no later than 30 days from the date of the action or decision. A person may appeal the decision of the director by requesting an administrative hearing pursuant to Section 15-9-193 [following the procedures set forth in Section 15-9-191(D)].

PART 6. Subsection E of City Code of 15-5-10 (*OSSF Regulations*) is amended to read:

§ 15-5-10 OSSF REGULATIONS.

(E) This subsection establishes requirements for the maintenance of OSSFs.

(1) Requirements for homeowners providing maintenance of OSSF:

~~[(1)]~~(a) 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)]~~(i) have taken the training [and passed the test] required for a TCEQ registered maintenance technician, as required in 30 TAC Chapter 30, Section 30.245 (b); or

1 ~~[(b)]~~(ii) have taken an equivalent training specifically for
2 homeowners, as determined by the City; and

3
4 (iii) are registered with the City as a Homeowner Maintenance
5 Provider.

6
7 ~~[(2) The results of the test and proof of attendance at the training must~~
8 ~~be provided to the City.]~~

9 ~~[(3) Within 30 days of receiving a written request from the City,~~
10 ~~homeowners who own an OSSF must inform the City whether they~~
11 ~~will do the maintenance themselves or will have it done by a~~
12 ~~maintenance provider.]~~

13 ~~[(4)]~~(b) Homeowners that perform maintenance on their own OSSF must
14 submit to the City the same reports that are required for licensed
15 maintenance providers by the TCEQ.

16
17 ~~[(5)]~~(c) Within one year of receiving a written notice from the City, a
18 homeowner who has previously maintained an existing OSSF that
19 requires a maintenance affidavit must comply with the
20 maintenance and reporting requirements of 30 TAC Chapter 285,
21 and this Subsection even if compliance was not previously
22 required.

23
24 ~~[(6)]~~(d) A copy of the results of all testing related to the maintenance of
25 OSSFs, including analytical results, must be provided to the City.

26
27 (e) Failure to comply with TCEQ's reporting requirements for TCEQ
28 licensed maintenance providers, as specified in 30 TAC Section
29 285.7 may result in the revocation of a homeowner's City
30 registration.

31
32 (f) A Homeowner Maintenance Providers whose registration has
33 been revoked must secure the services of a TCEQ licensed
34 maintenance provider within 30 days of the date of revocation.

35
36 (g) A Homeowner Maintenance Providers whose registration has
37 been revoked will not be allowed to apply for a new registration.

38
39 (2) Requirements for TCEQ licensed maintenance providers:

1 (a) In addition to the licensing requirements established in 30 TAC
2 Chapter 285, any TCEQ licensed maintenance provider who
3 works within the City's jurisdiction for OSSFs must be
4 registered as a Professional Maintenance Provider with the
5 City.

6 (b) City's registration issued to a Professional Maintenance
7 Provider is permanent unless it is suspended or revoked.
8

9 (3) Suspension and Revocation of Licensed Maintenance Providers City's
10 Registration:
11

12 A registration issued by the City may be suspended for failing to
13 comply with:
14

15 (i) requirements listed in Title 30 TAC Section 285.64
16 (a);
17

18 (ii) violating Title 30 TAC Section 285.65 (a) (1); or
19

20 (iii) failing to meet deadlines administratively
21 established by the City, or failing to resolve any
22 non-compliance.
23

24 (a) A licensed maintenance provider's registration may be
25 suspended for up to six calendar months.
26

27 (b) A licensed maintenance providers with a suspended
28 registration may not submit new or renewed maintenance
29 contracts to the City, and thus may not enter into new
30 service contracts during the suspension.
31

32 (c) A maintenance providers with a suspended registration
33 may continue to service existing customers for the
34 duration of the contract with the property owner.
35

36 (d) A licensed maintenance provider with a suspended
37 registration who submits a late or missing monitoring
38 reports may have the provider's registration revoked.
39

40 (e) A licensed maintenance providers whose registration is
41 revoked must immediately provide notice to each

customer and immediately cease providing maintenance service.

- (i) A licensed maintenance provider with a revoked registration may not submit new or renewed maintenance contracts to the City, and thus may not enter into new service contracts during the revocation.
- (j) A licensed maintenance provider whose registration is suspended or revoked may request an administrative hearing pursuant to Section 15-9-193.
- (k) A licensed maintenance provider with a revoked registration may apply for re-registration after one calendar year from the date of revocation.

PART 7. Subsection (F) of City Code Section 15-5-10 (*OSSF Regulations*) is amended to read:

§ 15-5-10 OSSF Regulations.

