

**ORDINANCE NO. O-2020-012**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MAGNOLIA, TEXAS, AMENDING CHAPTERS 3, 11, AND  
APPENDICES, APPENDIX B OF THE UNIFIED DEVELOPMENT  
CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN  
EFFECTIVE DATE AND PROVIDING FOR OTHER PROVISIONS.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Magnolia, Texas has adopted a “Unified Development Code” (“UDC”) by Ordinance No. O-2015-018; and

**WHEREAS**, the City Council of the City of Magnolia Texas has studied the present provisions of the UDC regarding Jurisdiction and Enforcement, Design Standards and Definitions; and

**WHEREAS**, the City Council finds it necessary to amend certain sections in Chapters: (i) Chapter 3 “Lot Standards and Densities”; (ii) Chapter 11 “Permits and Procedures”; and amending the Appendices, Appendix “B”.

**WHEREAS**, the City Council hereby finds and determines that the all public notification and comment procedures and any required hearings under Texas State Law have been followed pertaining to the proposed amendments to the UDC.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MAGNOLIA, TEXAS:**

**Section 1.** Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted as findings of fact and conclusions of law by the City Council and made a part hereof for all purposes.

**Section 2.** Chapter 3 of the Unified Development Code, Table 3-1-1.04.1 Nonresidential and Mixed Use Standards, is amended as shown in the attached Exhibit “A” and incorporated herein for all purposes.

**Section 3.** Chapter 11 of the Unified Development Code, Table 11-2-1.03 Public Meeting Approvals is hereby amended as shown in the attached Exhibit “B” and incorporated herein for all purposes.

**Section 4.** Chapter 11 of the Unified Development Code, Section 11-2-3.03(B)(2) and (B)(4) and (B)(5) final plat procedures are hereby amended as shown in the attached Exhibit “A” and incorporated herein for all purposes.

**Section 5.** The Appendices, Appendix B is amended as shown in the attached Exhibit “D” and incorporated herein for all purposes.

**Section 6.** Repealing Clause. All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

**Section 7.** Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall 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 or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

**Section 8.** Compliance Clause and Effective Date. The City Council finds, determines and declares that a sufficient written notice was posted and this Ordinance was passed in accordance with the Open Meetings Act. The City Secretary is instructed to publish this Ordinance in the Official Newspaper of the City of Magnolia in the manner provided and for the time required by Section 52.011(a) of the Local Government Code, at which time this Ordinance takes effect.

**PASSED, APPROVED and ADOPTED** by the City Council of the City of Magnolia, Montgomery County, Texas on this the 14<sup>th</sup> day of April 2020.

CITY OF MAGNOLIA, TEXAS



Todd Kana, Mayor



ATTEST:



Lynne George, CPM, TRMC  
City Secretary

## EXHIBIT A

UNIFIED DEVELOPMENT CODE Chapter 3, Article 3-1 "Development Yield and Lot Standards Division 3-1-1 Purpose and Applicability  
Section 3-1-1.04 "Nonresidential and Mixed Use Development

[illegible]

## Exhibit B

## CHAPTER 11 PERMITS AND PROCEDURES

### ARTICLE 11-2 PERMITS

#### Division 11-2-1 Required Permits and Approvals

##### Sec. 11-2-1.03 Public Meeting Approvals

- A. **Generally.** Public meeting *permits* are permits that are issued by the *City* after compliance with the requirements of this UDC is determined at a public meeting.
- B. **Public Meeting Approvals Established.** The public meeting permits approvals by this UDC are set out in **Table 11-2-1.03, Public Meeting Approvals**. Other *development* permits may also be required by *State* or Federal law, or the *building* code. Permits for activities in public rights-of-way are required by the City's *Code of Ordinances*.

Table 11-2-1.03 Public Meeting Approvals					
Permit	Required For	Timing	Exceptions	Issued By	Standards <sup>1</sup>
<b>Plats and Plans</b>					
Site Plan <sup>2</sup>	All new development; all <i>redevelopment</i> that involves the destruction of existing buildings; all expansion of more than 20 percent of the floor area on a <i>lot</i> that already contains 20,000 square feet or more of floor area.	Prior to <i>building permit</i> or site permit.	<i>Single-family dwellings</i> on individual lots	Commission	See Sec. 11-2-3.01, <i>Site Plan Requirements</i> .
Preliminary Plat	<i>Subdivision</i> of land and prior to submission of detailed <i>construction</i> drawings of all subdivision improvements.	Prior to commencement of land disturbance activity and <i>final plat</i> approval, installation of <i>public improvements</i> , and issuance of applicable permits.	The approval of the preliminary plat shall lapse unless a final plat is submitted within two years from the date of such approval, unless an extension of time is applied for and granted by the Commission.	Commission	See Section 5-1-4.04, <i>Preliminary Plats</i> .



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Table 11-2-1.03  
Public Meeting Approvals

Permit	Required For	Timing	Exceptions	Issued By	Standards <sup>1</sup>
Final Plat	Subdivision of land and acceptance of public improvements	Within two years from the date of preliminary plat approval, unless an extension of time is applied for and granted by the Commission.	Failure of the <i>subdivider</i> to pay the fees to record the plat within 30 days after approval shall render the final plat null and void.	Commission and City Council	See Section 5-1-4.05, Final Plats.
<b>Public Hearing Required</b>					
<b>Use Permits</b>					
Conditional Use Permit	New conditional uses; changes to a conditional use; material changes to or expansion of a conditional use.	Prior to establishment or modification of a conditional use.	None	City Council, upon recommendation of the Commission	See Section 2-2-1.05, Conditional Uses and Section 11-2-3.04, Conditional Use Permit.
<b>Plats and Plans</b>					
Major Modifications of Plats; Change of Subdivision Name	Major changes to an approved plat (preliminary or final plats).	Prior to the construction or development that is within the area proposed to be modified.	Minor changes to a plat or parcel line may be permitted by the Administrator.	Commission and City Council	See Section 5-1-4.03, Major Modifications of Plats; Change of Subdivision Name.
<b>Text and Map Amendments</b>					
Text Amendments	Amendments to the text of this UDC.	N/A	A petition from those listed in Chapter 10, Administrative Bodies.	City Council, upon recommendation of the Commission	See Section 11-2-3.06, Text Amendments.
Zoning Change (rezoning)	Changing the zoning district of a parcel from one district to another.	Prior to any change in land use other than those that are permitted in the respective zoning district.	None	City Council, upon recommendation of the Commission	See Section 11-2-3.07, Zone Change (Rezoning).
<b>Variances and Appeals</b>					
Variance	Deviation from the standards of this UDC.	Prior to building permit for improvements for which a variance is required; concurrently with other applications for development approval that include variances.	Prohibited uses shall not be allowed by variance.	Board of Adjustment	See Section 12-1-1.02, Variances.



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Table 11-2-1.03  
Public Meeting Approvals

Permit	Required For	Timing	Exceptions	Issued By	Standards <sup>1</sup>
Administrative Appeal	Appeals from decisions of City staff.	Within 10 days of the decision appealed.	None	Board of Adjustment	See Section 12-1-1.03, Administrative Appeals.
Appeals to City Council	Appeals from decisions of the Commission	Within 10 days of the decision appealed.	None	City Council	See Section 12-1-1.04, Appeals to City Council.

**TABLE NOTE:**

<sup>1</sup> Standards are provided for cross-reference purposes only, and do not exempt the application from all applicable standards of this UDC.

<sup>2</sup> Site Plan permit includes design review.



## EXHIBIT C

# CHAPTER 11 PERMITS AND PROCEDURES

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## ARTICLE 11-2 PERMITS

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### Division 11-2-3 Standards for Public Meeting Permits

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#### Sec. 11-2-3.03 Final Plat

- A. **Generally.** A *final plat* is required for submittal upon review by the *Administrator* and *approval* by the *Commission* of a *preliminary plat*. Based on its consistency and conformance with the preliminary plat, the Commission may disapprove a final plat or approve the final plat pending required changes.
- B. **Procedures.** The *subdivider* shall have a final plat prepared by a registered *engineer* within two years from the date of preliminary plat approval, or request an extension of time from the Commission. The procedure for review and approval of a final plat consists of the following:
1. After approval of the detailed *construction* drawings by the *City Engineer*, a final plat application may be submitted. The final plat shall conform substantially to the approved preliminary plat. The final plat may constitute only a portion of the approved preliminary plat that is proposed to be recorded and developed; provided, however, that such portion conforms substantially to all requirements of this UDC and other standards and requirements of the City.
  2. After submission of a final plat application:
    - a. The Commission shall **review and** approve or disapprove the final plat ~~within 60 days from the date a completed application was received by the Administrator with a recommendation to City Council.~~
    - b. ~~Within 14 days after receipt of the affirmative decision of the Commission, the Chairperson has 14 days to sign the plat. If the Chairperson does not sign the final plat within the 14-day period, the final plat is automatically approved.~~ **After review by the Commission, City Council shall approve or disapprove the final plat.**
    - c. ~~Failure by the Commission to act on this final plat within these 60 days shall be deemed approval of it. If the plat is disapproved, the grounds for disapproval shall be stated upon the records of the Commission in writing.~~ **Within 30 days after receipt of the plat the Mayor and Commission Chairperson shall sign the plat.**
    - d. **Failure by the City to act on this final plat within these 30 days shall be deemed approval of it. If the plat is disapproved, the grounds for disapproval shall be stated upon the records in writing.**



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3. After approval of the final plat, submit the following certificates that shall be on each sheet that is filed with the Montgomery County Clerk of Court.
  - a. Certificate showing the *applicant* is the *landowner* and dedicates *street* and other rights-of-way and any sites for public use;
  - b. Certification by a registered *land surveyor* as to the accuracy of the survey and plat and the placement of *monuments*;
  - c. Certification by the City Engineer as to the sewage disposal and water systems;
  - d. Certification by the City Engineer, or any other official or body authorized by law to act prior to the approval of the plat, that the subdivider has complied with one of the following alternatives:
    1. Installation and an acceptable inspection by the City Engineer, or an appointee, of all improvements in accordance with the requirements of the UDC and the detailed construction drawings; and
    2. Posting of a performance bond in sufficient amount as to assure the completion of all required improvements and detailed construction drawings as approved by the City Engineer. For any bond there shall be submitted with the plat a certificate of the City Attorney as to the sufficiency of the bond offers, which shall be no less and may be more than 100 percent of the estimated contract amount.
  - e. Certification of approval to be signed by the Chairperson of the Commission.
4. After approval of the final plat and submission of the required certifications:
  - a. Submit a film positive of the approved final plat, with any corrections and/or changes required by the Commission, to the Administrator. ~~who shall collect a fee according to the fee schedule promulgated by the City Council, as amended from time to time.~~
  - b. **The Applicant shall provide a minimum of two blue-line prints** ~~The Administrator, or an appointee, shall make seven blue-line prints of the approved final plat~~ **to the Administrator who will** obtain the signatures of the City Engineer, Commission Chairperson, ~~City Council President,~~ and Mayor on the film positive and prints.
  - c. ~~The Administrator, or an appointee, shall have the plat duly recorded in the office of the Clerk of Court of Montgomery County, Texas, within 10 working days of the date on which the fee specified in Subsection 4.a., above, has been collected, not counting the day on which the fee was received.~~ **The Administrator shall mail, by U.S. Certified mail/return receipt requested, all signed blue-line prints and film positive of the final plat to the applicant with 10 days of the latest date on the final plat signatures.**
  - d. **The Applicant shall have the plat duly recorded in the office of the Property Records Clerk of Montgomery County, Texas.**
  - e. After the recording of the final plat, the ~~Administrator, or an appointee~~ **Applicant** shall distribute the **copies** ~~blue-line prints~~ of the recorded final plat, which shall show all signatures and the file number of the Clerk of Court, as follows:



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1. One print shall be provided to the Montgomery County Clerk of Court's Office; Pdf copies of each page of the final plat shall be emailed to the Administrator and City Engineer;
2. One print shall be provided to the Montgomery County Tax Office; Two blue-line prints, shall be returned to the Administrator, or an appointee by U.S. Certified Mail.
3. One print shall be provided to the City department of permits;
4. One print shall be provided to the City Engineer, or an appointee;
5. One print, plus the film positive, shall be retained by the Administrator, or an appointee;
6. Two prints shall be mailed to the subdivider by U.S. certified mail, return receipt requested, and the signed receipt showing that delivery of the prints was accomplished shall be made a part of the permanent record of the subdivision. If the subdivider desires additional prints of the recorded final plat, they may be obtained from City Hall for a fee as promulgated by the City Council, as amended from time to time; and
5. If the return receipt is not received within 30 *calendar days* of the date of mailing of the copies, the Administrator, or an appointee Applicant, shall notify the subdivider, Administrator verbally or in writing, and two additional copies of the recorded, signed final plat shall be mailed to the subdivider Administrator by U.S. certified mail, return receipt requested, and these actions shall also be noted on the permanent record of the subdivision. This procedure shall be repeated until a signed return receipt has been received by the Administrator.
- f. Failure by the subdivider to pay the fee specified in Subsection 4.a. above, within 30 days after approval of the final plat, the subdivider having been duly notified of the approval, shall render the final plat null and void and the subdivider shall be so notified by the Administrator by U.S. certified mail, return receipt requested. This action shall be so noted on the permanent record of the subdivision request.
5. If approval of the final plat is contingent upon an agreement to be affected after discussion between the subdivider and any department of the City, and such agreement is not reached or is not expected to be reached within the 30-day period required in Section 4.e. above, the Commission may, but does not have to, extend, once only, the final date on which the subdivider must pay the fee specified in Subsection 4.a. above, to avoid the final plat becoming null and void by not more than 30 days, upon a favorable vote on such action by a majority of the authorized membership of the Commission in a convened legal session.



## Appendix B Certificates and Forms

### Surveyor Certification

Exhibit D

The surveyor certification shall be as follows:

This is to certify that I, \_\_\_\_\_, a licensed surveyor of the State of Texas, have platted the above subdivision from an actual survey on the ground; and that all blocks, lot corners, angle points and points of curve are property marked with one-half inch iron rods, three feet long, set with the head flush with the ground or sidewalks and that this plat correctly represents that survey made by me.

\_\_\_\_\_  
Surveyor's Signature

\_\_\_\_\_  
Surveyor's Typed Name

\_\_\_\_\_  
Texas Registration Number

### Plat Dedication and Certification

The following form for dedications and certifications shall be utilized on the final plat of subdivisions or resubdivisions:

STATE OF TEXAS

COUNTY OF MONTGOMERY



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I (or We), (Name(s) of owner(s) or in the case of corporations, name of "president and secretary" respectively) of name (name of company) owner (or owners) of the property subdivided in the above and foregoing map of the (name of subdivision), do hereby make subdivision of said property (in case of corporation, use words for and on behalf of said name of company), according to the lines, streets, alleys, parks, and easements therein shown, and designate said subdivision as (name of subdivision) in the (\_\_\_\_\_) Survey, in Montgomery County, Texas; and (in case of corporation, use words on behalf of said name of company; and) dedicate to public use, as such, the streets, alleys, parks and easements shown thereon forever; and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated, or occasioned by the alteration of the surface of any portion of streets or alleys to conform to such grades and do hereby bind myself (or ourselves), my (or our) heirs and assigns to warrant and forever defend the title to the land so dedicated. There is also dedicated for utilities an unobstructed easement (\_\_\_\_\_) feet wide from a plane (\_\_\_\_\_) feet above ground upward located as shown hereon. We have also complied with all regulations hereto before adopted by the Planning and Zoning Commission of the City of Magnolia, located in Montgomery County, Texas.

### **Mortgagee's Statement**

The following paragraph is to be used where there is a lien against the property (or a separate instrument may be filed):

"I, (or We), (name of mortgagees), owner(s) and holder(s) of a lien(s) upon said property, do hereby ratify and confirm said subdivision and dedication and do hereby in all things subordinate to said subdivision and dedication the lien(s) against said owner and held by me (us)." The signature(s) of lien holder(s) are to appear below that the owner's and to be duly acknowledged.

\_\_\_\_\_  
Owner(s) Signature(s)

\_\_\_\_\_  
Typed Name of Owner(s)

\_\_\_\_\_  
Signature of Mortgagee(s) and/or Lien(s) Holder(s)

\_\_\_\_\_  
Typed Name of Mortgagee(s) and/or Lien(s) Holder(s)



**City Certification**

The City’s certification shall be as follows:

This is to certify that the Planning and Zoning Commission of the City of Magnolia, Texas, has approved this plat and subdivision of (name of the subdivision) as shown herein.

IN TESTIMONEY WHEREOF, in witness of the official signatures of the Planning and Zoning Chairperson, **City Mayor** and the City Secretary of the City of Magnolia, Texas, this the \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_, do approve this plat to be recorded in the official record at the Montgomery County Clerk’s Office.

\_\_\_\_\_

Signature of Planning and Zoning Chairperson

\_\_\_\_\_

Signature of **Mayor**

\_\_\_\_\_

Typed Name of Planning and Zoning Chairperson

\_\_\_\_\_

**Typed Name of Mayor**

\_\_\_\_\_

Signature of City Secretary

\_\_\_\_\_

Typed Name of City Secretary

**County Clerk’s Certification**

The County Clerk’s certification shall be as follows:

STATE OF TEXAS

COUNTY OF MONTGOMERY

I, (typed name of county clerk), Clerk of the County Court of Montgomery County, Texas, do hereby certify that the written instrument with its certificate of authentication was filed for registration in my office on, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o’clock, \_\_\_\_\_m., recorded as File No. \_\_\_\_\_ in Cabinet \_\_\_\_\_ as Sheet No. \_\_\_\_\_, of record for Montgomery County.

WITNESS MY HAND AND SEAL OF OFFICE, at the day and date last above written.



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Signature of Current County Clerk

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Typed Name of Current County Clerk

Clerk, County Court  
Montgomery County, Texas

Witness By: (signature of witness)  
Deputy