

## **CITY OF FATE, TEXAS UNIFIED DEVELOPMENT ORDINANCE**

### **Article I – General Provisions**

#### **1.1 TITLE**

This document is located in Chapter 36 of the Fate Code of Ordinances. It shall be officially known as the Unified Development Ordinance of the City of Fate, Texas, and is referred to throughout this document as “this Unified Development Ordinance,” “this UDO,” or “this Ordinance.”

#### **1.2 EFFECTIVE DATE**

This Ordinance shall be effective on **July 17, 2017**.

#### **1.3 AUTHORITY**

This UDO is adopted under the authority of the Constitution and laws of the State of Texas, including but not limited to, chapters 211 and 212 of the Texas Local Government Code and the Charter of the City of Fate, Texas.

#### **1.4 APPLICABILITY & JURISDICTION**

##### **1.4.1 Within the (Jurisdiction) Limits:**

- (1) This Ordinance shall apply to all land, buildings, structures, and uses thereof located within the corporate boundaries of the City of Fate, unless an exemption is provided under the terms of this Ordinance.
- (2) No building or structure shall be erected and no existing building or structure shall be moved, altered, expanded, or extended, nor shall any land, building, or structure be used, designated to be used, or intended to be used for any purpose or in any manner other than as provided for in the regulations for the zoning district in which such land, building, or structure is located and with other applicable regulations of the City of Fate, as they may be amended.
- (3) No lot of record that did not exist on the effective date of this Ordinance shall be created, by subdivision or otherwise, that does not conform to the applicable requirements of this Ordinance, except as expressly exempted from the provisions of this Ordinance.

##### **1.4.2 Within the Extra Territorial Jurisdiction (ETJ)**

This Ordinance shall also apply to the subdivision and development of land within the City of Fate’s ETJ under LGC Chapter 212 unless expressly prohibited under LGC Chapter 212.

##### **1.4.3 Annexed Property**

When any property is brought into the jurisdiction of the City of Fate, by annexation or other means, it shall default to the Agricultural District (A) zoning classification. The Fate City Council may designate the zoning district(s) applicable to such property at the time of annexation. This provision shall not preclude subsequent rezoning of such property by amendment in the manner set forth in this Ordinance.

#### **1.4.4 Application to Public Agencies**

To the extent allowed by law, this Ordinance shall apply to all land, buildings, structures, and uses owned and/or controlled by any municipal, county, state, or federal government agencies in the City of Fate. Where the provisions of this Ordinance do not legally control such land, buildings, structures, and uses, such agencies are encouraged to meet the provisions of this Ordinance.

### **1.5 PURPOSE & INTENT**

#### **1.5.1 Generally**

The general purpose and intent of this Unified Development Ordinance is to protect the public health, safety, and general welfare, and to implement the policies and objectives in the City of Fate Comprehensive Plan, other adopted plans, and design criteria as may be amended from time to time. The Unified Development Ordinance is intended to:

- (1) Secure safety from fire, panic, and other natural and man-made dangers;
- (2) Protect life and property in areas subject to floods, landslides, and other natural disasters;
- (3) Provide adequate light and air;
- (4) Lessen congestion in the streets while enhancing pedestrian and vehicular movement with the least detriment to environmental quality;
- (5) Facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements to avoid transportation and public service and facility demands that cannot be satisfied; provide for orderly growth of the community and of government services and facilities;
- (6) Ensure that development and resource decisions are sustainable not only for the current residents of Fate but for future residents and generations;
- (7) Preserve the viability of Fate as a location to conserve and enhance the value of the investments of the people living and/or investing in Fate;
- (8) Promote the economic stability of existing and compatible land uses that are consistent with the comprehensive plan and protect them from intrusions by incompatible land uses; and
- (9) Encourage the conservation of energy by encouraging the use of products and materials that maximize energy efficiency.

#### **1.5.2 Reasonable Consideration**

This Ordinance is drawn with reasonable and able consideration, among other things, as to the character of each zoning district and its peculiar suitability for particular structural designs and uses, and with a view to conserving the value of buildings and property and encouraging the most appropriate structural designs and uses of land throughout the City of Fate.

### **1.6 RELATIONSHIP TO THE COMPREHENSIVE PLAN**

The Fate City Council intends for this Ordinance to implement the planning policies in the Comprehensive Plan and other adopted plans and policies. While the City Council reaffirms its commitment that this Ordinance be in conformity with the Comprehensive Plan and adopted planning policies, the City Council hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

## 1.7 TRANSITIONAL PROVISIONS

### 1.7.1 Continuity of Provisions

This section is intended to clarify the status of properties with pending applications, recent approvals, or outstanding violations, as those terms are used below, at the time of the adoption of this Ordinance.

- (1) **Violations Continue:** Any violation of the previous zoning and subdivision regulations will continue to be a violation under this Ordinance and be subject to penalties and enforcement under **Article II, Procedures and Administration**, unless the use, development, construction, or other activity complies with the provisions of this Ordinance, as amended. The enactment of this Ordinance shall not abate any pending prosecution and/or lawsuit or prevent any prosecution and/or lawsuit from being commenced for any violation of a previously existing ordinance occurring before the effective date of this Ordinance.
- (2) **Legal Nonconformities Under Prior Regulations:** Any legal nonconformity under the previous zoning and subdivision regulations will also be a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous Ordinance continues to exist. If a nonconformity under the previous zoning and subdivision regulations becomes conforming because of the adoption of this Ordinance, then the situation will no longer be a nonconformity.
- (3) **Uses, Lots, Structures, and Sites Rendered Nonconforming**
  - (a) When a lot is used for a purpose that was a lawful use before the effective date of this Ordinance and this Ordinance no longer classifies such use as either a permitted use or conditional use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled under the provisions of **Article XI, Nonconformities**.
  - (b) Where any building, structure, lot, or development site that legally existed on the effective date of this Ordinance does not meet all standards set forth in this Ordinance, such building, structure, lot, or site shall be considered nonconforming and shall be controlled under the provisions of **Article XI, Nonconformities**.
- (4) **Pending Applications**
  - (a) Any complete application subject to Texas Local Government Code § 245 that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this Ordinance, shall be reviewed in accordance with the regulations in effect on the date the application was deemed complete unless the applicant requests otherwise pursuant to paragraph (b) below. If the applicant fails to comply with any applicable time-frame for re-submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this Ordinance. If no procedural re-submittal or application period is specifically set forth in the relevant provision, any application that requires action from the applicant shall be deemed expired if the applicant has failed to act within 10 days of the date the action was required.
  - (b) An applicant with a complete application subject to Texas Local Government Code § 245 that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this Ordinance, may request review under this Ordinance.
- (5) **Approved Applications**
  - (a) **Preliminary Plat Approvals:** An application for which approval of a preliminary subdivision plat

was granted prior to the adoption date of this Ordinance shall be considered as having received preliminary plat approval under the ordinance in effect on the date the application was approved unless the applicant requests approval under this Ordinance. Preliminary approvals granted under the previous regulations shall be valid for five years from the date of approval. Failure to obtain a final plat approval within the time allotted shall result in the expiration of the preliminary plat and shall cause the submission of another preliminary plat that complies with the requirements of this Ordinance. In the instance of large tracts or blocks of land contained within a recorded subdivision and intended or designed for further subdivision into tracts, lots, or building sites, the further subdivision shall comply with all provisions of this Ordinance unless the further subdivision complies with the originally approved preliminary plat.

- (b) Final Plat Approvals: Final plats which require construction of public improvements shall be deemed to have expired if construction of the public improvements has not been accepted by the City within 2 years of the approved date.
  - (c) Any use permits, site plans, building permits, variances, and Planned Development Districts that are valid on the effective date of this Ordinance shall remain valid until their expiration date (if any). Projects with valid approvals or permits shall be completed pursuant to the development standards in effect at the time of approval or in the case of Planned Developments, pursuant to the standards in the Planned Development District ordinance at the time it was approved. If the Planned Development regulations do not contain or are silent to certain standards, then the standards of this Ordinance shall apply. If the approval or permit expires, future development shall comply with the requirements of this Ordinance.
- (6) Conversion to New Zoning Districts:  
Upon the effective date of this Ordinance, land that is zoned with a zoning district classification from the previous zoning regulations shall be re-classified or converted to one of the new zoning district classifications set forth in this Ordinance. **Table 1.7-1, Zoning District Conversions**, summarizes the conversion or re-classification of the zoning districts in the previous zoning regulations to the new zoning districts pursuant to this Ordinance.
- (7) Zoning Map Interpretations:  
Questions or disputes regarding zoning designations on the City of Fate Zoning Map resulting from adoption of this new Ordinance shall be submitted in writing along with the applicable fee to the Administrator for written interpretation.

Table 1.7-1: Zoning District Conversions	
Old Zoning Categories	New Zoning District Classifications
<b>Residential Districts</b>	
"A" Agricultural District	Agricultural District (A)
"R" Single-Family Detached Dwelling District	
R-2	RE
R-1	
R-2250	
SF-18	
	R-2
	R-3
"D" Dwelling District (Single-Family, Attached)	R-4
"MR" Dwelling District (Multifamily)	Regional Mixed Use Transition (RMU-T) or Regional Mixed Use Neighborhood (RMU-N) or Old Town Transition (OT-T)
"MH" Mobile Home District	Manufactured Home District (MH)
"PRD" Planned Residential Development District	Planned Development District (PD)
<b>Non-Residential Districts</b>	
<b>Commercial Districts</b>	
"LC" Local Commercial District	Neighborhood Commercial (NC)
"NC" Neighborhood Commercial	
"HC" Highway Commercial District	Highway Commercial (HC)
"C" Commercial District	
"B" Business District	
	Professional Office (PO)
<b>Public/Institutional Districts</b>	
	Public and Parks (PP)
	Institutional and Civic (INS)
<b>Industrial</b>	
"I" Industrial District	Industrial (IND)
<b>Special Districts</b>	
"CUP" Conditional Use Permit	"SUP" Special Use Permit
"SUP" Special Use Permit	
"PD" Planned Development District	"PD" Planned Development District
"PUD" Planned Unit Development District	
	Regional Mixed Use District (RMU)
"CB" Central Business District	Old Town Core (OT-C)
"DC" Downtown Commercial District	
"DR" Downtown Residential District	Old Town Transition (OT-T)
"MDR" Medium Density Downtown Residential District	
"DRPO" Downtown Residential/Professional Office District	
"DT" Downtown Transitional Use District	

## 1.8 MINIMUM REQUIREMENTS

This Ordinance establishes minimum requirements for the establishment of public health, safety, and welfare.

## 1.9 CONFLICTING PROVISIONS

### 1.9.1 Harmonious Development

The City of Fate intends that all provisions of this Ordinance be construed harmoniously. When two or more provisions of this Ordinance may appear to be in conflict, the Administrator shall construe such provisions in such a manner, if possible, as to give effect to both by harmonizing them with each other. In cases of conflict, the Administrator shall make an interpretation as to which provision governs.

### 1.9.2 Conflict with Other Public Laws, Ordinances, Regulations, or Permits

This Ordinance is intended to complement other City, state, and federal regulations that affect land use. This Ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements, as long as the City of Fate is not preempted by such laws, as determined by the Administrator, shall govern.

### 1.9.3 Conflict with Agreements between Private Parties

This Ordinance is not intended to revoke or repeal any easement, covenant, or other agreements between private parties. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other agreements between private parties, then the requirements of this Ordinance shall govern. Nothing in this Ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this Ordinance. In no case shall the City of Fate be obligated to enforce the provisions of any easements, covenants, or agreements between private parties, unless the City is a party to such agreements and only if the City decides, in its sole discretion, to pursue enforcement action.

## 1.10 SEVERABILITY

### 1.10.1 Generally

It is expressly declared that this Ordinance and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more portions of this Ordinance is declared invalid or unconstitutional.

- (1) If any section, subsection, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this Ordinance shall not be affected.
- (2) If any court of competent jurisdiction invalidates the application of any provision of this Ordinance, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.
- (3) If any court of competent jurisdiction judges invalid any condition attached to the approval of an

application for development, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.