(F) This subsection establishes additional design criteria.

- (1) A spray irrigation 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-pressured dosing after septic treatment reduces this vertical separation requirements to 24 inches.
- (3) An impervious liner must be used between excavated surface and 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.

- 1 (4) A drainfield may not be installed within Edwards Aquifer Recharge
2 Zone, as it is defined in the Section 15-5-2₁[-] unless it follows a City-
3 approved nitrogen reduction system.
4
- 5 (5) If a site is not suitable for a standard absorption system based on the
6 criteria of 30 TAC § 285.91 (Table V) and the additional vertical
7 separation criteria of this ordinance, a City-approved nitrogen
8 reduction system must be installed within the Barton Springs Segment
9 of the Edwards Aquifer Contributing Zone.
10
- 11 (6) A drainfield may not be installed within 75 feet of the control
12 elevation of Lake Austin unless it follows a City-approved nitrogen
13 reduction system.
14
- 15 (7) All aerobic treatment units must be installed with a pretreatment tank
16 or chamber sized at a capacity of at least one-half the average daily
17 design flow or the minimum volume recommended by the aerobic
18 treatment unit manufacturer, whichever is greater. The pretreatment
19 unit must also be designed in accordance with the requirements of 30
20 TAC § 285.32.
21
- 22 (8) Chipped tires are not a permitted drainfield medium
23
- 24 (9) Pump tanks must be large enough to provide at least one day's total
25 average flow between the inlet flow line and the alarm-on level (one
26 day reserve capacity).
27
- 28 (10) All aerobic treatment units must be buried in the ground with access
29 ports at ground level or above.
30
- 31 (11) An OSSF for nonresidential sites must be dedicate twice the proposed
32 area required for the proposed OSSF for future drainfield expansion
33 unless the Director determines otherwise upon application by the
34 property owner.
35
- 36 (12) An OSSF for nonresidential sites must install a flow meter to verify
37 flow rates to the system unless the property owner requests an
38 exemption for the property, and the requested exemption is approved
39 by the director.
40

(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 can be obtained, the irrigation system 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.

PART 8. Subsection (F) of City Code Section 15-5-11 (*Permitting*) is amended to read:

§ 15-5-11 PERMITTING.

(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 is first. The City will conduct construction inspections as specified in the original permit to construct.

(1) The director may grant a one-time twelve month extension to a permit to construct if Austin Water has conducted a minimum of one construction inspection at the permitted site within twelve months of the issuance date of the permit to construct.

(2) The extension of a construction permit is valid for twelve months from the date the extension was granted or until a license to operate is issued, whichever is first.

(3) The City permit fee will not be collected for resubmittals of expired applications if no changes to the generating structure(s) or the OSSF have been made and the OSSF meets applicable regulations.

(4) A state permit fee (as required by Texas Health and Safety Code, Chapter 367) will be collected for all applications, including resubmittals.

PART 9. Subsection (G) of City Code Section 15-5-11 (*Permitting*) is repealed and the remaining subsections are renumbered accordingly.

PART 10. Subsection B of City Code Section 15-5-14 (*Offense*) is amended to read:

§ 15-5-14 OFFENSE.

(B) A property owner, tenant, or occupant commits an offense if the property owner, tenant, or occupant fails to stop the exposure of sewage and to

1 remediate the site within 24 hours after the property owner, tenant, or
2 occupant receives notice from the City that there is exposed sewage on their
3 property.

4 **PART 11.** City Code Section 15-5-15 (*Criminal Penalty*) is amended to read:

5 **§ 15-5-15 CRIMINAL PENALTY.**

6 A person who violates this article [~~chapter~~] commits a class C misdemeanor [an
7 offense], punishable under Section 1-1-99 (*Offenses; General Penalty*) by a fine not to
8 exceed \$500.

9 **PART 12.** A new City Code Section 15-5-19 is added to read:

10 **§ 15-5-19 TERMINATION OF LICENSE TO OPERATE OSSF.**

11 The director or designee may revoke a license to operate an OSSF if:

- 12 (1) The OSSF fails;
- 13 (2) The OSSF receives more wastewater than the amount approved;
- 14 (3) The structure served by the OSSF exceeds or violates the terms of the
15 license;
- 16 (4) The property on which the OSSF is located is used for a purpose other than
17 that described in the original application for the permit to construct; or
- 18 (5) The OSSF is being operated in a manner that does not conform to the design
19 or the use approved by the City and non-compliance continues for more than
20 120 days. If there is an imminent threat to the public's health and safety, the
21 director may require the owner to resolve non-compliance within a shorter
22 period. The director may authorize a one-time extension of 120 days to
23 resolve non-compliance.
- 24 (6) The owner of an OSSF whose license has been terminated may request an
25 administrative hearing pursuant to Section 15-9-193.

