

SUBDIVISION ORDINANCE

No. 043

AN ORDINANCE ADOPTING AND PROMULGATING RULES AND REGULATIONS COVERING THE PLATTING OF LAND INTO SUBDIVISIONS IN THE CITY OF MUSTANG RIDGE, TEXAS, AND REQUIRING PLATS TO CONFORM TO SUCH RULES AND REGULATIONS PROVIDING AND SETTING FORTH AND REQUIRING PAYMENT THEREOF, AND PROVIDING FOR PENALTIES AND DECLARING AN EMERGENCY IN ITS ENACTMENT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSTANG RIDGE, TEXAS, THAT THE FOLLOWING RULES AND REGULATIONS AND CHARGES SHALL GOVERN THE APPROVAL AND REQUIREMENTS OF PLATS WITHIN THE CORPORATE LIMITS OF THE CITY OF MUSTANG RIDGE, TEXAS.

SECTION 1. INTERPRETATION AND PURPOSE

In the interpretation and application of the provisions of these regulations, it is the intention of the City Council of Mustang Ridge that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the City of Mustang Ridge, and, where other ordinances of the City are more restrictive in their requirements, such other ordinances shall control. The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits of the City of Mustang Ridge, Texas and for such other areas as may be authorized by Articles 970a and 974a of Texas Revised Civil Statutes are intended to:

- Promote and develop the utilization of land to assure the best possible community environment in accordance with the Community Development Plan of the City of Mustang Ridge.
- Guide and assist and expedite the developers in correct procedures to be followed and to inform them of the standards which shall be required.
- Protect the public interest by controlling the location, design, class and type of streets, sidewalks, utilities, and essential areas and services required.
- Protect and promote the health, safety, and general welfare of the community.

SECTION 2. DEFINITIONS

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the

context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender include the feminine gender. Definitions are expressly prescribed herein to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

Subdivision. The term "subdivision" for the purpose of this ordinance shall mean the division of a parcel or tract of land into two or more lots or parcels for the purpose of transfer of the ownership or building development of a residential area. "Subdivision" includes re-subdivision, but it does not include the division of land for agricultural purposes in parcels of tracts of fives acres or more and not involving any new street, alley or easement of access.

Streets. The term "street" shall mean a way for traffic and shall be at least thirty feet in width.

Developer. The term "developer" shall include and mean any person, partnership, firm, association, corporation, and/or any officer, agent, employee, servant, and trustee thereof, who does, or participates in the doing of any act toward the subdivision of land within the intent, scope, and preview of this Ordinance. The singular shall include the plural and the plural shall include the singular.

Public Facilities. The term "public facilities" shall refer to such utilities, streets, sidewalks, drainage structures, as may be required by the City to adequately protect the health and safety of the population in the subdivision.

SECTION 3. RULES AND REGULATIONS

The City Council shall adopt regulations governing the submittal and review of plats and subdivisions and rules of procedures to govern its actions. Such rules and regulations shall be consistent with the provisions of this Chapter and shall become effective upon being filed with City Secretary. Such rules and regulations shall specify form and content of required submissions.

SECTION 4. APPROVAL OF SUBDIVISION REQUIRED

A. Preliminary Plan

Until a preliminary plan of a subdivision shall have been approved in accordance with these controls, no person shall subdivide or shall submit a final plat thereof, or shall file a record of survey, or a map or plat for record, or proceed with any grading, construction or other work on the same. The City Council shall approve or disapprove any preliminary plant within thirty (30) days from the date of the meeting at which it is filed with the City Council.

B. Final Plat

A final plat of a subdivision which conforms to these regulations and to all conditions affixed to the City Council's approval of the preliminary plan shall be approved by the City Council for recording in the County Plat Records. Any plat which does not conform to these regulations shall be disapproved within thirty (30) days of the meeting at which it is filed. The final plat shall be accompanied by the filing fee prescribed by the City Council and by certificates from the City, School District and County Tax Collectors showing that all City, School District and County taxes on the land being subdivided have been paid to the current year.

SECTION 5. GENERAL SUBDIVISION DESIGN - STANDARDS AND SPECIFICATIONS

No preliminary plat or final plat shall be approved by the City Council unless the subdivision follows good planning practices and proven engineering practices. No subdivision or master plan of the proposed subdivision shall be approved unless it is in conformity with the City Plan at such time as said City Plan may be adopted or revised by the City Council. All facilities shall be constructed in accordance with the City of Mustang Ridge Construction Standards as referenced herein, and made a part of these regulations. All streets and alleys shall be dedicated to the public in accordance with these requirements. No private streets will be permitted. The Council will review each proposed subdivision on its own merits and reserves the right to refuse any subdivision which is not in conformity or character with existing land use practices in the community. All lots in a proposed subdivision will have a minimum of one half (1/2) acre in size. All lots in a proposed subdivision with an approved sewer system will have a minimum of one quarter (1/4) acre in size.

SECTION 6. PROCEDURES FOR FILING SUBDIVISION PLAT

- Previous to the filing of an application for a conditional approval of the Preliminary Plat, the subdivider shall confer with the City Council, to discuss the proposed plat and the proposed subdivision and requirements thereof.
- Next the developer shall present such plat and plans to the City Council for consideration at its next meeting. Such council may take such time as it deems appropriate to consider such Preliminary Plat, which shall be filed in at least two copies.
- Before any final approval shall be given to a developer for such plat, if the subdivider chooses to file security in lieu of completing construction prior to recordation of the final plat, he may utilize one of the following methods of security. If the subdivider chooses to file security, the plat shall not be recorded unless the subdivider has one of the following:

1. Performance Bond - File with the City a bond executed by a surety company holding a license to do business in the State of Texas, such bond to be at the expense of the developer, acceptable to the City, on the form provided by the City, in an amount equal to the cost of the improvements required by this Ordinance, and within the time for completion of the improvements as estimated. The performance bond shall be approved as to form and legality by the City Attorney.

2. Trust Agreement - Has placed on deposit in a bank or trust company, in the name of the City and approved by the City, in a trust account a sum of money equal to the estimated cost of all site improvements as required by this Ordinance, the cost and time of completion. The selection of the trustee shall be subject to approval by the City, and the trust agreement shall be executed on form provided by the City and approved as to form and legality by the City Attorney. Periodic withdrawals may be made from the trust account for a progressive payment of installation costs. The amounts of such withdrawals shall be based upon progress and work estimates approved by the City Council. All such withdrawals shall be approved by the trustee.

3. Unconditional Guarantee from Local Bank or Local Federal Insured Savings and Loan Association or other Financial Institution as approved by City of Mustang Ridge - Has filed with the City on a form approved by the City, signed by a principal officer of a local bank or local federally insured savings and loan association or other financial institution, acceptable to the City, agreeing to pay to the City of Mustang Ridge, on demand, a sum of money equal to the estimated costs of installation of all improvements required by this Ordinance, and to be applied to installing said improvements for which the subdivider or developer is responsible under this Ordinance. The guaranteed payment sum shall be estimated costs and scheduling as prepared by the Building Official. The letter shall state the name of the subdivision and shall list the improvements for which the subdivider or developer is responsible under this Ordinance. If the subdivider chooses to construct the required improvements prior to recordation of final plat, all such construction shall be inspected while in progress by the designated representative of the City and approved upon completion. A certificate by such officer stating that the construction conforms to the specifications and standards contained in or referred to herein must be presented to the City prior to recordation of the final plat.

SECTION 7. RESPONSIBILITY FOR PAYMENT OF INSTALLATION COSTS

The subdivider shall be responsible, at his own expense, dedicate such rightway and construct such water mains, fire hydrants, sanitary sewers, storm sewers, streets, sidewalks, and drainage ditches of such size size as to adequately serve the area being subdivided, as determined by review of the City Council. All facilities shall be constructed in accordance with the City of Mustang Ridge's established construction standards.

SECTION 8. EXTENSION OF PUBLIC FACILITIES

Where necessary, in order to properly serve the subdivision with public facilities, the City may require that existing public utilities be made or that such facilities be constructed outside the subdivision, which extensions of such facilities are here referred to as "off-site improvements", the subdivider shall install such off-site improvements of such a size as to adequately serve the area being subdivided at his own expense.

SECTION 9. ADMINISTRATIVE EXPENSES, FEES, AND INCIDENTAL EXPENSES

All of the legal fees incident to subdivisions and all fees for engineering and surveying and recordation fees shall be paid by the developer. In the event the City has to secure the services of an engineer, planner, attorney, and any related field of expertise to review the proposed subdivision, the developer shall pay for those costs. Such fees will be due in advance and shall be based upon the estimates of the City. In the event that upon final consummation, such costs, as estimated by the developer and Council, are insufficient to cover the items, such developer shall, within ten days of notification thereof by the City Council, pay to the City of Mustang Ridge the balance of such cost. In the event that such costs are less than the estimate of the City Council and developer, the surplus, if any, shall be paid by the City to the developer within ten days after final completion of such project.

