

§ 13.02.014. Mandatory connection to city water and wastewater systems.**(a) Mandatory connection.**

- (1) No building, tract of land, or structure in an area of the city for which water or sewer service is available shall be occupied for residential, commercial, industrial, or other such purposes unless such buildings or structures are connected by a separate connection to the city water and sewer system unless specifically exempted herein or a variance request is approved and issued by the city council.
- (2) Each residential unit and business unit within the city shall be connected by separate connection to the city water and sewer system as soon as city water and sewer service is available to such unit, unless specifically exempted herein or a variance request is approved and issued by the city council. Property that abuts a street, road, or other public way in which a public water supply is located and is within two hundred feet (200') of such water and sewer line is deemed to have access to the city water and sewer system.

(b) Separate connection required.

- (1) Any unoccupied residential unit or business unit within the city for which water and sewer service has been provided previously by the city water and sewer system or its predecessor shall be connected to the city water and sewer system by a separate connection prior to occupancy.
- (2) Any two or more residential units that are found to be obtaining water and sewer service through a single meter shall be required to connect each such unit by a separate connection to the city water and sewer system within thirty (30) days of notice from the city.
- (3) Each business unit within the city shall be connected by a separate connection to the city water and wastewater system as soon as city water and wastewater service is available to such unit, unless specifically exempted herein.

(c) Master meter.

- (1) Any commercial or industrial establishments or entities located within a single building and served by a master meter on the effective date of the ordinance enacting this section may elect to continue to receive water service through a master meter.
- (2) From the effective date of the ordinance enacting this section, no person or commercial or industrial establishment shall be permitted to obtain service through a master meter or otherwise provide water service to another person or entity.

(d) Exemption. Any residential unit within the city which is being served by a privately owned water well or on-site septic system on the effective date of the ordinance enacting this section shall be connected to the city water and sewer system by a separate connection at such time as the well or on-site septic system fails to meet the county, Blanco-Pedernales groundwater conservation district, state department of licensing and regulation, or state commission on environmental quality permitting requirements or other statutes or regulations of the state.

(e) Variance from mandatory wastewater system connection.

- (1) The city council may consider a variance request for installation of an on-site sewage facility (OSSF) on a property in lieu of the mandatory wastewater system connection.
- (2) An application for a variance request shall include information prepared by either a professional

§ 13.02.014

§ 13.02.014

sanitarian or a professional engineer (with appropriate seal, date, and signature) on the planning, materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, and inspection of the OSSF. The information shall demonstrate compliance with minimum standards for OSSF installation and operation pursuant to Texas Administrative Code, chapter 285 on-site sewage facilities, as amended, and as promulgated by the state commission on environmental quality (TCEQ); the Texas Health and Safety Code chapter 366 on-site sewage disposal systems; and with the rules and regulations for OSSFs of the county.

- (3) A variance request must be submitted to the city as part of a plat application for the property for which the variance is sought. The variance request shall be processed in accordance with the plat application process to include review by the city planning and zoning commission, public notice and hearing, and consideration and final decision by the city council. An application shall include payment of an application fee to recover administrative costs for review of a variance request and shall be an amount as set in the master fee schedule.
- (4) No variance shall be approved and issued unless the city council finds that:
 - (A) There are special circumstances or conditions affecting the land involved such that strict application of the mandatory connection would result in an unreasonable impact on and use of the land;
 - (B) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship, as distinguished from mere inconvenience to the owner, would result from the mandatory connection. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship;
 - (C) The variance is necessary for the preservation and enjoyment of a substantial property right;
 - (D) The granting of the variance will not be detrimental to the public health, safety, welfare or injurious to other property in the area; and
 - (E) The conditions upon which a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property.
- (5) A variance permitting an OSSF shall be issued with conditions including, but not limited to, imposing an expiration deadline of the variance if OSSF installation is not initiated; providing a copy to the city of the TCEQ annual report regarding operation and maintenance of the OSSF; immediately notifying the city of emergency issues or substantial problems with the OSSF; reserving to the city the right to enter upon the property at any time for the purpose of reviewing emergency matters; submitting monthly payments in accordance with the city's wastewater sewer rates for administrative costs incurred by the city for initial review of the variance application and continuing OSSF oversight upon issuance of the variance; and recording the plat with appropriate notations indicating OSSF installation is permitted.
- (6) Failure to comply with conditions shall result in revocation of the variance and imposition of fines for violation of this article.

(Ordinance 21-0301 adopted 3/2/21)

Rick Schroder

From: Elizabeth Elleson
Sent: Wednesday, July 12, 2023 5:43 PM
To: Rick Schroder
Subject: Fw: Cockshutt Subdivision
Attachments: 23188 PRELIMINARY REPLAT 6-26-23.pdf

Rick,

Essentially, in order to get a variance for an OSSF, an applicant must show that an OSSF would meet all installation requirements if one were to be installed.

As noted below, per Section 13.02.014(e)(2) of the city ordinance:

(2) An application for a variance request shall include information prepared by either a professional sanitarian or a professional engineer (with appropriate seal, date, and signature) on the planning, materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, and inspection of the OSSF. The information shall demonstrate compliance with minimum standards for OSSF installation and operation pursuant to Texas Administrative Code, chapter 285 on-site sewage facilities, as amended, and as promulgated by the state commission on environmental quality (TCEQ); the Texas Health and Safety Code chapter 366 on-site sewage disposal systems; and with the rules and regulations for OSSFs of the county.

This means that it must be demonstrated on the application that the proposed septic system would meet the OSSF installation requirements not only of TCEQ, but also of Blanco County (permits and licenses for an OSSF in Blanco County are issued by Blanco County, TCEQ's authorized agent.) This information must be prepared by a licensed sanitarian or engineer.

One initial consideration is whether the lots will meet the size requirements for an OSSF. This will depend on how the tracts are to be developed and whether public water or a private well is to be provided. Per TAC Rule Sec. 285.4(a):

(1) Residential lot sizing.

(A) Platted or unplatted subdivisions served by a public water system. Subdivisions of single family dwellings platted or created after the effective date of this section, served by a public water supply and using individual OSSFs for sewage disposal, shall have lots of at least 1/2 acre.

(B) Platted or unplatted subdivisions not served by a public water system. Subdivisions of single family dwellings platted or created after the effective date of this section, not served by a public water supply and using individual OSSFs, shall have lots of at least one acre.

This may mean that the developer may have to provide a site plan to show that an OSSF permit would issue from the County.

Also, as a variance request, notice must issue and a public hearing held (Section 13.02.014(e)(3)).

EE

Elizabeth Elleson
City Attorney
City of Johnson City
Mobile: (512) 964-1220

CONFIDENTIAL NOTICE This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Este mensaje contiene información propietaria de la cual parte o toda puede contener información confidencial o protegida legalmente. Esta exclusivamente destinado al usuario de destino. Si, por un error de envío o transmisión, ha recibido este mensaje y usted no es el destinatario del mismo, por favor, notifique de este hecho al remitente. Si no es el destinatario final de este mensaje no debe usar, informar, distribuir, imprimir, copiar o difundir este mensaje bajo ningún medio.

From: Rick Schroder <rschroder@johnsoncitytx.org>
Sent: Wednesday, July 12, 2023 3:12 PM
To: Joe Stewart ·
Cc: Whitney Walston <wwalston@johnsoncitytx.org>; Elizabeth Elleson <cityattorney@johnsoncitytx.org>; Brent J Sultemeier <bsultemeier@johnsoncitytx.org>
Subject: RE: Cockshutt Subdivision

Mr. Stewart,

Thank you for your email regarding a variance for the installation of an on-site sewage facility for lots 2 and 3 of the attached plat. The plat was previously administratively approved as a minor plat by myself. Each lot is served by a 10' public utility easement, and, it is my understanding, that an existing 2" water line is located within the public utility easement. No sewer line exists in this easement, and the nearest sewer mains are located off Old Austin Hwy. and near the nursing home. Both are considerable distances away from this property.

