

CITY OF MIDWAY

ORDINANCE NO. 2026-03

**AN ORDINANCE OF THE CITY OF MIDWAY, TEXAS, ESTABLISHING
“SUBDIVISION REGULATIONS”; AND PROVIDING FOR THE FOLLOWING
FINDINGS OF FACT, ENACTMENT, PENALTY, REPEALER, SEVERABILITY,
EFFECTIVE DATE AND PROPER NOTICE AND MEETING.**

WHEREAS, the City Council of the City of Midway, Texas (the “City”) desires to adopt subdivision regulations pursuant to the provisions of Chapter 212 of the Texas Local Government Code to provide for the safe, orderly, and healthful development of the City; and

WHEREAS, the provisions of this ordinance are designed to achieve the purposes set forth in Chapter 212 of the Texas Local Government Code; and

WHEREAS, the City has complied with the notice and public hearing requirements of Chapter 212 of the Texas Local Government Code; and

WHEREAS, the City desires to adopt the following regulations and standards for the platting and subdivision of land within the City and its extraterritorial jurisdiction.

NOW THEREFORE, be it ordained by the City Council of the City of Midway, State of Texas:

1. Findings of Fact: That the foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if set forth herein at length.

2. Enactment: The City Council hereby adopt the subdivision regulations, which shall read in accordance with *Attachment “A.”*

3. Repealer: In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Midway, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. Severability: If any word, article, phrase, paragraph, sentence, clause or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity

shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

5. Effective Date: This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

6. Proper Notice and Open Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED, this ____ day of _____, 2026, by a vote of _____ (ayes) to _____ (nays) to _____ (abstentions) of the City Council of the City of Midway.

CITY OF MIDWAY:

Randal Dorman

ATTEST:

Debra Newkirk, City Secretary

Attachment “A”

City of Midway

SUBDIVISION REGULATIONS

§ SECTION 1: Authority; Extension to Extraterritorial Jurisdiction.

- (a) This chapter is pursuant to the police powers of the City of Midway, Texas (the “City”) and under the authority of the constitution and general laws of the State of Texas.
- (b) The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City. The council hereby extends the application of this ordinance to the extraterritorial jurisdiction of the City, as that area may exist from time to time. This ordinance shall be applicable to the filing of plats and the subdivision of land as that term is defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation or disannexation. The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction.

§ SECTION 2: Purpose.

The purpose of this ordinance is to provide rules governing plats, replats and amendments to plats and subdivisions of land within the jurisdiction of the City to promote the health, safety, morals and general welfare of the City and the safe, orderly, and healthful development of the City.

§ SECTION 3: General plat requirements.

- (a) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of The City who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to the City, or to lay out suburban, building, or other lots, and to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared and filed with the City for approval pursuant to this ordinance. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

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- (b) The owner of a tract of land located within the limits or in the extraterritorial jurisdiction of the City who seeks to amend a plat or to replat a subdivision must have the amended plat or replat prepared and filed with the City for approval pursuant to this ordinance.
 - (c) The term “plat,” as used hereafter, means a plat, an amended plat or replat. The person or entity filing a plat pursuant to this ordinance is hereafter called the “subdivider.”
 - (d) The plat must:
 - (1) describe the subdivision by metes and bounds;
 - (2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part;
 - (3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.
 - (e) No construction of any street, or part of a street, whether public or private, shall be commenced within any property that is shown on a plat that has been filed in the Real Property Records, Madison County, Texas, unless the street or part of the street is shown on the plat.

SECTION 4: Authority responsible for plat approval.

All plats must receive approval from the City Council.

§ SECTION 5: Variances.

The City Council may grant a variance from this ordinance when, in its opinion, undue hardship will result from requiring strict compliance. In considering a variance, the City Council shall prescribe such conditions it deems necessary or desirable in the public interest. In making the findings required below, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. Variances may be granted only when in harmony with the general purpose and intent of this ordinance so that the public health, safety and welfare may be secured and substantial justice done. No variance can be considered unless the City Council finds:

- (a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land;

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- (b) That the variance is necessary for the preservation and enjoyment of the legal property rights of its owner;
 - (c) That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area; and
 - (d) That the granting of the variance will not prevent the orderly subdivision of other land in the area in accordance with the provisions of this ordinance.

§ SECTION 6: Preliminary plat requirements.

- (a) The subdivider shall prepare a preliminary plat by a surveyor or engineer.
- (b) The subdivider shall file eight (8) copies of the preliminary plat to the City Secretary. The preliminary plat application shall be submitted at least thirty (30) days prior to the date at which formal view by the City Council is sought.
- (c) The subdivider shall also file (8) copies of the complete application for preliminary plat approval to the City Secretary. The following documents and information must be included in an application for preliminary plat approval:
 - a. Notarized signatures of the owner or owner's designated representative.
 - b. Madison County tax certificate.
 - c. Proof of landownership.
 - d. TxDOT letter of acknowledgement and approval of proposed access points, if the subdivision is directly accessed from a road which is subject to the jurisdiction of TxDOT.
 - e. Utility providers' letters of commitment to provide service.
 - f. Listing of proposed street names with proof of submission of proposed street names to the U.S. Postal Service and the "911" for approval.
 - g. Schedule of phased development, including information concerning the ultimate number of proposed residential family dwelling units.
 - h. Proof of a contractual agreement between the property owner and any investor-owned utility provider that will provide utility service to the subdivision.
 - i. Copy of any applicable executed development agreement with the City.
 - j. Proposal for providing dedicated park land, if applicable.
 - k. Listing of proposed variances and their justifications.
 - l. Request to post security in lieu of constructing certain public improvements.
 - m. Fee payment.

§ SECTION 7: Filing fees.

Plat applications shall be accompanied by a filing fee in the amount established by City Council. In addition, the subdivider shall pay a fee equivalent to that required for conducting and/or evaluating soil tests and issuing any required subdivision or construction authorization. No plat shall be deemed filed nor any action by the City Council to be valid until these fees have been paid. The fees shall not be refunded should the subdivider fail to perfect their formal application for plat approval or should the plat be disapproved.

§ SECTION 8: Preliminary plat review procedure.

- (a) The City Secretary or their designee shall check the preliminary plat and application for preliminary plat approval, as to its conformity with the standards and specifications set forth herein or incorporated herein by reference.
- (b) A copy of the preliminary plat shall be made available for public inspection.
- (c) The City Secretary shall submit the preliminary plat and application to the City Council with their recommendation as to its approval, disapproval, or modifications
- (d) Within thirty (30) days after the preliminary plat and application is formally filed with the City Secretary, the City Council shall approve, disapprove, or conditionally approve the preliminary plat with modifications. If the preliminary plat is conditionally approved with modifications, the City Council shall inform the subdivider of the conditions to approval and the basis upon which the City Council is requiring such conditions.
- (e) Approval of a preliminary plat by the City Council shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the installation of streets, water, on-site well, sewer, on-site waste disposal and all other required improvements and utilities and to the preparation of the final recordable plat.
- (f) Approval or conditional approval of a preliminary plat shall be effective for six (6) months. If no final plat has been filed within six (6) months of approval, the City Council may, prior to the expiration of such approval, and upon the application of the subdivider, extend the approval for an additional six (6) months. At the end of this six (6) month extension period, the preliminary approval shall automatically expire and terminate.
- (g) Approval of a preliminary plat shall not constitute automatic approval of the final plat or construction plans.

§ SECTION 9: Final plat requirements.

- (a) The final plat shall be in accordance with the preliminary plat, as approved by the council, and shall incorporate all applicable conditions, changes, directions and additions imposed by the commission and council upon the preliminary plat.

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- (b) The subdivider shall file eight (8) copies of the complete application for final plat approval to the City Secretary. The following documents and information must be included in an application for final plat approval:
- a. Notarized signatures of the owner or owner's authorized representative.
 - b. Madison County tax certificate.
 - c. Proof of landownership.
 - d. Plat drawings:
 - (i) One (1) full-size set of approved preliminary plat drawings (24" x 36").
 - (ii) One (1) full-size set of draft final plat drawings (24" x 36").
 - (iii) One (1) half-size set of draft final plat drawings (8-1/2" x 11").
 - e. Construction drawings ("as-built," or "record drawings"):
 - (i) One (1) full-size set of approved drawings (24" x 36").
 - (ii) One (1) full-size set of approved sepias (24" x 36").
 - f. Letter of satisfactory completion from the City.
 - g. Proof of City acceptance of constructed public improvements to be dedicated to the City.
 - h. Proof of utility providers' approval of dedicated easements.
 - i. Proof of filing or recording of any property owners' association or homeowners' association documents.
 - j. Letter of commitment from each utility provider.
 - k. Listing of proposed street names not approved with the preliminary plat, and proof of submission of proposed street names, not approved with the preliminary plat, to the U.S. Postal Service and to "911" for approval.
 - l. Evidence of contractual agreement between the property owner and any investor-owned utility provider that will be providing utility service to the subdivision.
 - m. Copy of executed improvement agreement.
 - n. Copy of any applicable executed development agreement.
 - o. Approved engineer's summary report.
 - p. One (1) full-size set of approved site development permit plans if improvements have not been constructed (24" x 36").
 - q. TxDOT letter of acknowledgement and approval of access points.
 - r. Request to defer construction of public improvements until after approval of the final plat if not approved with preliminary plat approval, with associated security.
 - s. Proof of City approval to defer construction of public improvements until after approval of the final plat.
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- t. Proof of City approval of proposal to provide dedicated park land, if applicable.
 - u. Fee payment.

§ SECTION 10: Approval Standards.

No preliminary or final plat shall be approved by the City Council and no completed improvements shall be accepted by the City for maintenance unless they fulfill the requirements of Section 212.010 of the Texas Local Government Code and the following standards have been met:

- (1) The plat substantially conforms with the approved preliminary plat, site plan, and other studies and plans, as applicable;
- (2) The construction and installation of required public improvements and utilities has been approved and the improvements have been accepted by the City as conforming to the City's regulations and design standards, or the proper assurances for construction of the improvements have been submitted and approved by the City; and
- (3) The plat conforms to applicable zoning, subdivision, development regulations, and any other applicable codes or ordinances of the City that are related to development of a land parcel.

§ SECTION 11: Penalty.

Any person who shall violate any of the provisions of this ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits or extraterritorial jurisdiction shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum provided for in chapter 54 of the Texas Local Government Code. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Any person who violates this ordinance is subject to suit for injunctive relief as well as prosecution to seek penalties for the violations.