SECTION 10. PROCEDURE FOR APPROVAL OF FINAL PLAT

The final plat shall conform to the preliminary plat as approved, and, incorporating all changes, directions and additions imposed by the City Council of Mustang Ridge, Texas. The final plat shall not be released for filing until detailed plans have been approved by the City of Mustang Ridge. If so desired by the developer, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and then develop, provided, however, that such portion conforms to all the requirements of these regulations. Upon receipt of the final plat, accompanied by a final filing fee, as prescribed herein, the City Secretary shall check the plat to ascertain its compliance with these regulations, and the action of the City Council. When the copy of the final plat has been checked and found to meet all general requirements and design standards, and all fees and required certifications filed, the developer shall submit two (2) copies of the final plat to the City Secretary. The City Secretary shall stamp on each of the two (2) copies the certificate of approval of the City Council attested by the Mayor when such final plat has been approved. The developer or his authorized agent will secure the required number of plats and record them with the County Clerks of Travis, Hays, Bastrop and/or Caldwell Counties, Texas, as applicable, within thirty (30) days of the date of the final approval, otherwise the approval of the City Council becomes invalid. Two (2) copies of the recorded final plat shall be returned immediately to the City

Secretary. Plans showing details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewer and other details of the subdivision shall be submitted to the City Secretary along with the final plat of the subdivision. Such plans shall conform to the design standards established by the City of Mustang Ridge. The final plat will not be released for filing until detailed plans have been approved by the City Council.

SECTION 11. ADMINISTRATION

The City Council of the City of Mustang Ridge, Texas, acting in good faith shall be the sole and final arbiter as to whether or not the public facilities and other requirements contained in this Ordinance have been satisfactorily complied with, so far as construction and operations are concerned. If same do not meet such standards, then the reconstruction or repair should be done forthwith at the sole and complete cost of developer so far as both material and labor are concerned.

SECTION 12. CONFLICT WITH OTHER ORDINANCES

All ordinances or parts of ordinances inconsistent with the terms of this Ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency, and in all other aspects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matters covered by this Ordinance.

SECTION 13. SEPARABILITY CLAUSE

If any section, clause, paragraph, sentence or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such invalid section, clause, paragraph, sentence or phrase is hereby declared to be severable; and such invalid or unconstitutional section, clause, paragraph, sentence, or phrase shall in no way affect the remainder of this Ordinance, and it is, hereby declared to be the intention of the Council that the remainder of this Ordinance would have been passed notwithstanding the invalidity or unconstitutionality of any section, clause, paragraph, sentence, or phrase thereof.

SECTION 14. PENALTIES

Violation of any of the provisions of this Ordinance by any subdivider shall constitute a misdemeanor and upon conviction of such violation, a fine of not less than \$100.00 nor more than \$200.00 shall be imposed, and each day that such violation continues shall be a separate offense. In the event a corporation is the violator of any provision of this ordinance, each officer, agent, and/or employee committing or assisting in the commission or acting as an accomplice of such violation shall be individually and severally liable for the penalties herein prescribed.

SECTION 15. VARIANCES

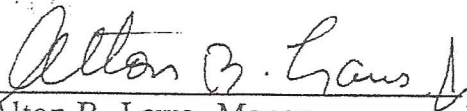
The City Council may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the City Council shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings herein below required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance shall be granted unless the Council finds:

- 1 That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- 2 That the variance is necessary for the preservation and enjoyment of a substantial right of the applicant; and
- 3 That the granting of the variance will be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
- 4 That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Ordinance. Such findings of the Council, together with specific facts upon which such findings are based, shall be incorporated into official minutes of the City Council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship.

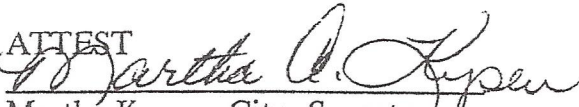
SECTION 16. EMERGENCY

Whereas, an emergency is apparent for the immediate preservation of order, health, safety, and general welfare of the public that requires that this Ordinance become effective immediately; and therefore, the rule requiring ordinances to be read at separate meetings is suspended as to this Ordinance, and same shall be in full force and effect from and after its final passage.

FINALLY PASSED AND APPROVED this 9th day of February, A.D. 1988.


Alton B. Laws, Mayor
City of Mustang Ridge, Texas

ATTEST


Martha K yser, City Secretary