

ORDINANCE NO. 03-86

AN ORDINANCE PRESCRIBING RULES AND REGULATIONS GOVERNING PLATS, PLANS AND SUBDIVISIONS OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF COTTONWOOD, TEXAS, OR WITHIN ITS JURISDICTION; CONTAINING CERTAIN DEFINITIONS; PROVIDING FOR A PLAT AND PROVIDING FOR APPROVAL OF SUBDIVISIONS; PRESCRIBING REGULATIONS FOR STREETS, SIDEWALKS, ALLEYS, SANITARY UTILITIES, WATER MAINS, STORM SEWERS, AND OTHER DRAINAGE STRUCTURES AND PUBLIC UTILITIES; AND PROVIDING FOR A PENALTY OF NOT MORE THAN TWO HUNDRED DOLLARS (\$200.00) FOR EACH VIOLATION THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, under the laws of the State of Texas, every owner of any tract of land situated within the corporate limits of the City of Cottonwood, Texas, or within its jurisdiction, who may hereafter divide the same in two (2) or more tracts described by metes and bounds or otherwise for the purpose of laying out any subdivision of such tract of land or any addition to said City of Cottonwood, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks and other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, are required to submit a plat of such subdivision or addition for approval by the City Council of the City of Cottonwood, and

WHEREAS, the City Council of the City of Cottonwood is empowered by law to promulgate and establish the general plan of said city and its streets, alleys, parks, public utility facilities, including those

which have been or may be laid out, together with the general plan for the extension of such city and of its roads, streets, and public highways within the city or within its jurisdiction:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCI OF THE CITY OF COTTONWOOD, TEXAS.

On and after the passage of this ordinance, any person, firm or corporation seeking approval of any plat, plan or replat of any sub-division of land within the corporate limits of the city of Cottonwood or within its jurisdiction shall be required to comply with the requirements of this ordinance before such approval may be granted, to-wit:

Section 1, **Subdivision Defined**, the term "subdivision" means the division of any lot, tract, or parcel of land into two or more lots or sites for the purpose, whether immediate or future, of sales or of building development. Divisions of land for agricultural purposes in parcels of 5 acres or more shall not be included in this definition, unless any such division includes the planning or development of a new street, road or access easement. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdivided or to the land subdivided.

Section 2, **Submission of plat**, All persons, firms, or corporation desiring to subdivide or re-subdivide a tract of land within the city limits or within a distance one-half (1/2) miles from the city limits should prepare a plat of the proposed subdivision and submit the same to the city Planning and Zoning Commission for its consideration, study, recommendation, and approval. Upon final

action on any such plat by the City Planning and Zoning Commission, the same shall be referred to the City Council, and the City Council shall at its next succeeding meeting, consider such plat for approval, provided that the plat shall in all things fully comply with the terms and provisions of this ordinance. All plats submitted for action by the Planning and Zoning Commission should be filed with the said Commission not less than five days prior to the meeting of the Commission at which it is to be considered. The term "plat" as used herein shall also include replat and shall include the plural as well as the singular. The approval of the plat does not constitute an acceptance of the subdivision, in that subdivisions which lie outside the limits of the City and which show streets or roads must also have the approval of the County Commissioners' Court before they may be filed for record in the County Clerk's Office.

Section 3. Plat Requirements. Plats submitted under this ordinance shall show the following information and conform to the following requirements:

1. The title, or name, by which the subdivision is to be identified, accompanied by at least a brief general description of the tract embraced; the meridian or north point; the scale of the map; the name of the surveyor, engineer or other person or persons responsible for the surveys and the plat; the name of the owner.
2. A definite legal description and identification of the tract being subdivided, sufficient for the requirements of title examination. This may be embodied in the title or shown elsewhere on the plat.
3. The location of existing and proposed streets, roads, blocks, lots, alleys, easements, building lines, parks, water courses,

ravines, bridges, culverts, present structures, the outline of wooded areas or the location of important individual trees, and other natural features in the area affected, with principal dimensions, and all significant information in regard to property immediately adjacent on all sides.

4. The names or designations of existing streets or roads.

5. The names or designations of all adjoining subdivisions and properties.

6. Proposed plan of subdivision, showing streets, blocks, lots, alleys, easements, building lines, and parks with principal dimensions. The plan shall show how the streets, alleys, highways, and easements in the subdivision will connect with those in the surrounding subdivisions.

7. The names of proposed streets. They shall conform with the names of any existing streets of which they may be or become extensions. They must not duplicate, or be similar to, the recognized name of any other street located elsewhere in the area subject to these regulations.

8. The location of existing sewer, water and gas mains and other public utilities, if any.

The plat shall be drawn on a scale of not more than 200 feet to the inch.

Applicant for approval of a plat of a proposed subdivision shall also submit proposed general plans for drainage and a letter giving an outline of the proposed street improvement and proposed public utilities. Applicant shall also provide an outline of the proposed restrictive covenants, conditions, and limitations to govern the use of the property.

Evidence to the satisfaction of the Commission must be provided that the surveyors and engineers responsible for the plan and its execution are fully qualified for the responsibilities involved.

Plats shall conform to the provisions and regulations set forth in the Order Establishing Regulations for Subdivision Plats, Street Construction and Drainage, as promulgated by the Commissioners' Court of Kaufman County, Texas, on February 6, 1984, (a copy of which is attached hereto on Exhibit "A", made a part hereof, and incorporated by reference herein for all purposes) wherever such provisions and regulations impose higher standards than are required by this Ordinance.

Section 4. Lot Size. All lots conform to the regulations as set forth in the city's Zoning Ordinance.

Section 5. Streets. All streets and/or roads within the city limits or within the jurisdiction of the City shall have a minimum right-of-way width of sixty (60') feet and shall conform to the provisions and regulations set forth in the Order Establishing Regulations for Subdivision Plats, Street Construction and Drainage as promulgated by the Commissioners' Court of Kaufman County, Texas, on February 6, 1984 (a copy of which is attached hereto on Exhibit "A", made a part hereof, and incorporated by reference herein for all purposes).

Section 6. Improvements. The developer of a subdivision shall pay the entire cost of all subdivision improvements. The developer shall be responsible for the construction and installation of all improvements, subject to inspection and approval by the City, and no subdivision improvements will be constructed by City personnel.

Subdivision improvements shall include streets and alleys, drainageways, storm sewers, sanitary sewer systems, water systems, street signs, street lights, and survey monuments and markers.

Section 7. Street Signs. Two (2) street signs shall be installed at each street intersection. The City shall approve the signs prior to their installation.

Section 8. Utilities. Arrangements shall be made by the developer, at its expense, to provide adequate utility service to the subdivision.

Section 9. Indemnification. The subdivider shall require that each of its contractors, subcontractors, and others engaging in constructing and installing subdivision improvements indemnify and save harmless the City of Cottonwood and its agents and employees from all losses, damages, judgments, decrees, expenses, and costs of any nature whatsoever arising out of or in anywise connected with any claims or actions at law or in equity brought against the City of Cottonwood and its agents and employees for injury to person or damage to property caused, or alledgedly caused, by any acts, negligence, or nuisance in connection with installation and construction of such subdivision improvements.

Section 10. Drainage. All drainageways, drainage structures, and other matters pertaining to drainage within the city limits or within the jurisdiction of the City shall conform to the provision and regulations set forth in the Order Establishing Regulations for Subdivision Plats, Street Construction and Drainage as promulgated by the Commissioners' Court of Kaufman County, Texas, on February 6, 1984 (a copy of which is attached hereto on Exhibit "A", made a part hereof, and incorporated by reference herein for all purposes).

Section 11. Completion of Improvements/Bond. The owner or owners of any tract of land to be subdivided shall give a good and sufficient bond or approved letter of credit for the proper construction of the streets, roads, and drainageways, in all subdivisions. Such bond must be a performance bond executed by a surety company authorized to do business in the State of Texas.

Such performance bond shall be made payable to "Mayor of the City of Cottonwood, Texas, or His Successors in Office," conditioned that the owner or owners of any such tract of land to be subdivided will construct all roads and streets within such subdivision in accordance with the regulations provided for herein.

The performance bond shall be in an amount equal to the actual cost of constructing such streets, roads, and drainageways, as determined by the City Council in its action granting or denying authorization of the plat.

The performance bond in the amount as established herein, shall be presented to the City Council, when the subdivision plat and plans are presented to the City for final approval. The City Attorney must have approved, in writing, the form of said bond prior to the date of submission to the City Council. No subdivision plat or plans can receive final authorization without being accompanied by a performance bond or an approved letter of credit meeting the requirements of this Section.

The performance bond or approved letter of credit shall go into effect on the day the subdivision plat and plans receive final authorization and must remain in full force and effect until after all streets and roads in the subdivision have been completed in accordance with these regulations, as certified by the City Council.

When the owner or owners of any tract of land to be subdivided has or have finished constructing all of the streets or roads in said subdivision in accordance with these regulations, the owner or owners shall give written notice of this fact to the City Council, by giving said notice to the Mayor of Cottonwood, Texas.

Within twenty (20) days of the receipt of said notice by the Mayor, the City Council shall act, granting or denying certification that the streets and roads in said subdivisions have been constructed in compliance with these regulations. An order denying certification shall be based on substantial evidence. The failure to pass such an order shall be deemed as certification of the streets and roads.

In the event said certification is denied, the performance bond or approved letter of credit posted by the owner or owners of the subdivision land shall immediately be forfeited in favor of the City of Cottonwood, Texas. The Mayor is hereby directed to collect all sums owed on such forfeited bonds and to deposit said sums into the general fund of the City of Cottonwood, Texas.

Section 12. Changes and Variations. These rules and regulations are the standard requirements of the City of Cottonwood, Texas. A suspension of any of these rules and regulations may be granted by the City Council, upon a showing that there are special circumstances or conditions affecting the property in question, that enforcement of the provisions of this ordinance will deprive the applicant of a substantial property right, and that such suspension, if granted, will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity.

Section 13. Penalty. Any person, firm or corporation who shall violate any of the provisions of this ordinance or who shall

fail to comply with any provision thereof shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two hundred dollars (\$200.00), and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

Section 14. Severability. If any section or part of any section, paragraph or clause of this ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other section or sections, part of section, paragraph or clause of this ordinance.

Section 15. Effective Date. This ordinance shall become effective from and after the date of its approval and adoption as provided by law.

PASSED, APPROVED AND ADOPTED this 15th day of JULY, 1986.

Tom Anderson
MAYOR

ATTEST:

John Andrews
CITY SECRETARY

Exhibit "A"

ORDER NO.
ORDER ESTABLISHING REGULATIONS FOR
SUBDIVISION PLATS, STREET CONSTRUCTION AND DRAINAGE

On this 6th day of February, 1984, came on to be considered by the Commissioners' Court of Kaufman County, Texas, a proposal to establish regulations over the subdivision of land located in unincorporated areas of Kaufman County; and the Court, having heard argument on said proposal, is of the opinion that certain regulations are needed in order to accomodate more easily the amount and kind of traffic over all streets and roads within subdivisions in unincorporated areas of the county, and to provide adequate drainage systems within said subdivisions and to facilitate the identification of land within said subdivisions for purposes of placement on the tax roll; therefore,

It is hereby ORDERED, ADJUDGED AND DECREED by the Commissioners' Court of Kaufman County, Texas, on this 6th day of February, 1984 that the following REGULATIONS are established concerning the division of land in Kaufman County, Texas, situated outside the corporate limits of any city or town, said regulations to become effective on February 6th, 1984.