26 **PART 13.** City Code Section 15-5-21 (*Definitions*) is amended to add the following new
27 definitions, amend a definition, and to renumber the remaining definitions accordingly:

28 **§ 15-5-21 DEFINITIONS.**

- 29 (1) DIRECTOR means the director of the Austin Water.
- 30 (6) OPERATOR means a person who operates a state-approved waste treatment
31 system, waste reduction system, waste recovery system, state-permitted Type

1 V transfer station or waste disposal site for septic tank waste and hauled
2 liquid waste.

3 (8) PERMIT means a liquid waste hauler permit issued by the director
4 authorizing collection, transport, or disposal of hauled liquid waste.

5 **PART 14.** City Code Section 15-5-22 (*Use of Permitted Liquid Waste Hauler Required*)
6 is amended to read as follows:

7 **§ 15-5-22 USE OF PERMITTED LIQUID WASTE HAULER REQUIRED.**

8 A person who produces hauled liquid waste commits an offense if the person fails
9 to have the waste removed or transported by a liquid waste hauler holding a permit under
10 this [chapter] article for both the hauler's vehicle and the type of waste produced.

11 **PART 15.** Subsection C of City Code Section 15-5-23 (*Use of Approved Site for*
12 *Disposal Required*) is amended to read:

13 **§ 15-5-23 USE OF APPROVED SITE FOR DISPOSAL REQUIRED.**

14 (C) The director [health authority] may require that a liquid waste hauler provide
15 a signed, written statement from an operator:

- 16 (1) identifying the rule, permit, or other document issued by the regulating
17 state agency that permits an operator's facility to receive a specific
18 hauled liquid waste; and
19 (2) the operator's agreement to receive the liquid waste hauler's hauled
20 liquid waste.

21 **PART 16.** City Code Section 15-5-25 is amended (*Vehicle Requirements and*
22 *Inspection*) is amended to read:

23 **§ 15-5-25 VEHICLE REQUIREMENTS AND INSPECTION.**

24 (A) A liquid waste hauler must obtain a permit for each vehicle used to haul
25 liquid waste.

26
27 (B) A vehicle or other equipment used to transport hauled liquid waste must
28 be:

- 29
30 (1) constructed, operated, and maintained to prevent:
31
32 (a) the loss of hauled liquid waste; or
33 (b) the creation of an unsanitary or unsafe condition;

- (2) licensed and inspected annually under Title 7 (*Vehicles and Traffic*) of the Texas Transportation Code;
- (3) identified with the registration number required by state regulation;
- (4) marked on both sides of the vehicle in letters and numbers not less than three inches high with:
- (a) the vehicle's City permit number;
 - (b) the name of the permit holder; and
 - (c) if applicable, the waste type code designated by the ~~[health authority]~~ director;
- (5) equipped with a valve drip cap to minimize leakage;
- (6) equipped with a sight glass or tube and other measuring device that permits visual inspection of the hauled liquid waste contained in the vehicle; and
- (7) equipped with a device ~~[devise]~~ as prescribed by the director to measure each load of hauled liquid waste received from a generator.

(C) A vehicle that consists of a tractor and a trailer shall have the marking required by Subsection ~~[(A)]~~ (B) (4) displayed on the trailer.

(D) The director ~~[health authority]~~ may inspect a vehicle at any reasonable time ~~[during regular business hours]~~.

PART 17. Subsection (A) of City Code Section 15-5-31 (*Manifest Required*) is amended to read:

§ 15-5-31 MANIFEST REQUIRED.

- (A) A liquid waste hauler shall purchase from the ~~[health authority]~~ director a manifest book containing form manifests with not less than four copies of each document.

PART 18. Subsections (C), (E) and (F) of City Code Section 15-5-32 (*Delivery and Maintenance of Manifests*) are amended to read:

1 **§ 15-5-32 DELIVERY AND MAINTENANCE OF MANIFESTS.**

2 (C) A generator, liquid waste hauler, and operator shall retain a copy of each
3 manifest in a file available for inspection by the director [~~health authority~~]
4 during regular business hours, for not less than three years from the date the
5 ticket was completed.

6 (E) A liquid waste hauler shall return manifest book to the director [~~health~~
7 ~~authority~~] not later than the 30th day after all manifests in the book have been
8 used.

9 (F) A liquid waste hauler shall return a manifest book to the director [~~health~~
10 ~~authority~~] not later than the second working day after the liquid waste hauler
11 receives a written request from the director [~~health authority~~].

12 **PART 19.** Subsection (C) of City Code Section 15-5-33 (*False Information and*
13 *Transfer Prohibited*) is amended to read:

14 **§ 15-5-33 FALSE INFORMATION AND TRANSFER PROHIBITED.**

15 (C) A liquid waste hauler commits an offense if the liquid waste hauler transfers,
16 causes, or allows the transfer of a manifest or manifest book to a person other
17 than the director [~~health authority~~] or an employee of the liquid waste hauler.

18 **PART 20.** City Code Section 15-5-34 (*Regulations Authorized*) is amended to read:

19 **§15-5-34 REGULATION AUTHORIZED.**

20 The director [~~health authority~~] may adopt regulations necessary for the
21 administration [~~relating to the manifest requirements~~] of this article [~~chapter~~].

22 **PART 21.** City Code Section 15-5-41 (*Permit Required*) is amended to read:

23 **§ 15-5-41 PERMIT REQUIRED.**

24 A person shall obtain a liquid waste hauler's permit under this [~~chapter~~] article
25 before the person operates a vehicle to transport hauled liquid waste, or causes, allows, or
26 permits a vehicle owned by the person to transport hauled liquid waste.

27
28 **PART 22.** City Code Section 15-5-42 (*Permit Application*) is amended to read:

29
30 **§ 15-5-42 PERMIT APPICATION.**

31
32 (A) A person seeking a [~~An application for a liquid waste hauler's~~] permit must
33 complete and [~~shall~~] file an application for a permit with the director [~~health~~

1 authority] and pay an application and permit fee established by separate
2 ordinance.

3 (B) An application for a permit under this section must include: name, title,
4 address, and telephone number of the authorized representative of the
5 applicant;

6 (1) description or address of this business location;

7 (2) description of the activity and type of water transported;

8 (3) proof that each vehicle is covered by insurance as prescribed Section 15-
9 5-45 (*Insurance Required*);

10 (4) confirmation that the applicant or if the applicant is a business entity, a
11 partner or corporate officer in the business entity, has not convicted or a
12 violation directly related to this article; and

13 (5) confirmation that each vehicle to be used to transport hauled liquid
14 waste complies with the requirements prescribed in Section 15-5-25
15 (*Vehicle Requirements and Inspection*).

16 (6) a list of the name and valid driver's license number of each vehicle
17 operator.

18 [~~(B) The health authority shall provide an applicant with a copy of this article.]~~

19 (C) A permittee shall send the director an updated list of authorized drivers in
20 writing no later than the 30th day after a change in personnel occurs.

21 [~~(C) An application under this section shall include evidence acceptable to the health~~
22 ~~authority that:~~

23 [~~(1) each vehicle is covered by insurance as prescribed by Section 15-5-45~~
24 ~~(*Insurance Required*);~~

25 [~~(2) the applicant or if the applicant is a business entity, a partner or~~
26 ~~corporate officer in the business entity, has not been convicted of a~~
27 ~~violation directly related to this chapter; and~~

28 [~~(3) each vehicle to be used to transport hauled liquid waste complies with~~
29 ~~the requirements prescribed in Section 15-5-25 (*Vehicle Requirements*~~
30 ~~*and Inspection*).~~]

31 (D) The director may require additional application information as necessary
32 to determine compliance by the applicant.

1 ~~[(D)] A permittee shall file with the health authority a list of the name and~~
2 ~~Texas driver's license number of each vehicle operator. A permittee shall~~
3 ~~send the health authority an updated list of authorized drivers in writing~~
4 ~~no later than the 30th day after a change in personnel occurs.]~~

5 (E) The application must be signed by the individual applicant or by the
6 applicant's authorized representative.

7 (F) ~~[(E)]~~ A permit issued under this article ~~[chapter]~~ is nontransferable.

8 **PART 23.** City Code Section 15-5-43 of City Code (*Determination on Application*) is
9 amended to read:

10 **§ 15-5-43 DETERMINATION ON APPLICATION.**

11 (A) The director ~~[health authority]~~ may not grant a permit under this article
12 unless the applicant has complied with the requirements of Section 15-5-
13 42 (*Permit Application*). In making a determination relating to an offense
14 under Subsection 15-5-42 (B) (5) ~~[(C) (2)]~~, the director ~~[health authority]~~
15 may consider the factors prescribed in Section 53.022 (*Factors in*
16 *Determining Whether Conviction Relates to Occupation*) of the Texas
17 Occupations Code.

18 ~~[(B) The health authority shall make a determination on an application for a~~
19 ~~permit under this chapter on or before the 30th day after the application~~
20 ~~was filed.]~~

21 (B) ~~[(C)]~~ If the director ~~[health authority]~~ rejects an application, the director
22 ~~[health authority]~~ shall send the applicant a written explanation of the basis
23 of the rejection by certified or registered mail to the mailing address
24 provided on the application.

25 **PART 24.** Subsection (C) of City Code Section 15-5-44 (*Permit Fees Exceptions*) is
26 amended to read:

27 **§ 15-5-44 PERMIT FEES EXCEPTIONS**

28 (C) The director ~~[health authority]~~ may assess an additional fee for re-inspection
29 of a vehicle.

30 **PART 25.** Subsections (A), (B), and (C) of City Code Section 15-5-45 (*Insurance*
31 *Required*) are amended to read:

32 **§ 15-5-45 INSURANCE REQUIRED.**

33 (A) The owner or operator of a permitted vehicle shall file with the director
34 ~~[health authority]~~ a commercial automobile insurance policy insuring

1 against bodily injury and property damage issued by an insurance
2 company licensed to do business in Texas for each permitted vehicle with
3 a minimum:

- 4 (1) combined single limit \$500,000; or
5 (2) split limit of \$250,000 for each person, \$500,000 for each occurrence,
6 and \$100,000 property damage.

7 (B) An insurance policy under this section must include a notice of
8 cancellation clause stating that the policy may not be cancelled or
9 amended before the 30th day after the director [~~health authority~~] received
10 notice of cancellation, amendment, or non-renewal.

11 (C) The director [~~health authority~~] may not issue a permit for a vehicle until
12 the owner or operator has provided proof of insurance under this section.

13 **PART 26.** Section 15-5-46 (*Term and Renewal*) of City Code is amended to read:

14 **§ 15-5-46 TERM AND RENEWAL**

15 (A) A permit issued under this division shall expire two years [~~one year~~] from
16 the date of issuance. [~~and must be renewed annually.~~]

17 (B) A person holding a permit under this article shall apply for a new permit no
18 later than the 30th day before the expiration date of the permit.

19 **PART 27.** Subsections (A), (B), and (C) of City Code Section 15-5-47 (*Permit*
20 *Revocation*) are amended to read:

21 (A) If a permittee fails to comply with this article or applicable state or local
22 requirements, [~~law~~] the director [~~health authority~~] may revoke a permit
23 issued under this article for a period of one year.

24 (B) The director [~~health authority~~] shall provide a liquid waste hauler written
25 notice of a hearing on revocation of the hauler's permit on or before the
26 10th day before the hearing. A notice under this section shall include the
27 basis of the proposed action. The [~~health authority~~] director may
28 promulgate rules for a hearing under this section.

29 (C) Following a hearing, the director [~~health authority~~] shall provide the liquid
30 waste hauler with the director's [~~health authority~~] decision in writing,
31 including the reasons for a revocation.

32 **PART 28.** Section 15-5-48 (*Appeal*) of City Code is amended to read:

33 An applicant or permittee whose application is denied or permit is revoked by
34 the director [~~health authority~~] under the provisions of this article may appeal director's

1 [health authority's] decision under Section 15-10-291 (*Appeal Procedure*) [~~15-5-7~~
2 (*Appeal*)].

3 **PART 29.** A new City Code Section 15-5-48 (*Right of Entry*) is added to read:

4 **§ 15-5-48 RIGHT OF ENTRY.**

5 (A) With reasonable advance notice the director may enter the premises of a
6 person to determine if the person is in compliance with the requirements
7 of this article or a permit issued under this article.

8 (B) With reasonable advance notice to a liquid waste hauler, the director may:

9 (1) Enter a premises to inspect or take samples of liquid waste;

10 (2) enter a premises to gain access to a source of liquid waste; or

11 (3) inspect, sample, monitor equipment, or records, required under this
12 article.

13 (C) A person transporting, or proposing to transport liquid waste shall at the
14 person's sole expense, promptly remove security barriers or other
15 obstacles that inhibit access by the director.

16 **PART 30.** This ordinance takes effect on _____, 2017.

17 **PASSED AND APPROVED**

18
19 §
20 §
21 _____, 2017 § _____
22 Steve Adler
23 Mayor
24
25

26 **APPROVED:** _____
27 Anne L. Morgan
28 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk