

ORDINANCE NO.

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

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 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 15-5-4 (*Authority*) is amended to read:

§ 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 and [~~or~~] Chapter 285 (*On-Site Sewage Facilities*) of Title 30 of the Texas Administrative Code (TAC) is authorized to perform that duty.
- (B) The Director is the designated representative to enforce this article [~~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 4. City Code Section 15-5-7 (*Appeal*) is amended to read:

§ 15-5-7 APPEAL THROUGH ADMINISTRATIVE HEARING.

A person aggrieved by an action or decision made by ~~of~~ 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 (*Administrative Hearing*) ~~[following the procedures set forth in Section 15-9-191(D)]~~.

PART 5 City Code Subsection 15-5-10(E) (*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

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

(iii) are registered with the City of Austin as a Homeowner Maintenance Provider.

~~[(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.]~~

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

4
5 ~~[(5)]~~(c) Within one year of receiving a written notice from the City, a
6 homeowner who has previously maintained an existing OSSF that
7 requires a maintenance affidavit must comply with the
8 maintenance and reporting requirements of 30 TAC, Chapter 285,
9 and this Subsection even if compliance was not previously
10 required.

11
12 ~~[(6)]~~(d) A copy of the results of all testing related to the maintenance of
13 OSSFs, including analytical results, must be provided to the City.

14
15 (e) Failure to comply with TCEQ's reporting requirements for TCEQ
16 licensed maintenance providers, as specified in 30 TAC Section
17 285.7 may result in the revocation of a homeowner's City
18 registration.

19
20 (f) Homeowner Maintenance Providers whose registration has been
21 revoked must secure the services of a TCEQ licensed
22 maintenance provider within 30 days of the date of revocation.

23
24 (g) Homeowner Maintenance Providers whose registration has been
25 revoked will not be allowed to apply for a new registration, and
26 will be required to contract with a licensed maintenance provider
27 to meet TCEQ maintenance, testing, and reporting requirements.

28
29 (2) Requirements for TCEQ-licensed maintenance providers

30 (a) In addition to the licensing requirements established in 30 TAC
31 Chapter 285, any TCEQ licensed maintenance provider who
32 works within the City's jurisdiction for OSSFs must be
33 registered as a TCEQ-licensed maintenance provider with the
34 City.

35 (b) The City's registration as a TCEQ-licensed maintenance
36 provider is permanent unless it is suspended or revoked.

37
38 (3) Suspension and Revocation of Licensed Maintenance Providers City's
39 Registration

- 1 (a) The City may suspend a registration issued by the City for
2 failing to comply with:
3
4 (i) requirements listed in Title 30 TAC Section 285.64 (a);
5
6 (ii) violating Title 30 TAC Section 285.65 (a) (1); or
7
8 (iii) failing to meet deadlines administratively established by
9 the City, or failing to resolve any non-compliance.
10
11 (b) The City may suspend a licensed maintenance provider's
12 registration for up to six calendar months.
13
14 (c) Licensed maintenance providers with a suspended registration
15 may not submit new or renewed maintenance contracts to the
16 City, and thus may not enter into new service contracts during
17 the suspension.
18
19 (d) Licensed maintenance providers with a suspended registration
20 may continue to service existing customers for the duration of
21 the contract with the property owner.
22
23 (e) Licensed maintenance providers with suspended registration
24 who submit late monitoring reports or who fail to submit
25 reports may have registration revoked.
26
27 (f) A licensed maintenance provider whose registration is revoked
28 must immediately provide notice to their customers and
29 immediately cease providing maintenance service.
30
31 (g) A licensed maintenance provider with a revoked registration
32 may not submit new or renewed maintenance contracts to the
33 City, and thus may not enter into new service contracts during
34 the revocation.
35
36 (h) A license maintenance provider whose registration is suspended
37 or revoked may request an administrative hearing pursuant to
38 Section 15-9-193 (*Administrative Hearing*).
39

- 1 (i) A licensed maintenance provider with a revoked registration
2 may apply for re-registration after one calendar year from the
3 date of revocation.
4

5 **PART 6.** Subsection (F)(7) of City Code Section 15-5-10 (*OSSF Regulations*) is
6 amended to read:

7 **§ 15-5-10 OSSF Regulations.**
8

9 (F) This subsection establishes additional design criteria

- 10
11 (7) All aerobic treatment units required by the TCEQ to be preceded by a
12 pretreatment tank or chamber [s], must be installed with a
13 pretreatment tank or chamber that is sized at a capacity of at least one-
14 half the average daily design flow or the minimum volume
15 recommended by the aerobic treatment unit manufacturer, whichever
16 is greater. The pretreatment unit must also be designed in accordance
17 with the requirements of 30 TAC § 285.32.
18

19 **PART 7.** Subsection (G) of City Code Section 15-5-11 (*Permitting*) is repealed and the
20 remaining subsections are renumbered accordingly.

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

22 **§ 15-5-11 PERMITTING.**

23 (F) A permit to construct will expire after twelve months from the date of
24 original issuance or when a license to operate has been issued, whichever is first.
25 The City will conduct construction inspections as specified in the original permit to
26 construct.

- 27 (1) The director may grant a one-time twelve month extension to a permit to
28 construct if Austin Water has conducted a minimum of one construction
29 inspection at the permitted site within twelve months of the issuance date
30 of the permit to construct.
31
32 (2) The extension of a construction permit is valid for twelve months from
33 the date the extension was granted or until a license to operate is issued,
whichever is first.
34
35 (3) The City permit fee will not be collected for resubmittals of expired
36 applications if no changes to the generating structure(s) or the OSSF
have been made and the OSSF meets applicable regulations.

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

3 **PART 9.** City Code Section 15-5-15 (*Criminal Penalty*) is amended to read:

4 **§ 15-5-15 CRIMINAL PENALTY.**

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

8 **PART 10.** A new City Code Section 15-5-19 is added to read:

9 **§ 15-5-19 TERMINATION OF LICENSE TO OPERATE OSSF.**

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

- 11 (1) The OSSF receives more wastewater than the amount approved, based on a
12 seven-day average;
- 13 (2) The structure served by the OSSF exceeds or violates the terms of the
14 license;
- 15 (3) The property on which the OSSF is located is used for a purpose other than
16 the one described in the original application for the permit to construct.
17 Changes in use include but are not limited to the use of the property as a
18 Short-Term Rental; or
- 19 (4) The OSSF is being operated in a manner that does not conform to the design
20 or the use approved by the City and non-compliance continues for more than
21 120 days. If there is an imminent threat to the public's health and safety, the
22 director may require the owner to resolve non-compliance within a shorter
23 period. The director may authorize a one-time extension of 120 days to
24 resolve non-compliance.

25 **PART 11.** This ordinance takes effect on _____, 2018.
26

PASSED AND APPROVED

_____, 2018

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§
§

Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk