

ORDINANCE 2019-03

AN ORDINANCE ADOPTING AN UNIFIED DEVELOPMENT CODE APPLICABLE TO THE SUBDIVISION, SIGNAGE, DEVELOPMENT AND USE OF LAND WITHIN THE REGULATORY JURISDICTION OF THE CITY OF FAIR OAKS RANCH AND PROVIDING FOR CRIMINAL PENALTIES FOR VIOLATION THEREOF

WHEREAS, the City of Fair Oaks Ranch is a home rule municipality; and

WHEREAS, the City of Fair Oaks Ranch has adopted zoning, subdivision and sign regulations, as well as comprehensive plans pursuant to Title 7 of the Texas Local Government Code; and

WHEREAS, City Council deems it effective and efficient to consolidate said regulations in a comprehensive code to be designated the “Unified Development Code;” and

WHEREAS, at a regularly scheduled meeting on November 17, 2016, City Council authorized the engagement of Gap Strategies, planning group as consultants to assist with updating the City’s Comprehensive Plan and the drafting of the Unified Development Code; and

WHEREAS, since the engagement of the consultant group, a number of presentations on the progress of the Unified Development Code before City Council, and the Planning and Zoning Commission have occurred; and

WHEREAS, on March 7, 2019, City Council and the Planning and Zoning Commission conducted a public hearing to receive community comment and testimony on the proposed Unified Development Code; and

WHEREAS, on March 14, 2019, the Planning and Zoning Commission recommended City Council adopt the Unified Development Code; and

WHEREAS, on March 21, 2019, this Ordinance was first read before City Council; and

WHEREAS, on March 21, 2019, the City Council Continued the first reading of this Ordinance to April 18, 2019.

NOW THEREFORE: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Section one. Unified Development Code Adopted. The City of Fair Oaks Ranch Unified Development Code, attached hereto as **Exhibit “A”** and incorporated herein for all purposes is hereby adopted, including all exhibits, appendices and other attachments thereto. The Subdivision Code found in Chapter 10, the Zoning Code found in Chapter 14, and the Sign Code found in Chapter 15 of the Fair Oaks Ranch Code of Ordinances are hereby consolidated into the Unified Development Code and amended to the extent same are revised by the adoption of the Unified Development Code.

Section two. Criminal Penalties. This Ordinance provides Criminal Penalties as stated in Chapter 12 of the Unified Development Code.

Section three. Severability. This Ordinance is severable as stated in Chapter 1 of the Unified Development Code.

Section four. Cumulative. This ordinance shall be cumulative of all provisions of the duly adopted Ordinances of the City of Fair Oaks Ranch, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event this Ordinance shall apply.

Section five. Publication. The City Secretary is hereby authorized and directed to record the Unified Development Code as a subdivision of the Code of Ordinances. Pursuant to Texas Local Government Code Section 53.003 the Publishers of the Code are authorized and directed to designate the Unified Development Code by the title Unified Development Code; and, make notations in Chapter 10 (Subdivision), Chapter 14 (Zoning), and Chapter 15 (Sign) that said regulations are found in the Unified Development Code.

Section six. Effective Date. This ordinance shall be effective upon passage and approval as authorized in the City Charter and after two publications in the official newspaper, as required by Texas Local Government Code Section 52.013, of the caption stated in **Exhibit "B"** hereto.

PASSED AND APPROVED ON FIRST READING: The 18st day of April 2019.


PASSED AND APPROVED ON SECOND AND FINAL READING: This 2nd day of May 2019.

CITY OF FAIR OAKS RANCH, TEXAS



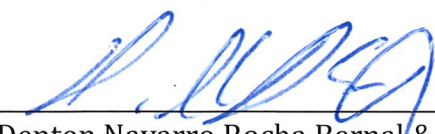
Garry Mahltzas, Mayor

ATTEST:



Christina Picioccio, City Secretary

APPROVED AS TO FORM:



Denton Navarro Rocha Bernal & Zech, P.C.,
City Attorney

EXHIBIT "A"

CITY OF FAIR OAKS RANCH UNIFIED DEVELOPMENT CODE

The Unified Development Code can be found in its entirety on the City's website page at [www.fairoaksranchtx.org/Our Government/Open Government/Unified Development Code](http://www.fairoaksranchtx.org/Our%20Government/Open%20Government/Unified%20Development%20Code) or by selecting the following link: www.fairoaksranchtx.org/452/Unified-Development-Code.

EXHIBIT "B"

PUBLIC NOTICE FOR PUBLICATION

PUBLIC NOTICE

On May 2, 2019, the City Council of the City of Fair Oaks Ranch, Texas, passed and approved an Ordinance adopting a Unified Development Code. The purpose of the Unified Development Code is to consolidate land development regulations (such as zoning and subdivision regulations) into one comprehensive code. Violation of any provision of the Unified Development Code is subject to criminal penalties of up to \$2000.00, for violation of fire safety, zoning or public health and sanitation regulations; and, up to \$500.00 for all other violations.

Section 2.3 Administrative Officials and Review Entities

(4) Zoning Board of Adjustment.

The regulations and restrictions of the Zoning Board of Adjustments (Board) for the City will be pursuant to the provisions of applicable statutory requirements of the State of Texas. The Board's procedures and actions shall conform to this Code.

a. Powers and Duties.

- i. The Zoning Board of Adjustment shall hear and decide appeals when error is alleged in any order, requirement, decision or determination made by an administrative official of the City in the enforcement of any zoning related decisions. The Zoning Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.
- ii. The Zoning Board of Adjustment may authorize, in specific cases, a variance from zoning regulations, unless specified otherwise, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the regulation would result in unnecessary hardship, and so that the spirit of the regulation ordinance adopted hereunder is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by the City's zoning regulations. In order to make a finding of hardship and grant a variance from the zoning regulations, the Board must meet the findings laid out in Chapter 3.9 (9) of this Code.

b. Appointment and Removal.

- i. The Zoning Board of Adjustment is established in accordance with Chapter 211 of the Texas Local Government Code (LGC). The Board members are appointed by the City Council.
- ii. The Board shall consist of five (5) members who shall be appointed by majority vote of the City Council.
- iii. A member may only be removed for cause.
- iv. A vacancy on the Board shall be filled for the unexpired term.
- v. City Council, by majority vote, shall appoint two individuals as alternate board members to serve in the absence of one or more regular members when requested to do so by the mayor or city manager. An alternate member serves for the same period as a regular member and is subject to removal in the same manner as a regular member. A vacancy among the alternate members is filled in the same manner as a vacancy among the regular members.

c. Zoning Board of Adjustment Review Process and Vote.

- i. Each case before the Zoning Board of Adjustment must be heard by at least four (4) of the five (5) members.
- ii. The concurring vote of four (4) of the five (5) members of the Board is necessary to:
 1. reverse an order, requirement, decision or determination of an administrative official; or
 2. authorize a variation from the terms of a zoning regulation