

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF THE APPLICATION	§	BEFORE THE EXECUTIVE
OF THE CITY OF HILL COUNTRY VILLAGE	§	DIRECTOR OF THE TEXAS
FOR A TEXAS HEALTH AND SAFETY	§	COMMISSION ON
CODE §366.031 ORDER	§	ENVIRONMENTAL
		QUALITY

On **JUL 21 2009** the Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ"), considered the application of the City of Hill Country Village for an Order pursuant to §366.031, Texas Health and Safety Code (THSC), and 30 Texas Administrative Code (TAC) §285.10 of the rules of the Commission.

No person has requested a public hearing on the application, therefore the Executive Director, on behalf of the Commission, is satisfied that the City of Hill Country Village has satisfied the requirements of §366.031, THSC. The Commission finds that the City of Hill Country Village Ordinance should be approved.

FINDINGS OF FACT

1. The City of Hill Country Village drafted a proposed Ordinance which regulates on-site sewage facilities.
2. On July 10, 2008 the City of Hill Country Village caused notice to be published, in a newspaper(s) regularly published and of general circulation, in the City of Hill Country Village area of jurisdiction, of a public meeting to be held on Thursday, July 17, 2008.
3. The City of Hill Country Village held a public meeting to discuss its proposed Ordinance on Thursday, July 17, 2008.
4. The City of Hill Country Village Ordinance regulating on-site sewage facilities was adopted on Thursday, July 17, 2008.
5. A certified copy of the minutes was submitted to the Texas Commission on Environmental Quality.
6. A certified copy of the City of Hill Country Village Ordinance was submitted to the Commission.
7. The Ordinance is at least equivalent to the standards of the Commission.

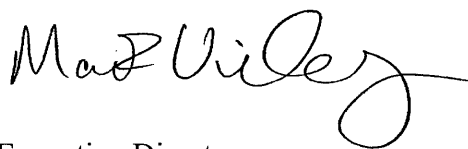
CONCLUSIONS OF LAW

1. The Commission has jurisdiction to issue Orders designating local governmental entities as authorized agents. TEXAS WATER CODE ch. 5 and TEXAS HEALTH & SAFETY CODE ch. 366.
2. The Commission may delegate uncontested matters to the Executive Director provided the required notice was given, the applicant agrees to the action and the application is uncontested. TEXAS WATER CODE § 5.122.
3. Notice of the City of Hill Country Villages's intent to become an authorized agent was properly provided. TEXAS HEALTH & SAFETY CODE § 366.031 and TEXAS ADMINISTRATIVE CODE § 285.10.
4. The City of Hill Country Village agreed to the proposed Order in writing.
5. The proposed Order designating the City of Hill Country Village as an authorized agent is uncontested.
6. The City of Hill Country Village's proposed Ordinance incorporates the Commission's rules on abatement or prevention of pollution and prevention of injury to the public health; meets the Commission's minimum requirements for on-site sewage disposal systems; and includes a written enforcement plan. TEXAS HEALTH & SAFETY CODE § 366.032.

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY THAT:

1. The City of Hill Country Village is hereby designated as an authorized agent and authorized to implement its Ordinance regulating on-site sewage facilities.
2. Any amendments to the City of Hill Country Village Ordinance must be approved by the Commission.
3. The Office of Chief Clerk of the Commission is directed to forward a copy of this Order and the City of Hill Country Village's adopted Ordinance, marked as Exhibit "A," to the City of Hill Country Village and all other parties and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date: **JUL 21 2009**



Executive Director
Texas Commission on Environmental Quality

EXHIBIT A

CITY OF HILL COUNTRY VILLAGE §

STATE OF TEXAS §

AFFIDAVIT

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

My name is Frank Morales; 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 Hill Country Village, Texas. Attached hereto are three (3) pages of records known as (Ordinance) 1032. The records are kept by me as City Clerk, City of Hill Country Village, 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.

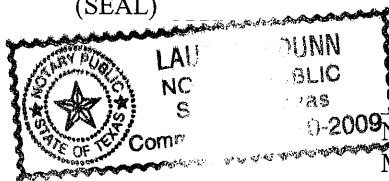
Frank Morales

The seal is circular with a five-pointed star in the center. The words "CITY OF HILL COUNTRY VILLAGE" are written around the top half of the circle, and "TEXAS" is at the bottom. There are small stars on either side of the word "TEXAS".

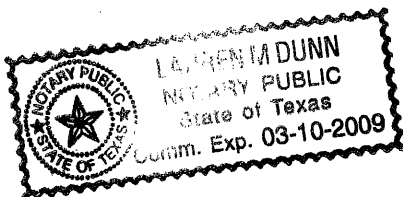
BEFORE ME, the undersigned authority, a Notary Public in and for said City, Texas, on this day personally appeared Frank Morales, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledge to me that she executed the same for the purposes and consideration therein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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17th day of July, 2008

(SEAL)



Lauren M. Dunn
Notary/Public, State of Texas
My commission expires: 3/10/09



ORDINANCE ADOPTING RULES OF HILL COUNTRY VILLAGE, 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 Hill Country Village, Texas should enact an Ordinance controlling or prohibiting the installation or use of on-site sewage facilities in the City of Hill Country Village, Texas; and

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

WHEREAS, the City Council of Hill Country Village, 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 Hill Country Village, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HILL COUNTRY VILLAGE, 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 Hill Country Village, 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 Hill Country Village, 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 Ordinance for the City of Hill Country Village, Texas.

SECTION 5. ENFORCEMENT OF CODES AND RULES.

The City of Hill Country Village, 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 Hill Country Village, 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 Hill Country Village, 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 Hill Country Village, 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.

SECTION 10. AMENDMENTS.

The City of Hill Country Village, 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 Hill Country Village, Texas:

(A) A property owner of a residential, commercial or institutional building utilizing an on-site sewage facility that is located on a tract of land, regardless of acreage, shall secure and possess a permit from the City of Hill Country Village, Texas to construct, or alter, or repair, or extend an on-site sewage facility.

(B) All contracted maintenance of an on-site sewage disposal system using aerobic treatment shall be conducted by a certified maintenance provider. There shall be no homeowner/property owner maintenance of an on-site sewage disposal system using aerobic treatment unless the property owner/homeowner is a certified maintenance provider for that aerobic treatment unit.

SECTION 11. DUTIES AND POWERS.

The OSSF Inspector of the City of Hill Country Village, 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 Hill Country Village, 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 Hill Country Village, 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.

SECTION 15. SEVERABILITY

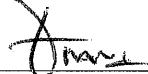
It is hereby declared to be the intention of the City Council of the City of Hill Country Village, Texas, that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional 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.

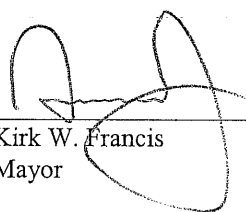
This Ordinance shall be in full force and effect from and after its date of approval as required by law and upon the approval of the Texas Commission on Environmental Quality.

PASSED AND APPROVED THIS 17th DATE OF JULY 2008.

ATTEST:


Frank Morales
City Administrator
Acting City Secretary




Kirk W. Francis
Mayor