

ARTICLE I

General Provisions

Section 1. Title

These regulations shall hereafter be known, cited and referred to as the Subdivision Ordinance of the Town of Magnolia, Delaware.

Section 2. Applicability

This subdivision ordinance shall apply to all subdivision of land as defined herein, located within the corporate limits of the Town of Magnolia. This ordinance shall become effective upon adoption by the Magnolia Town Council, and shall remain in effect until amended or rescinded by the Council.

Section 3. Purpose

This ordinance is adopted for the following reasons:

1. To protect and provide for the public health, safety, and general welfare of the municipality.
2. To guide the future growth and development of the municipality, in accordance with the Comprehensive Plan.
3. To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
4. To protect the character and social and economic stability of all parts of the municipality and to encourage the orderly and beneficial development of all parts of the municipality.
5. To conserve and protect the value of land throughout the municipality and the value of buildings and of improvements upon the land, and to minimize conflicts of land uses and buildings.
6. To guide public and private policy and action in order to provide adequate and efficient traffic circulation, water and sewerage, parks, playgrounds, recreation, and other public requirements and facilities.

7. To provide the most beneficial relationship between land uses and buildings and the circulation of traffic throughout the municipality with particular attention paid to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets, and building lines.
8. To establish reasonable standards of design and procedure for subdivisions and resubdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivision land.
9. To insure that the subdivider provides adequate public facilities of sufficient capacity to serve the proposed development where such facilities are unavailable or lack sufficient capacity to handle increased development.
10. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land.
11. To preserve the natural beauty and topography of the municipality and to insure appropriate development with regard to these natural features.

#### Section 4. Amendments

The Town Council may, from time to time, amend, supplement, or change, by ordinance, the regulations herein established. Any such amendment or change may be initiated by resolution of the Town Council or by motion of the commission. Before taking action on any proposed amendment or change, the Town Council shall submit the same to the commission for its recommendation and report. Failure of the commission to report within 60 days after its first meeting subsequent to the proposal being referred shall be deemed approved by the commission, unless council approves a longer period of time upon request by the Planning Commission.

Public hearings on all proposed amendments shall be held by the Town Council in the manner prescribed by law.

Section 5. Enforcement

1. It shall be the duty of the Town Foreman to enforce these regulations and to bring to the attention of the Town Attorney any violation or lack of compliance herewith, for subsequent appropriate legal action.
2. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Commission, in accordance with the provisions of these regulations, and filed with the County Recorder of Deeds. The subdivision of any lot, or any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all the requirements contained in this ordinance.
3. Any person, firm, or corporation who fails to comply with, or violates any portion of this ordinance shall be subject to a fine of not more than one hundred dollars or imprisonment not to exceed thirty days, for each lot or parcel so transferred or sold or agreed or negotiated to be sold.
4. The Town Council may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction, or may recover the said penalty by civil action in any court of competent jurisdiction.
5. Every act or omission in violation of this ordinance shall be punishable as provided herein. Where such an act or omission is of a continuing nature, each and every day during which such act or omission continues shall be deemed a separate misdemeanor.
6. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this ordinance.
7. No building permit shall be issued until the required improvements have been installed and all recorded conditions have been met.

Section 6. Appeals

1. Any applicant aggrieved by a finding, decision, or recommendation of the commission and/or its staff may request and shall receive opportunity to appear before the commission to present additional relevant information and request reconsideration of the original finding, decision or recommendation or said applicant may appeal said finding, decision or recommendation to the Town Council within 30 days.

2. *If, after requesting the commission to reconsider the denial of any tentative plan, the applicant still feels that such action is unreasonable and causes him unjustifiable hardship, he may appear before the Town Council to request a reconsideration of the denial of said final plan.*
3. *All decisions of the Town Council pursuant to applications made under this chapter are appealable to the Superior Court of Kent County; and when such appeal has been filed with the Prothonotary of Kent County, the Prothonotary shall give notice to the Clerk of the Town of Magnolia who shall transmit to the Prothonotary within 14 days the written decision of the Town Council which decision shall set forth the legal and factual basis for the refusal of the Town Council to permit the recording of the plat in the manner requested.*

*Section 7. Separability*

*If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgement shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.*