ARTICLE I.
PLATS

Section 1.01 Every owner of any tract of land situated without the corporate limits of any city in Kaufman County, Texas, who divides the same into two (2) or more parts for the purpose of laying out any subdivision of any such tract of land, or an addition without the corporate limits of any town, or city, or for laying out suburban

lots or building lots, and for the purpose of laying out streets, alleys, or parks, or other portions intended for public use, or the use of purchasers, owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof, which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof on said subdivision or addition and the dimensions of all lots, streets, alleys, parks, or other portions of same intended to be dedicated to public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto. Every owner shall provide plats, deed restrictions, tax certificates, availability of water and fire department filler plugs or hydrants. These shall have proper hose connections to fit the equipment of the fire department serving that jurisdiction. No construction of any kind in any subdivision affected by this order is to begin until the subdivision plat and plans have received final authorization by the Commissioners' Court and have been filed with the County Clerk.

Section 1.02 Every such plat shall be duly acknowledged by owners or proprietors of the land or by some duly authorized agent of said owners or proprietors in the manner required for acknowledgment of deeds.

Section 1.03 The plat shall be prepared by a licensed engineer or licensed land surveyor and shall be based on a scale of not more than two hundred (200) feet per inch and certified to as to accuracy by the engineer or surveyor preparing the plat of the subdivision, showing in reasonable detail the location of and width of existing

streets, lots, and alleys and similar details regarding all property immediately adjacent thereto.

Section 1.04 The plat shall be drawn on tracing cloth or a permanent type of material, consisting of one or more sheets measuring eighteen inches wide and twenty-two inches long. If two or more sheets are used, a key map showing the entire area shall be drawn on the first sheet or on a separate sheet. Three copies of the plat shall be presented for filing; one for the County Clerk, one for the Tax Office and one for the Single Appraisal District.

Section 1.05 The subdivision plat must be made from an actual survey on the ground by or under the supervision of either a registered professional engineer or a licensed land surveyor, and his certificate to that effect must appear on said plat.

Section 1.06 Boundary lines must be shown by metes and bounds and distances, calling for the lines of established surveys, landmarks, school district and other data furnished, sufficient to locate the property on the ground. All block corners and angles in streets and alleys should be marked with a three-fourth inch galvanized pipe approximately two (2) feet in length, or 2' length of 1/2" re-bar.

Section 1.07 The names of the proposed subdivision and any of the physical features (such as streets and parks) must not be so similar in spelling or in pronunciation to the names of any similar features in Kaufman County, or in any incorporated city or town in Kaufman County, as to cause confusion.

Section 1.08 Lot and block numbers are to be arranged in a systematic order as shown on the plat in distinct and legible figures.

Section 1.09 The plat shall also show the location of all existing permanent, man-made structures in the proposed subdivision, including houses, barns, shacks, other buildings, walls, wells, ponds and stock tanks.

Section 1.10 The exact location, dimensions, description and flow line of existing drainage structures and drainage structures proposed to be installed by the owner or owners or subdivider or subdividers and the location, flow line and flood plain of existing water sources within the proposed subdivision must be shown on said plat.

Section 1.11 The plat shall further show the existing topography of the proposed subdivision by use of contour lines. Said contour lines shall be based on a vertical interval of five (5) feet for terrain with a slope of two (2) per cent or more and on a vertical interval of two (2) feet for terrain with a slope of less than two (2) per cent. Said contour lines shall further be based on data provided by any government agency or department or bonded registered surveyor which shall be specified on the plat.

Section 1.13 The plat must contain an arrow indicating the direction of the North point of the compass, and the scale must be prominently shown.

Section 1.14 Approval of the preliminary plat does not constitute acceptance of the subdivision, but is merely an authorization to proceed with the preparation of the final plat for record. No grading of streets or construction shall be done in the subdivision before the final plat is tentatively approved by the Commissioners' Court, except by special permission of the Commissioners' Court.

fail to comply with any provision thereof shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two hundred dollars (\$200.00), and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

Section 14. Severability. If any section or part of any section, paragraph or clause of this ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other section or sections, part of section, paragraph or clause of this ordinance.

Section 15. Effective Date. This ordinance shall become effective from and after the date of its approval and adoption as provided by law.

PASSED, APPROVED AND ADOPTED this 15 day of July, 1986.

MAYOR

15/
Tom Anderson

ATTEST:

CITY SECRETARY

15/
John Anderson