City Code does provide for a variance process for on-site sewage (septic) facilities:

Variance from mandatory wastewater system connection.

- “(1) The city council may consider a variance request for installation of an on-site sewage facility (OSSF) on a property in lieu of the mandatory wastewater system connection.
- (2) An application for a variance request shall include information prepared by either a professional sanitarian or a professional engineer (with appropriate seal, date, and signature) on the planning, materials, construction, installation, alteration, repair, extension, operation, maintenance, permitting, and inspection of the OSSF. The information shall demonstrate compliance with minimum standards for OSSF installation and operation pursuant to Texas Administrative Code, chapter 285 on-site sewage facilities, as amended, and as promulgated by the state commission on environmental quality (TCEQ); the Texas Health and Safety Code chapter 366 on-site sewage disposal systems; and with the rules and regulations for OSSFs of the county.
- (3) A variance request must be submitted to the city as part of a plat application for the property for which the variance is sought. The variance request shall be processed in accordance with the plat application process to include review by the city planning and zoning commission, public notice and hearing, and consideration and

final decision by the city council. An application shall include payment of an application fee to recover administrative costs for review of a variance request and shall be an amount as set in the master fee schedule.

(4) No variance shall be approved and issued unless the city council finds that:

(A) There are special circumstances or conditions affecting the land involved such that strict application of the mandatory connection would result in an unreasonable impact on and use of the land;

(B) Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship, as distinguished from mere inconvenience to the owner, would result from the mandatory connection. Pecuniary hardship, standing alone, shall not be deemed to constitute undue hardship;

(C) The variance is necessary for the preservation and enjoyment of a substantial property right;

(D) The granting of the variance will not be detrimental to the public health, safety, welfare or injurious to other property in the area; and

(E) The conditions upon which a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property.

(5) A variance permitting an OSSF shall be issued with conditions including, but not limited to, imposing an expiration deadline of the variance if OSSF installation is not initiated; providing a copy to the city of the TCEQ annual report regarding operation and maintenance of the OSSF; immediately notifying the city of emergency issues or substantial problems with the OSSF; reserving to the city the right to enter upon the property at any time for the purpose of reviewing emergency matters; submitting monthly payments in accordance with the city's wastewater sewer rates for administrative costs incurred by the city for initial review of the variance application and continuing OSSF oversight upon issuance of the variance; and recording the plat with appropriate notations indicating OSSF installation is permitted.

(6) Failure to comply with conditions shall result in revocation of the variance and imposition of fines for violation of this article.”

Due to the unique characteristics of this area of the City and the lack of sewer mains in the immediate area, I think a variance request is reasonable; however, that determination is solely made by the City Council. Moreover, this is complicated by the fact that such variance requests are required to go through the platting process. As you know, this plat was already approved as a minor plat.

I have cc'd the City Attorney onto this email. Please allow me to get with her on what processes would need to occur to request this variance for the two lots. I will circle back with you once I receive her feedback.

Thank you,



Rick A. Schroder
Chief Administrative Officer
303 E. Pecan Dr. (Physical) | P.O. Box 369 (Mailing) | Johnson City, Texas 78636
(830) 868-7111, Ext. 8 | (830) 868-7718 (Fax) | www.johnsoncitytx.org
Yesterday is not ours to recover, but tomorrow is ours to win or lose. – President LBJ

OPEN MEETINGS ACT / CONFIDENTIALITY NOTICE: City Councilpersons and members of other Johnson City boards and / or commissions shall not “reply all” to this e-mail message. Please reply only to the original sender of this e-mail message. This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential or privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

Rick Schroder

From: Michael OLSON
Sent: Wednesday, July 12, 2023 5:57 PM
To: Rick Schroder; Odalys Johnson
Subject: Re: Ossf certification

I am taking the direct representative test next week. But we have others on staff

Sent via the Samsung Galaxy S23 Ultra 5G, an AT&T 5G smartphone
Get [Outlook for Android](#)

From: Rick Schroder <rschroder@johnsoncitytx.org>
Sent: Wednesday, July 12, 2023 5:52:33 PM
To: Michael OLSON, Odalys Johnson
Subject: Ossf certification

Be careful with this message: it is coming from an external sender
Do not open attachments nor click on links, unless you are sure that the content is safe

Do either of your organizations have an on site sewage (septic) facility certified reviewer?

Best,


Rick A. Schroder

This message contains confidential information. To know more, please click on the following link:
<https://disclaimer.bureauveritas.com>

How to Become a Texas On-Site Sewage Facility (Septic System) Authorized Agent

What an OSSF authorized agent is, how a local government agency can become one, and how authorized agents amend an existing approved order, ordinance, or resolution.

How does a local governmental entity become an authorized agent? 

To become an authorized agent, a local governmental entity must have an order, ordinance, or resolution approved by the TCEQ; and must follow the requirements specified in **30 TAC §285.10**  It is recommended the local governmental entity work with their designated representative when preparing or amending an order or ordinance. Below is a synopsis of the process:

1. Request a description of the delegation process and a copy of the model order, ordinance, or resolution.
2. Draft an order, ordinance, or resolution that meets the requirements of Title 30 Texas Administrative Code (30 TAC), Chapter 285 and Texas Health and Safety Code, Chapter 366, §366.032 using the model order, ordinance, or resolution format.
3. If proposing more stringent standards than 30 TAC, Chapter 285, the draft order, ordinance, or resolution must be submitted to the TCEQ with a written justification demonstrating how each more stringent requirement will provide greater protection to the public health and safety for review, comment, and approval before publishing the notice for a public meeting.
4. Publish notice of a public meeting at least 72 hours, but not more than 30 days. The notice must appear in a regularly published newspaper of general circulation in the area of jurisdiction.
5. After the public meeting is held, submit a copy of the following items:
 - o public notice as it appeared in the newspaper;
 - o publisher's affidavit from the newspaper in which the public notice appeared;


- certified copy of the minutes of the meeting when the order, ordinance, or resolution was adopted; and
 - certified copy of the order, ordinance, or resolution that was passed by the entity.
6. Have TCEQ review the materials to ensure the entity has complied with the requirements of 30 TAC, Chapter 285 and the Texas Health and Safety Code, Chapter 366. After the review:
- a commission order approving delegation will be prepared for signature by the executive director, or
 - a letter will be sent to the entity describing how the draft order, ordinance, or resolution does not comply with 30 TAC, Chapter 285 or Texas Health and Safety Code, Chapter 366.
7. Make necessary changes to the draft order, ordinance, or resolution, if needed and repeat steps 4-6.

The entity's order, ordinance, or resolution will be effective on the date the commission order approving delegation is signed by the executive director.


Is there a model order or ordinance available in a downloadable format? 

Yes.

-  **Model Order - 2016**
-  **Model Ordinance - 2016**

What happens when a local governmental entity becomes an authorized agent? 

The authorized agent is responsible for the proper implementation of Texas Health and Safety Code, Chapter 366, 30 TAC Chapter 285. The agent also administers the OSSF program according to the OSSF order, ordinance, or resolution approved by the executive director within the agent's area of jurisdiction.

The authorized agent must submit a monthly report ( **PDF format**) to the Texas On-site Wastewater Research Council to account for the total number of \$10 fees that were collected

during the month.

Not more than once a year, the authorized agent will be investigated by the TCEQ to determine the authorized agent's compliance with the Texas Health and Safety Code, Chapter 366 and 30 TAC Chapter 285.

How does an approved order, ordinance, or resolution get amended?

An existing approved order, ordinance, or resolution may be amended at the request of the TCEQ:

- To ensure the authorized agent's program is consistent with current commission rules; or
- When the authorized agent feels they need to address a local issue that will benefit the greater protection of the public health and safety.

The **procedures** to amend an existing TCEQ approved order, ordinance, or resolution are the same as submitting an initial order, ordinance, or resolution for approval.

How do authorized agents relinquish their delegation?

When an authorized agent decides to relinquish delegation, the agent will need complete the following steps:

1. Inform the executive director by certified mail at least 30 days before publishing a notice of intent to relinquish authority.
2. Publish notice of a public meeting at least 72 hours, but not more than 30 days, before the public meeting is to be held. The notice must appear in a regularly published newspaper of general circulation in the area of jurisdiction.
3. Hold a public meeting to discuss the intent to relinquish the delegated authority.
4. Repeal the order, ordinance, or resolution.
5. After the order, ordinance, or resolution is repealed, submit a copy of the following items:
 - public notice as it appeared in the newspaper;
 - publisher's affidavit from the newspaper in which the public notice was published; and



- o certified copy of the minutes of the meeting when the order, ordinance, or resolution was repealed.
- 6. Meet with the executive director to determine the exact date the agent shall surrender delegated authority.

The authorized agent will retain all authority and responsibility for the delegated program until the date agreed upon by the authorized agent and the executive director.

How does the TCEQ revoke an authorized agent's delegation?


An authorized agent's order, ordinance, or resolution may be revoked at any time by order of the commission for failure to implement, administer, or enforce Texas Health and Safety Code, Chapter 366 or 30 TAC, Chapter 285.

If the executive director determines that cause exists for revocation, the executive director will:

1. File a petition with the commission according to **30 TAC Chapter 70**  seeking revocation;
2. Initiate the hearing process with the State Office of Administrative Hearings according to **30 TAC Chapter 80**  ; and
3. Hold a public hearing to discuss the commission's intent to revoke the delegated authority of the local governmental entity.


After the opportunity for a hearing, the commission may:

- issue an order revoking the authorized agent's delegation;
- issue an order requiring the authorized agent to take certain action or actions in order to retain delegation; or
- take no action.

An authorized agent's order, ordinance, or resolution may be revoked at any time by order of the commission for failure to implement, administer, or enforce Texas Health and Safety Code, Chapter 366 or 30 TAC, Chapter 285. The process for revocation is outlined in **30 TAC, Chapter 285.13** .

Laws and rules that govern OSSF authorized agent delegation, relinquishment, and revocation. 

Subchapter C of the **Texas Health and Safety Code, Chapter 366**  covers the designation of a local governmental entity as an authorized agent.

Subchapter B  of Title 30, Texas Administrative Code Chapter 285 covers the procedures, in detail, for the designation, amendment, relinquishment, and revocation process for a local governmental entity.

Who can I contact for more information? 

Visit the **On-site Sewage Facility Program Contacts** page for e-mail addresses and phone numbers of staff who can assist with technical information, licensing, complaints, and other issues regarding on-site sewage facilities (septic systems).

On-Site Sewage Facilities (Septic Systems) Home

Information for Homeowners

Information for Licensees

Information for Regulators

On-Site Activity Reporting System (OARS)

 **How are we doing? Take our customer satisfaction survey**

Related Content

Contact TCEQ's OSSF program:

E-mail addresses and phone numbers for assistance with technical information, licensing, complaints, and other issues about on-site sewage facilities (septic systems).

External Quick Links

EPA Septic Systems Guidance, Policy, and Regulations [↗](#)

TX Onsite Wastewater Association [↗](#)

TX Department of Licensing and Regulation's Sanitarian Registration Program [↗](#)

TX Board of Professional Engineers [↗](#)

Texas A&M Engineering Extension Service [↗](#)

