

Ordinance 07-00262

CITY OF MUSTANG RIDGE §

STATE OF TEXAS §

AFFIDAVIT

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

My name is Carolyn Vallejo; 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 Office for the City of Mustang Ridge, Texas. Attached hereto are eight (8) pages of records known as (Ordinance) 07-00262. The records are kept by me as City Clerk, City of Mustang Ridge, 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.

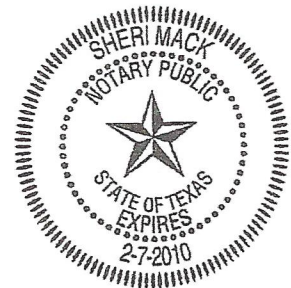
Carolyn Vallejo

BEFORE ME, the undersigned authority, a Notary Public in and for said City, Texas, on this day personally appeared Carolyn Vallejo, 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 10th day of Sept., 2007.

(SEAL)

Sheri Mack
Notary/Public, State of Texas
My commission expires:



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ORDINANCE ADOPTING RULES OF MUSTANG RIDGE, TEXAS FOR ON-SITE SEWAGE FACILITIES PREAMBLE

WHEREAS, the Texas Commission on Environmental Quality 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, 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 City Council of Mustang Ridge, Texas should enact an Ordinance controlling or prohibiting the installation or use of on-site sewage facilities in the City of Mustang Ridge, Texas; and

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

WHEREAS, the City Council of Mustang Ridge, 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 Mustang Ridge, Texas.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF MUSTANG RIDGE, 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 Mustang Ridge, 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 Mustang Ridge, Texas be adopted entitled "On-Site Sewage Facilities", which shall read as follows:

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AN ORDINANCE ENTITLED ON-SITE SEWAGE FACILITIES

SECTION 4. CONFLICTS.

This Ordinance repeals and replaces any other On-site Sewage Facility Ordinance for the City of Mustang Ridge, Texas.

SECTION 5. CHAPTER 366.

The City of Mustang Ridge, 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 Texas Health and Safety Code (H&SC) 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 Mustang Ridge, 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 Mustang Ridge, 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) §285.1-§285.91 and TAC 30, attached hereto, promulgated by the Texas Commission on Environmental Quality for on-site sewage facilities are hereby adopted, and all officials and employees of the City of Mustang Ridge, 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 Chapters 30 and 285 and all future amendments and revisions thereto are incorporated by reference and are thus made a part of these Rules. A copy of the current Rules is attached to these Rules as Appendix I. Subdivision Construction Authorization Requirements are attached to these Rules as Appendix II.

SECTION 10. AMENDMENTS.

The City of Mustang Ridge, Texas wishing to adopt more stringent Rules for its On-Site Sewage Facility Ordinance understands that the more stringent conflicting local Rule shall take precedence over the corresponding Texas Commission on Environmental Quality requirement. Listed below are the more stringent Rules adopted by the City of Mustang Ridge, Texas:

- (A) A property owner of a residential, commercial or institutional building utilizing an on-site sewage facility (OSSF) that is located on a tract of land, regardless of acreage, shall secure and possess a permit from the City of Mustang Ridge, Texas to

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construct, or alter, or repair, or extend an on-site sewage facility.

- (B) The OSSF Inspector of the City of Mustang Ridge, Texas may inspect any OSSF located on a tract of land that is ten acres or larger.
- (C) Subdivisions of land created after the effective date of this ordinance utilizing individual OSSF methods of sewage disposal, shall provide for individual lots having surface areas of at least 1 acre.
- (D) In order to provide greater public health and safety protection, City of Mustang Ridge shall require the maintenance for all OSSF's identified in 285.91(12) to be performed by a TCEQ registered maintenance company unless:
 - (1) The homeowner/property owner is a TCEQ registered maintenance provider for their aerobic treatment unit; or
 - (2) The homeowner/property owner was trained by an installer or manufacturer according to the requirements of HB 2510 [79(R)] prior to adoption of HB 2482 [80(R)]; or
 - (3) The homeowner/property owner holds a valid Class D or higher wastewater treatment license, and is certificated by the manufacturer for the brand of OSSF that they own.
- (E) The use of portable toilets and holding tanks may be authorized by the permitting authority only as a temporary means of domestic sewage disposal for no longer than 180 days. Exceptions may be made, on a case by case basis, for use longer than 180 days for businesses which operate less than two days per week and construction sites requiring restroom facilities. Written documentation of proper transfer and disposal of contents shall be provided to permitting authority prior to installation

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of the City of Mustang Ridge, Texas, must be certified by the Texas Commission on Environmental Quality before assuming the duties and responsibilities.

SECTION 12. COLLECTION OF FEES.

All fees collected for permits and/or inspections shall be made payable to the City of Mustang Ridge, Texas.

SECTION 13. APPEALS.

Persons aggrieved by an action or decision of the designated representative may appeal such action or decision to the City Council of the City of Mustang Ridge, Texas.

SECTION 14. PENALTIES.

This Ordinance adopts and incorporates all applicable penalty provisions related to on-site sewage facilities, which includes, but is not limited to, those found in Chapters 341 and 366 of the Texas Health and Safety Code, Chapters 7, 26, and 37 of the Texas Water Code and 30 TAC Chapters 30 and 285.

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SECTION 15. SEVERABILITY

It is hereby declared to be the intention of the City Council of the City of Mustang Ridge, 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 City Council without incorporation in this Ordinance of such unconstitutional phrases, clause, sentence, paragraph, or section.

SECTION 16. 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 Texas Commission on Environmental Quality.

AND IT IS SO ORDERED:

PASSED AND APPROVED THIS 10th DATE OF September, 2007.

(SEAL)

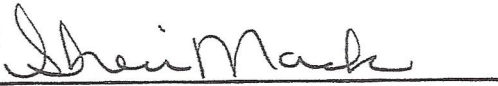


APPROVED:



Mayor

ATTEST:



City Clerk

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EXHIBIT "II"

SUBDIVISION CONSTRUCTION AUTHORIZATION. Any person desiring to create a subdivision, including mobile home parks that will utilize private sewage facilities, in whole or in part, must obtain a Subdivision Construction Authorization from the City of Mustang Ridge prior to commencing or continuing construction in the subdivision.

APPLICATION.

- (a) An applicant for a Subdivision Construction Authorization shall submit an application to the City of Mustang Ridge containing information that is adequate to establish:
 - (1) That is not feasible for the applicant to provide sewer service to the subdivision by means of an organized disposal system; and,
 - (2) That private sewage facilities may be used in the specified subdivision without causing, or threatening to cause, individually or collectively, pollution, injury to the public health, or nuisance conditions. This information will include as a minimum:
 - (A) A map locating the subdivision relative to on and off-site:
 - (i) Surface water,
 - (ii) Watersheds,
 - (iii) Floodplains,
 - (iv) Existing and proposed organized disposal systems, and
 - (v) Existing and proposed individual and public water supply wells.
 - (B) An accurate plat of the subdivision that details the size and intended use of each lot, and that details roads and utility right-of-ways. This plat shall show all areas of the subdivision where the ground water table is less than six (6) feet below the surface as the surface exists or as it will be after grading the filling that may be required in the subdivision development.
 - (C) A list that specifies the type and maximum size (floor space, bedrooms, seating, etc.) of the intended construction that will be allowed on each lot. Based on this list, the applicant shall provide further information to confirm that a private sewage facility that meets all of the requirements of these Rules and the Standards can be constructed on each lot. This information shall include:
 - (i) Preliminary locations and distances between sewage generating units, treatments, water wells, and lot boundaries. These distances shall be shown between these items on each lot and to any existing or proposed water supply wells on adjacent lots.
 - (ii) Average daily wastewater volume to be generated by the specified maximum size construction.

