

CITY OF BURKBURNETT§

STATE OF TEXAS

§

AFFIDAVIT

Before me, the undersigned authority, personally appeared who, being by me duly sworn, deposed as follows:

My name is Janelle Stahr, I am of sound mind, capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of the City Clerk's Office for the City of Burkburnett Texas. Attached hereto are seven (7) pages of records known as Ordinance Number 944. The records are kept by me as City Clerk, City of Burkburnett, in the regular course of business with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The record attached hereto is the original or exact duplicate of the official record.

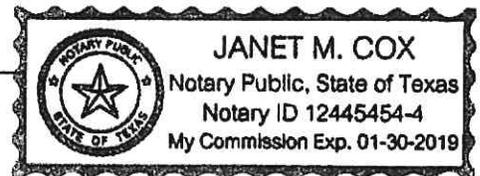
Janelle Stahr

BEFORE ME, the undersigned authority, a Notary Public in and for said City, Texas, on this day personally appeared Janelle Stahr, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 22nd day of October, 2018.

(SEAL)

Janet M. Cox
Notary/Public, State of Texas
My commission expires:



ORDINANCE NUMBER 944**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, ADOPTING RULES FOR ON-SITE SEWAGE FACILITIES AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) has established Rules for on-site sewage facilities to provide the citizens of this State with adequate public health protection and a minimum of environmental pollution; and

WHEREAS, the Legislature has enacted legislation, codified as Texas Health and Safety Code (THSC), Chapter 366, which authorizes a local government to regulate the use of on-site sewage facilities in its jurisdiction in order to abate or prevent pollution or injury to public health arising out of the use of on-site sewage facilities; and

WHEREAS, due notice was given of a public meeting to determine whether the Board of Commissioners of the City of Burkburnett, Texas should enact an ordinance controlling or prohibiting the installation or use of on-site sewage facilities in the City of Burkburnett, Texas; and

WHEREAS, the Board of Commissioners of the City of Burkburnett, Texas finds that the use of on-site sewage facilities in the City of Burkburnett, Texas is causing or may cause pollution, and is injuring or may injure the public health; and

WHEREAS, the Board of Commissioners of the City of Burkburnett, Texas has considered the matter and deems it appropriate to enact an Ordinance adopting Rules regulating on-site sewage facilities to abate or prevent pollution, or injury to public health in the City of Burkburnett, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

SECTION 1. THAT the matters and facts recited in the preamble hereof are hereby found and determined to be true and correct;

SECTION 2. THAT the use of on-site sewage facilities in the City of Burkburnett, Texas is causing or may cause pollution or is injuring or may injure the public health;

SECTION 3. THAT an Ordinance for the City of Burkburnett, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:

AN ORDINANCE ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Ordinance repeals and replaces any other On-site Sewage Facility (OSSF) Ordinance for the City of Burkburnett, Texas.

SECTION 5. ON-SITE SEWAGE FACILITY REGULATION AND ENFORCEMENT

The City of Burkburnett, Texas clearly understands that there are technical criteria, legal requirements, and administrative procedures and duties associated with regulating on-site sewage facilities, and will fully enforce Chapter 366 of the THSC and Chapters 7 and 37 of the Texas Water Code (TWC), and associated rules referenced in Section 8 of this Ordinance.

SECTION 6. AREA OF JURISDICTION.

The Rules shall apply to all the area lying within the incorporated limits of the City of Burkburnett, Texas.

SECTION 7. ON-SITE SEWAGE FACILITY RULES.

Any permit issued for an on-site sewage facility within the jurisdictional area of the City of Burkburnett, Texas must comply with the Rules adopted in Section 8 of this Ordinance.

SECTION 8. ON-SITE SEWAGE FACILITY RULES ADOPTED.

The Rules, Title 30 Texas Administrative Code (TAC) Chapter 30, Subchapters A and G, and Chapter 285, promulgated by the TCEQ for on-site sewage facilities are hereby adopted, and all officials and employees of the City of Burkburnett, Texas, having duties under said Rules are authorized to perform such duties as are required of them under said Rules.

SECTION 9. INCORPORATION BY REFERENCE.

The Rules, 30 TAC Chapter 30, Subchapters A and G, and Chapter 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules.

SECTION 10. AMENDMENTS.

The City of Burkburnett, Texas wishing to adopt more stringent Rules for its OSSF Ordinance understands that the more stringent local Rule shall take precedence over the corresponding TCEQ requirement. Listed below are the more stringent Rules adopted by the City of Burkburnett, Texas:

- (1) A permit shall be required for all on-site sewage facilities (OSSF) regardless of acreage, and so the exception found in 30 TAC § 285.3(f)(2) shall not apply in the city limits.
- (2) Permits shall not transfer automatically to a new owner upon sale or other legal transfer of an OSSF, and so 30 TAC § 285.3(a)(3) shall not apply in the city limits. Within 60 days prior to the sale or transfer of any property on which a permitted OSSF exists, the seller or transferor must pay an inspection fee as established by the regulatory authority and have an inspection of the OSSF performed by a licensed designated representative of the health district. Only after the payment of such a fee and the conduction of an inspection in which the OSSF is found to be compliant, does the permit become transferable upon any sale or legal transfer which occurs within 60 days of the inspection. OSSFs for properties which transfer without the required fee and inspection shall be deemed to be invalid, and the new owner, buyer or transferor must pay the required fee and obtain the inspection before operating the OSSF.
- (3) Within 60 days prior to the sale or transfer of any property on which any OSSF, including an OSSF exempt from permitting requirements by 30 TAC § 285.3(f), exists, the seller or transferor must pay an inspection fee as established by the regulatory authority and have an inspection of the OSSF performed by a licensed designated representative of the health district. Only after the payment of such a fee and the conduction of an inspection in which the OSSF is found to be compliant, does the use of the system become transferable upon any sale or legal transfer which occurs within 60 days of the inspection. OSSFs for properties which transfer without the required fee and inspection shall be deemed to be invalid, and the new owner, buyer or transferor must pay the required fee and obtain the inspection before operating the OSSF.
- (4) The Aerobic Treatment Unit Sizing Chart in Table II of 30 TAC § 285.91(2) is replaced with the following:

Size of Home	Minimum Aerobic Tank Treatment Capacity in gallons per day
3 or fewer bedrooms and less than 2,501 sq. ft.	450
4 bedrooms and less than 3,501 sq. ft. or less than 4 bedrooms, larger than 2,500, but smaller than 3,501	600
5 bedrooms and less than 4,501 sq. ft. or less than 5 bedrooms, larger than 3,500, but smaller than 4,501	750
6 bedrooms and less than 5,501 sq. ft. or less than 6 bedrooms, larger than 4,500, but smaller than 5,501	900
7 bedrooms and less than 7,001 sq. ft. or less than 7 bedrooms, larger than 5,500, but smaller than 7,001	1050
8 bedrooms and less than 8,501 sq. ft. or less than 8 bedrooms, larger than 7,000, but smaller than 8,501	1200
9 bedrooms and less than 10,001 sq. ft. or less than 9 bedrooms, larger	1350

than 8,500, but smaller than 10,001	
10 bedrooms and less than 11,501 sq. ft. or less than 10 bedrooms, larger than 10,000, but smaller than 11,501	1500
For each additional bedroom above ten or every additional 1,500 sq. ft. of living area above 11,500	add 150

- (5) The following requirement is added to 30 TAC § 285.32(a): Structures which have more than one sewer stub out shall have a common connection of all sewer lines before the treatment system unless the treatment system is designed with more than one entrance.
- (6) The following requirement is added to 30 TAC § 285.3(d): Installers and their apprentices shall during installation, maintain on the job site copies of all approved plans, contracts, manifests, well data, and the specifications of the components relating to the installation of the OSSF, and shall make same available to the inspector until all required inspections are completed.
- (7) On-Site Sewage Facilities Maintenance and Management Practices: Maintenance contract requirements for all OSSF's are identified in 30 TAC 285.91 (12). Further, maintenance and management practices shall comply with 30 TAC 285.7 and 285.39.
 - a. No homeowner/property owner shall be allowed to perform any maintenance on an on-site disposal system using aerobic treatment unless the homeowner/property owner:
 - 1. Provides documentation of completing and passing a basic OSSF maintenance course approved by the regulatory authority for aerobic treatment units and the property to be maintained is owned by the trained home owner, or
 - 2. Holds a valid wastewater Class D license or higher wastewater treatment license, or
 - 3. Shows the OSSF was lawfully installed as of October 1, 2009, and has maintained said OSSF prior to that date may continue to do so.
 - 4. Demonstration from all of the above mentioned, must be able to illustrate to a licensed designated representative of the health district that he can perform the following procedures for maintaining the OSSF: replacing air filters, cleaning aerobic diffusers, spinners and agitators, cleaning pumps, testing for chlorine and/or fecal coliform, monitoring turbidity, scum and sludge build-up, controlling odor, and ensuring the application area is distributing properly and according to the original system design. The owner must inspect the OSSF and submit an inspection report to the health district every four months. An owner who fails to submit inspections as required shall not be permitted to self-maintain, and will be required to obtain a testing and reporting contract from a licensed OSSF maintenance provider.
 - b. Each maintenance provider having contracts in Burkburnett shall register with Wichita Falls-Wichita County Public Health District (health district) Environmental Health Division. Maintenance provider registration shall be effective from the date of registration to December 31st of the same year. Renewal maintenance provider registration for the next year shall not be accepted before December 1st of the current year. New and renewal maintenance contracts will only be accepted from maintenance providers whose registration is current and in good standing. Maintenance provider registration shall be free of charge.

1. Maintenance providers who fail to perform maintenance testing at the required intervals, mark an inspection tag, or submit a report on time two (2) or more times during any twelve (12) month period may have their registration suspended for no longer than one (1) year in addition to any other penalties that may apply. No new or renewal maintenance contracts will be accepted from a maintenance provider during the time their registration is suspended.
 2. A licensed OSSF maintenance provider will submit an inspection report for each OSSF to the health district every four months. Renewal contracts shall be for a term of no less than one year and include at least 3 inspections. Contract renewals with the same maintenance provider will not be accepted by the health district unless all of the maintenance reports from the previous contract period have been received.
- (8) All components that need to be replaced on an OSSF shall be replaced by an individual licensed by the TCEQ to replace or repair the specific component. Said replacement must utilize components certified by the manufacturer for use on the specific model being maintained.

SECTION 11. DUTIES AND POWERS.

The Wichita Falls/Wichita County Public Health District is declared the designated representative for the enforcement of the rules under this division within the city. Individuals employed by the health district will represent the district as the designated representative; however, these individuals must be approved and certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities of the designated representative.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the Wichita Falls Wichita County Public Health District. 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 THSC, Chapter 367.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the Board of Commissioners of the City of Burkburnett, Texas.

SECTION 14 ENFORCEMENT PLAN

The City of Burkburnett, Texas clearly understands that, at a minimum, it must follow the requirements in 30 TAC § 285.71 Authorized Agent Enforcement of OSSFs.

This Ordinance adopts and incorporates all applicable provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the THSC, Chapters 7, 26, and 37 of the TWC and 30 TAC Chapter 30, Subchapters A and G, and Chapter 285.

SECTION 14 or 15. SEVERABILITY

It is hereby declared to be the intention of the Board of Commissioners of the City of Burkburnett, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the Board of Commissioners without incorporation in this Ordinance of such unconstitutional phrases, clauses, sentences, paragraphs, or sections.

SECTION 15 or 16. RELINQUISHMENT OF ORDINANCE

If the Board of Commissioners of the City of Burkburnett, Texas decides that it no longer wishes to regulate on-site sewage facilities in its area of jurisdiction, the Board of Commissioners, as the authorized agent, and the TCEQ shall follow the procedures outlined in 30 TAC § 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 30 TAC § 285.10 (d) (5) and §285.14 after the date that delegation has been relinquished.

SECTION 16 or 17. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its date of approval as required by law and upon the approval of the TCEQ.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 15th DAY OF October, 2018.

APPROVED:

(SEAL)

Carl Law

Carl Law, Mayor

ATTEST:

Janelle Stahr

Janelle Stahr, City Clerk

