

ORDINANCE NO. 20190131-002

**AN ORDINANCE AMENDING CITY CODE CHAPTER 15-5 ARTICLE I
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 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 of the designated representative under this article, may appeal the action or decision to the [d] Director no later than 30 days from the date of the action or decision. A person may appeal the decision of the [d] Director by [following the procedures set forth in Section 15-9-191(D)] requesting an administrative hearing pursuant to Section 15-9-193 (*Administrative Hearing*).

PART 5. Subsection (E) of City Code 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:

~~[(+)]~~(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]~~:

~~[(+)]~~ (i) have taken the training to be a TCEQ registered maintenance technician, as required in 30 TAC Chapter 30, Section 30.245 (b); or

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

(iii) are registered with the City 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.]~~

- ~~[(4)]~~(b) Homeowners that perform maintenance on their own OSSF must submit to the City the same reports that are required for licensed maintenance providers by the TCEQ.
- ~~[(5)]~~(c) 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, and this Subsection even if compliance was not previously required.
- ~~[(6)]~~(d) A copy of the results of all testing related to the maintenance of OSSFs, including analytical results, must be provided to the City.
- (e) Failure to comply with TCEQ's reporting requirements for TCEQ licensed maintenance providers, as specified in 30 TAC Section 285.7 may result in the revocation of a homeowner's City registration.
- (f) A Homeowner Maintenance Provider whose registration has been revoked must secure the services of a TCEQ licensed maintenance provider within 30 days of the date of revocation.
- (g) A Homeowner Maintenance Provider whose registration has been revoked will not be allowed to apply for a new registration, and will be required to contract with a licensed maintenance provider to meet TCEQ maintenance, testing, and reporting requirements.
- (2) Requirements for TCEQ-licensed maintenance providers
- (a) In addition to the licensing requirements established in 30 TAC Chapter 285, any TCEQ-licensed maintenance provider who works within the City's jurisdiction for OSSFs must be registered as a TCEQ-licensed maintenance provider with the City.
- (b) A TCEQ-licensed maintenance provider's registration with the City shall remain in effect until it is suspended or revoked.

(3) Suspension and Revocation of Licensed Maintenance Providers' City Registration

- (a) The City may suspend a registration issued by the City for failing to comply with:
 - (i) requirements listed in Title 30 TAC Section 285.64 (a);
 - (ii) violating Title 30 TAC Section 285.65 (a) (1); or
 - (iii) failing to meet deadlines administratively established by the City, or failing to resolve any non-compliance.
- (b) The City may suspend a licensed maintenance provider's registration for up to six calendar months.
- (c) A licensed maintenance provider with a suspended registration may not submit new or renewed maintenance contracts to the City, and thus may not enter into new service contracts during the suspension.
- (d) A licensed maintenance provider with a suspended registration may continue to service existing customers for the duration of the contract with the property owner.
- (e) The City may revoke a licensed maintenance provider's registration if the provider fails to submit timely monitoring reports.
- (f) A licensed maintenance provider whose registration is revoked must immediately provide notice to their customers and immediately cease providing maintenance service.
- (g) 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 period.

(h) A license maintenance provider whose registration is suspended or revoked may request an administrative hearing pursuant to Section 15-9-193 (*Administrative Hearing*).

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

PART 6. Subsection (G) of City Code Section 15-5-11 (*Permitting*) is repealed and the remaining subsections are renumbered accordingly.

PART 7. 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) The permit fee required by Texas Health and Safety Code, Chapter 367 will be collected for all applications, including resubmittals.

PART 8. City Code Section 15-5-15 (*Criminal Penalty*) is amended to read:

§ 15-5-15 CRIMINAL PENALTY.

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

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

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

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

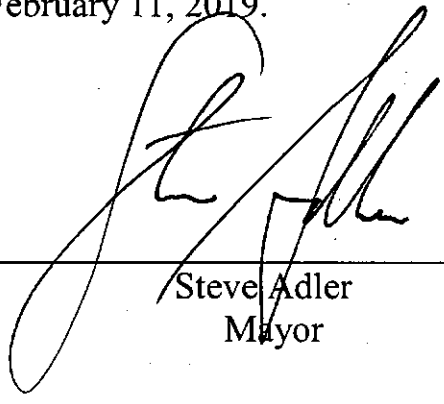
- (1) The OSSF receives more wastewater than the amount approved, based on a seven-day average;
- (2) The structure served by the OSSF exceeds or violates the terms of the license;
- (3) The property on which the OSSF is located is used for a purpose other than the one described in the original application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

PART 10. This ordinance takes effect on February 11, 2019.

PASSED AND APPROVED


January 31, 2019

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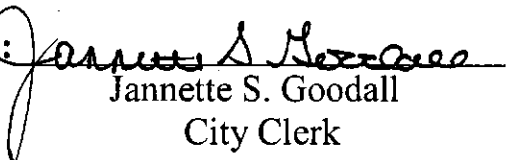
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk