

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 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.

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

§ 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 the Austin Water or their Designee.

- 1 (F) Edwards Aquifer Contributing Zone means all land generally to the west and
2 upstream of the Edwards Aquifer recharge zone that provides drainage into
3 the Edwards Aquifer recharge zone. The contributing zone is identified as a
4 geographic area delineated on official maps located with the City.
- 5 (G) Edwards Aquifer Recharge Zone means, in addition to the area defined in 30
6 TAC §285.2, all land over the Edwards Aquifer that recharges the aquifer, as
7 determined by the surface exposure of the geologic units comprising the
8 Edwards Aquifer, including the areas overlain with quaternary terrace
9 deposits. The recharge zone is identified as a geographic area delineated on
10 official maps located with the City.
- 11 (H) Indications of Groundwater mean physical characteristics of the soil that are
12 determined by the City to be evidence of a seasonally saturated zone
13 (typically, the presence of gray redoximorphic depletions with contrasting
14 masses, pore linings, or concretions), or observations of the water table.
- 15 (I) Low-pressure Dosing means the pumping of effluent under low pressure into
16 perforated piping in a drainfield to uniformly distribute the effluent within
17 the drainfield.
- 18 (J) Nitrogen Reduction System means a treatment system to be used for
19 nitrogen reduction that is verified through the Environmental Protection
20 Agency/NSF International Environmental Technology Verification-Protocol,
21 or a treatment system that can demonstrate (by actual data or established
22 design criteria) total nitrogen effluent levels of equal to or less than 20 mg/L
23 as an annual average.
- 24 (K) OSSF means an on-site sewage facility or disposal system.
- 25 ~~(L) Private Water Line as referenced in 30 TAC 284.91(Table X) means any~~
26 ~~pipe on private property that has a potable water source.~~
- 27 (L) Water Saving Devices mean plumbing fixtures that comply with ANSI
28 A112.18-1-Plumbing Fixtures (Flow Capacity) or Chapter 372 of the Health
29 and Safety Code of the State of Texas, whichever is more stringent.

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

32 **§ 15-5-3 ADOPTION OF STATE LAW, RULES, AND DESIGN CRITERIA.**

- 33 (A) This chapter adopts and incorporates by reference:
- 34 (1) Chapter 366 (*On-Site Sewage Disposal Systems*) of the Texas Health
35 and Safety Code;

1 (2) Chapter 285 of Title 30 (*On-Site Sewage Facilities*) of the Texas
2 Administrative Code; and

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

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

9 (C) The Director may from time to time administratively adopt **non substantive**
10 requirements for applications, permitting, licensing, and inspections for
11 OSSFs.

12 (D) For a property served by an **existing** holding tank, when other methods of
13 sewage disposal become feasible in the opinion of the City (i.e. a private or
14 public wastewater collection system is developed within 100 feet in
15 horizontal distance of the property, or technological advancements to OSSFs
16 have been made such that an alternative treatment and disposal system may
17 be installed on the property), the property is required to connect to the
18 feasible alternative, within 90 days of written notice by the City.

19 (E) Additional requirements on the sizing of OSSFs include:

20 (1) Subdivisions of single family dwellings platted or created after this
21 code provision is adopted by council, and located within the Edwards
22 Aquifer Recharge Zone or the Edwards Aquifer Contributing Zone, as
23 they are defined in Section 15-5-2, will have lots of:

24 (a) at least 1 acre if served by public water **supply system**, or

25 (b) at least 2 acres if served by private water supply.

26 (2) Subdivision of single family dwellings platted or created after this
27 code provision is adopted by council, located within all other zones or
28 areas not listed above will have lots of:

29 (a) at least 0.75 acres if served by public water **supply system**, or

30 (b) at least 1 acre if served by private water supply.

31 (3) When more than one residence ~~or wastewater generating structure~~
32 with separate OSSFs are proposed on a single tract of land, that land
33 must meet the minimum lot size requirements for the number of
34 residences or structures.

1 (F) Additional requirements on the maintenance of OSSFs:

2 (1) At the end of the initial two-year service policy, an owner of a single
3 family owner-occupied residence (homeowner) shall only perform
4 maintenance on their own OSSF which requires maintenance, as
5 specified in Table XII of 30 TAC Chapter 285, if they have:

6 (a) taken training and passed the test required for a TCEQ
7 registered maintenance technician, as required in 30 TAC
8 Chapter 30, Section 30.245(b); or

9 ~~(b) taken an equivalent training specifically for homeowners, as~~
10 ~~determined by TCEQ; or~~

11 ~~(c) taken an equivalent training specifically for homeowners, as~~
12 ~~may be provided determined by the City.~~

13 (2) The results of the test and proof of attendance at the training must be
14 provided to the City.

15 (3) Homeowners who own an OSSF will be required to inform the City
16 whether they will do the maintenance themselves, or will have it done
17 by a maintenance provider, within 30 days of written request by the
18 City.

19 (4) The homeowner that performs maintenance on their own OSSF must
20 submit to the City the same reports that are required for maintenance
21 providers by the TCEQ.

22 (5) Homeowners who have been maintaining an existing OSSF that
23 requires a maintenance affidavit (see the Maintenance/Affidavit
24 Required column of Table XII in 30 TAC Chapter 285), and who
25 were not previously required to comply with the maintenance and
26 reporting requirements specified in the aforementioned table, will now
27 be required to comply with the same homeowner maintenance and
28 reporting requirements specified above. Affected homeowners will
29 have to comply with these requirements within one year of written
30 notice by the City.

31 (6) A copy of the results of all testing, including actual measurements,
32 must be provided to the City.

33 (G) Spray irrigation must be conducted only during nighttime hours (after 12:00
34 AM and before 5:00 AM).

35 (H) Additional design criteria include:

- 1 (1) Soil Absorption Systems following septic tank treatment require a
2 minimum depth to Indications of Groundwater of 36 inches, measured
3 from the bottom of the media or the bottom of the excavation,
4 whichever is applicable. The use of drip irrigation or Low-pressure
5 Dosing after septic treatment reduces this vertical separation
6 requirement to 24 inches.
- 7 (2) An impervious liner must be used between the excavated surface and
8 an evapotranspiration system where 36 inches of suitable soil (as
9 referenced in 30 TAC 285.91 Table XIII) does not exist between the
10 excavated surface and Indications of Groundwater.
- 11 (3) A drainfield may not be installed within the Edwards Aquifer
12 Recharge Zone, as it is defined in Section 15-5-2, unless it follows a
13 City-approved Nitrogen Reduction System.
- 14 (4) If a site is not suitable for a standard absorption system based on the
15 criteria of 30 TAC 285.91 (Table V) and the additional vertical
16 separation criteria of this ordinance, a City-approved Nitrogen
17 Reduction System must be installed within the Barton Springs
18 Segment of the Edwards Aquifer Contributing Zone.
- 19 (5) A drainfield may not be installed within 75 feet of the Control
20 Elevation of Lake Austin unless it follows a City-approved Nitrogen
21 Reduction System.
- 22 (6) All aerobic treatment units must be installed with a pretreatment tank
23 or chamber sized at a capacity of at least one-half the average daily
24 design flow. The pretreatment unit must also be designed in
25 accordance with the requirements of 30 TAC §285.32.
- 26 (7) Chipped tires are not a permitted drainfield media.
- 27 (8) Pump tanks must be large enough to provide at least one day's total
28 average flow between the inlet flow line and the alarm-on level (one
29 day of reserve capacity).
- 30 (9) All aerobic treatment units must be buried in the ground with access
31 ports at ground level or above.
- 32 (10) An OSSF for nonresidential sites must dedicate twice the proposed
33 area required for the proposed OSSF for future drainfield expansion
34 unless the Director determines otherwise upon application by the
35 property owner.

1 (11) An OSSF for nonresidential sites must install a flow meter to verify
2 flow rates to the system unless the property owner requests an
3 exemption for the property, and the requested exemption is approved
4 by the Director.

5 (12) The portion of an irrigation system which irrigates a drainfield area
6 shall be valved in order to be isolated from the remainder of the
7 irrigation system. This is necessary in order to prevent over-
8 saturation of a disposal system.

9 (13) Irrigation systems with piping located within 10 feet an OSSF
10 component must be protected by a backflow prevention assembly
11 acceptable to the City to protect the system's water source from
12 contamination. The backflow prevention assembly must be placed at
13 the head of the irrigation system.

14 (I) Additional plan requirements include:

15 (1) The installer must follow the approved permitted plan. Any deviation
16 from the approved permitted plan by the installer requires the prior
17 approval of both the system Designer and the City.

18 (2) The Designer of any professionally designed system will provide both
19 the property owner and the City with an operation and maintenance
20 guide specific for that system. The guide will be reviewed and
21 approved for adequacy by the City prior to the issuance of the Permit
22 to Construct.

23 (3) Variances for separation distances may be granted by the City,
24 provided that the professional sanitarian or professional engineer is
25 able to demonstrate to the satisfaction of the City that conditions are
26 such that greater protection of the public health and the environment
27 can be provided by alternate means.

28 (4) All profile holes will be required to have a depth of 36 inches below
29 the bottom of the proposed excavation depth or to a restrictive
30 horizon, whichever is less. Profile holes must be as specified:
31 minimum two feet wide, to the proper depth, and terraced every two
32 feet for access. The soil profile must be examined by either a site
33 evaluator or a professional engineer to determine if there are
34 Indications of Groundwater within 36 inches of the bottom of the
35 excavation.

