

ARTICLE 11. INTERPRETATION AND ADMINISTRATION

Sec. 33. Interpretation of Regulations

(a) In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, or general welfare; for the lessening of congestion in the streets or roads or reducing the waste of excessive amounts of roads; for securing safety from fire and other danger, providing adequate light and air, preventing on the one hand excessive concentration of population and on the other hand, excessive and wasteful scattering of population or settlement; for promoting such distribution of land development and utilization as will tend to facilitate and provide adequate provisions for public requirements, transportation, water, and flowage, water supply, drainage, sanitation, educational opportunities, recreation, soil fertility, and food supply; and for protection of the tax base, securing economy in governmental expenditures, fostering the State's agricultural and other industries, and the protection of both urban and non-urban developments.

(b) It is not intended by the Code to repeal, abrogate, annul, or in any way to impair or interfere with any existing law or any rules or regulations regulating the use or construction of buildings, the provisions of yards, courts, other open spaces, or the provisions of sanitary facilities; provided, however, that where the provisions of this Code require large yards or courts, lesser heights or bulks of buildings, or more excessive sanitary facilities than do the aforementioned laws, rules, or regulations, the provisions of this Code shall govern.

(c) Special exceptions from the requirements of this Code shall be permitted only for lots zoned residential, provided, the Board of Adjustment grants a special exception and as further provided below:

(1) In the case of any lot zoned residential with a building on it at the date of adoption of this Code, but with a lot area, lot width, building setback, rear yard, or side yards less than that prescribed for the district in which it is located such building may be altered or a new building may be constructed provided it complies with all other provisions of this Code.

Sec. 34 Enforcement

This Code shall be enforced by the Mayor and Town Council.

Sec. 35 Certificate of Occupancy by Resolution

(a) It shall be unlawful to use or permit the use of any building, structure, or premises or part thereof, hereafter created, erected,

changed, converted, altered, or enlarged, wholly or partly, in use or structure, except for minor alterations involving no change in the floor area or use, until a certificate of occupancy by resolution of the Town Council shall show that the building structure, or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this Code or an order of the Board of Adjustment.

## ARTICLE 12 AMENDMENT

### Sec. 36 Amendment Procedure

(a) The Town Council may, from time to time, on its own motion, or the motion of the Zoning Commission, or on petition by an owner, amend, supplement, change, modify or repeal the zoning regulations, restriction and boundaries in a manner and in accordance with the procedure provided.

(b) All proposals for amending, supplementing, changing, modifying, or repealing the zoning regulations, restriction or boundaries, before being acted by the Town Council, except those originating on motion of the Zoning Commission, shall be referred to the Zoning Commission for consideration and recommendation. The Zoning Commission shall study all proposals, whether originating with the Zoning Commission or otherwise, conduct a public hearing after having given notice required for the agenda of the Zoning Commission, and report its findings and recommendations to the Town Council.

(c) The Zoning Commission is granted the authority to require, as a condition to consideration of any proposal, other than one originating with the Town Council, that a petition be submitted accompanied by such maps, charts, sketches, and other information as the Zoning Commission deems necessary for the proper and effective consideration of such proposal and to refuse to consider any proposal not complying with such requirement.

(d) No proposed amendment, change, modification, or repeal of any zoning regulation, restriction, or boundary, shall become effective until after a public hearing shall have been held by the Town Council, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town of Magnolia.

(e) In the event of a protest against such changes signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent extending 100 feet back from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Town Council.

(f) If, after due consideration, a proposal is denied, such proposal shall not be eligible for reconsideration for a period of two (2) years after final action by the Town Council, except upon the favorable vote of three-fourths of Zoning Commission or Town Council.

### Sec. 37 Hearing Notice Required.

No change or amendment shall become effective until after a public hearing, at which parties in interest and citizens shall have had an opportunity to be heard. At least fifteen (15) days notice of the time and

place of such hearing shall be published in an official paper or a paper of general circulation in the Town of Magnolia. In all cases in which a proposed amendment would change the Zoning Map, notice of the amendment shall be sent by mail to all property owners of record whose property is proposed to be changed by the amendment, and to those immediately adjacent extending one hundred (100) feet and to those directly opposite, extending one hundred (100) feet back from the frontage of such opposite lots.

Sec. 38 Application - Petition Fee.

(a) A non-refundable fee of One Hundred Dollars (\$100) shall accompany each application or petition for rezoning, except for those petitions which have been initiated by the Town Council or by the Zoning Commission.

Sec. 39 Expiration of Rezoning Approval.

(a) Every application when approved by the Town Council either as submitted originally or as submitted or resubmitted in modified form, shall constitute an agreement by the applicant that such improvement shall be made, completed and operated as shown on the plan as part of the project in accordance with the provisions of the particular zoning district granted and that the area which has been rezoned by the Town Council shall lose that status and revert to its former zoning classification in any part of the following events:

(1) If construction of approved buildings and improvements shall not be substantially undertaken within eight (8) months of the zoning change or within such additional time as may be authorized the Town Council.

(2) If, as a result of voluntary sale or conveyance or any other transfer of ownership whatsoever, the area shall cease to be held, in its entirety, in single or common ownership.

ARTICLE 13 VALIDITY.

Sec. 40 Validity

Should any section or provision of this Code be decided by the Courts to be unconstitutional or invalid, such decision shall not affect the validity of this Code as a whole or any part other than the part so decided to be unconstitutional or invalid.

ARTICLE 14 EFFECTIVE DATE.

Sec. 41 Effective Date.

This zoning Code shall become effective immediately upon adoption by the Town Council of Magnolia.

ARTICLE 15 HISTORY OF TOWN ZONING.

Sec. 42 History.

Amendment

Date

1. Originally enacted

October 8, 1980