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- (iii) Capacity and/or size of the treatment (tank) and disposal (drain field) units. The disposal area size shall be calculated assuming a specific type of drain field (absorption trench or bed or evapotranspiration bed) and using adequately documented permeability measurements taken at or in reasonably proximity to the drain field locations.
- (D) At the discretion of the City of Mustang Ridge an in consideration of the size and density of the proposed subdivision and other conditions known to exist in the vicinity of the proposed subdivision, one or more geological cross-sections shall illustrate the geological formations that make up the subsurface below the subdivision down to the first aquifer that supplies drinking water in the area. These and characteristics (permeable, impermeable, water bearing, etc.) of each formation and the elevation of any water table.
- (b) The required feel shall accompany the application.
 - (c) Within twenty-five (25) days after a proper and complete application has been made, the Environmental Inspector shall make a recommendation on the issuance of a Subdivision Construction Authorization, based upon the information contained in the completed application and any other information available to the Environmental Inspector. When made, said recommendation for approval, with appropriate restrictions, if any, or denial shall be submitted to the City of Mustang Ridge and mailed to the applicant within five (5) days.
 - (d) When a recommendation is submitted, the City Clerk shall place the matter on the Agenda of the City Council for review at the next meeting of the City Council that is at least ten (10) days after the date of the submission of the recommendation. The City Clerk shall notify the applicant that the matter is on the agenda.
- (1) Upon the approval of a Subdivision Construction Authorization by the City Council, the authorization shall be issued to the applicant. A Subdivision Construction Authorization does not constitute either a Permit to Construct or a License to Operate a specific private sewage facility. An approved Subdivision Construction authorization, however, is a prerequisite for obtaining a permit or license for a specific private sewage facility in a subdivision.
 - (2) Upon the disapproval of a Subdivision Construction Authorization by the City Council, the City Clerk shall so notify the applicant in writing within then (10) days of the disapproval of the authorization.

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- (3) Upon the approval of a Subdivision Construction Authorization, the authorization, the application therefore, and any other critical evaluation information shall be filed as a deed record for the subdivision lots.

(e) Any person, or his agents and assignees, desiring to create a subdivision that will utilize private sewage facilities, in whole or in part, and sell lease, or rent the lot therein shall inform each prospective purchaser, lessee, or renter:

- (1) That the subdivision is subject to all of the terms and conditions of the Rules.
- (2) That a Permit to Construction shall be required before a private sewage facility can be constructed in the subdivision.
- (3) That a License to Operate shall be required for the operation of such a private sewage facility; and,
- (4) That an application for a Subdivision Construction Authorization has been made and whether or not it has been approved, including any restrictions placed on any such approval.

LOT SIZES. The use of a private sewage facility in a subdivision has a bearing on the ultimate lot size.

- (a) In determining the minimum lot size for platting purposes, size will be determined by the suitability of the soil to function without creating a nuisance or health hazard. However:
 - (1) The lot must contain an adequate area to provide for expansion to twice the original size of the absorption field.
 - (2) Each lot shall contain at least 1 acre (43,560 square feet)
 - (3) No part of any private sewage facility shall be installed or operated within a minimum of 100 feet in horizontal distance from any lake, watercourse, or uncontrolled spillway elevation of the lake. No new private sewage facility will be approved on lots of less than one (1) acre; unless a lesser sized lot is approved by the licensing authority after reviewing sufficient percolation tests. Provided also that the licensing authority may approve of other types of private sewage facilities on lesser sized lots after such testing.

To the extent of any conflict with any prior ordinance of the City of Mustang Ridge, the terms of this Ordinance shall be controlling.

If any part of this ordinance or its application is for any reason held to be unconstitutional, invalid or unenforceable, the unconstitutionality, invalidity, or unenforceability of any such part shall in no way affect, impair, or invalidate the remaining parts of this ordinance, but as to such remaining parts, this ordinance shall remain in full effect.

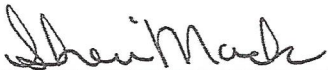
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An action to enforce this Ordinance may be brought by the City of Mustang Ridge or by any resident of the City, with the relief therein sought including, but not limited to damages, declaratory relief, costs of court, attorney's fees, and injunctive relief of a temporary and/or permanent nature. In addition, and without waiver of the foregoing, any person found in violation of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two hundred dollars (\$200.00). Each day of such violation shall constitute a separate offense.

Because prompt action is in the public interest, this ordinance shall be effective immediately upon its passage.

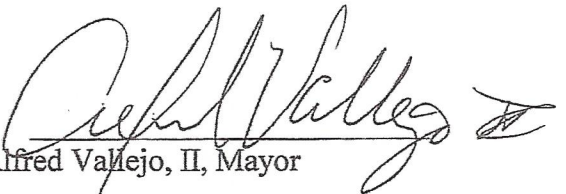
PASSED AND APPROVED this 10th day of September, 2007.

ATTEST



City Clerk





Alfred Vallejo, II, Mayor