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

2 **§ 15-5-4 AUTHORITY.**

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

1 **PART 5.** City Code Section 15-5-7 (*Appeal*) is amended to read:

2 **§ 15-5-7 APPEAL.**

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

6 **PART 6.** City Code Section 15-5-8 (*Penalties*) is repealed and a new Section 15-5-8 is
7 added to read:

8 **§ 15-5-8 OFFENSE.**

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

18 **PART 7.** City Code Chapter 15-5 (*Private Sewage Facilities*) is amended to add a new
19 Section 15-5-9 to read:

20 **§ 15-5-9 CRIMINAL PENALTY.**

21 A person who violates this Chapter commits an offense, punishable under Section
22 1-1-99 (*Offenses; General Penalty*) by a fine not to exceed \$500.

23 **PART 8.** City Code Chapter 15-5 (*Private Sewage Facilities*) is amended to add a new
24 Section 15-5-10 to read:

25 **§ 15-5-10 CIVIL PENALTY.**

- 26 (A) If a person violates this chapter or fails to take action to comply with this
27 chapter, or federal, state, or local regulations, the city attorney may initiate a
28 suit for:
- 29 (1) civil penalties, authorized under Texas Local Government Code
30 Section 54.017(*Civil Penalty*);
- 31 (2) injunctive relief;

- 1 (3) recovery of expenses, loss, or damage to City property or equipment;
2 and
3 (4) other available relief.

4 **PART 9.** City Code Chapter 15-5 (*Private Sewage Facilities*) is amended to add a new
5 Section 15-5-11 to read:

6 **§15-5-11 CITY ACTION TO CORRECT VIOLATIONS.**

- 7 (A) If sewage is exposed on the ground, or there is an immediate public health
8 and safety issue identified by the Director, the Director is to notify and direct
9 the property owner to repair or construct facilities to meet City requirements
10 by a specific date. If the property owner does not repair or construct the
11 facilities to meet City requirements on or before the date specified by the
12 Director, the City may temporarily terminate water utility service and/or
13 electric utility service until such time the Director determines the property
14 owner is in compliance with this Chapter.

15 If the property owner is served by a non-municipally owned water utility
16 and/or electric utility provider, but located within the City's jurisdiction for
17 this Chapter, these utility providers will temporarily terminate water utility
18 service and/or electric utility service upon the request of the Director, and
19 continue the temporary termination until the Director notifies the utility
20 provider that the property owner has complied with this Chapter.

- 21 (B) Non-compliance with this Chapter also may result in the following:
22 (1) Fines issued by City employees.

23 **PART 10.** City Code Chapter 15-5 (*Private Sewage Facilities*) is amended to add a new
24 Section 15-5-12 to read:

25 **§15-5-12 CUMULATIVE REMEDIES.**

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

28 **PART 11.** City Code Chapter (*Private Sewage Facilities*) is amended to add a new
29 Section 15-5-13 to read:

30 **§15-5-13 PERMITTING.**

- 31 (A) If a property owner has an OSSF that was installed before December 1,
32 1983, the owner must obtain a new permit before adding square footage to
33 any structure served by the OSSF. The OSSF must be upgraded to meet all
34 applicable requirements of the current OSSF regulations.

- 1 (B) Regardless of the size of property, all property owners must obtain a Permit
2 to Construct from the City before installing an OSSF.
- 3 (C) A Permit to Construct must be obtained from the City prior to commencing
4 the installation of, or a modification or repair of (excluding emergency
5 repairs as defined in 30 TAC §285.35) an OSSF.
- 6 (D) Any permit issued for an on-site sewage facility within the jurisdictional
7 area of the City must comply with this Chapter.
- 8 (E) If a Permit to Construct has not been issued within twelve months of the
9 original submission date of an OSSF application, the application will expire
10 and a new application will be required.
- 11 (F) A Permit to Construct will expire after twelve months from the date of
12 original issuance or when a License to Operate has been issued, whichever
13 occurs first. The City will conduct construction inspections as specified in
14 the Permit to Construct.
- 15 (G) The domestic use of less than 400 gallons per day of graywater will be
16 subject to the permitting and inspection requirements of §25-12 of the City
17 of Austin Code.

18 **PART 12.** City Code Chapter 15-5 (*Private Sewage Facilities*) is amended to add a new
19 Section 15-5-14 to read:

20 **§15-5-14 WATER CONSERVATION.**

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

27 **PART 13 COLLECTION OF FEES.**

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

32 **PART 14 SEVERABILITY.**

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

9 **PART 15 RELINQUISHMENT OF ORDINANCE.**

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

14 After relinquishing its OSSF authority, the authorized agent understands that it may be
15 subject to charge-back fees in accordance with Title 30 Texas Administrative Code §
16 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

17 **PART 16.** This ordinance takes effect on _____, 2013.

18 **PASSED AND APPROVED**

19 _____, 2013 §
20 §
21 §
22 §
23 _____, 2013 §

24 Lee Leffingwell
25 Mayor

26
27
28 **APPROVED:** _____
29 Karen M. Kennard
30 City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk