

**ORDINANCE NO. 2013-02-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING SECTIONS 146-46 (DEFINITIONS), 146-130 (VEHICLE PARKING), 139 (ARCHITECTURAL AND SITE STANDARDS), AND APPENDIX F, SECTION F-4 (SCHEDULE OF USES) OF THE ZONING ORDINANCE (CHAPTER 146 OF THE CODE OF ORDINANCES) AS THESE SECTIONS PERTAIN TO MULTI-FAMILY RESIDENTIAL, SENIOR MULTI-FAMILY RESIDENTIAL, INDEPENDENT LIVING USES, AND ASSISTED LIVING USES; ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF**

**WHEREAS**, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

**WHEREAS**, the City Council and the Planning and Zoning Commission have recognized that certain provisions of the Code of Ordinances should be reviewed and updated; and

**WHEREAS**, amendments to these provisions have been proposed and the City Council and the Planning and Zoning Commission of the City of McKinney are of the opinion that these chapters should be amended.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:**

Section 1. That the Code of Ordinances, City of McKinney, Texas, Section 146-46 of the Code of Ordinances, is hereby amended and shall read as follows:

**“Sec. 146-46. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Accessory building or use* means a building or use which:
  - (a) Is subordinate to and serves a principal building or building use;
  - (b) Is subordinate in area, extent, or purpose to the principal building or principal use served;
  - (c) Contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served;
  - (d) Is located on the same building lot as the principal use served; and
  - (e) Meets all building and fire codes.
  
- (2) *Accessory dwelling* means a self-contained dwelling unit created either by converting part of or adding on to an existing single family structure, whether attached or detached, or by building a separate apartment onto or along with a home on a single family lot. The use of the accessory dwelling is incidental to the main residence. Both the principal dwelling and the accessory dwelling must contain cooking, eating, sleeping, and

sanitary facilities. The accessory dwelling must have a separate outside entrance.

- (3) *Alley* means a public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide access to abutting property, and to provide utility service. An alley is a right-of-way with an ultimate width of 20 feet or less.
- (3) *Amusement, commercial (indoor)*, means an amusement enterprise wholly enclosed in a building that is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line and including, but not limited to, an indoor recreational area, bowling alley or billiard parlor.
- (4) *Amusement, commercial (outdoor)*, means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open including, but not limited to, a private outdoor recreational area, a golf driving range, archery range, and a miniature golf course.
- (6) *Antique shop* means an establishment offering for sale, within a building, articles such as glass, china, furniture or similar furnishings and decorations, which have value and significance as a result of age, design and sentiment.
- (7) *Apartment* means a dwelling unit in a multi-family residential apartment building.
- (8) *Apartment building* means a building or any portion thereof, which contains three or more dwelling units, located in the same building lot. An apartment building is a multi-family residential use.
- (9) *Area of the lot* means the net area of the lot and shall not include portions of streets and alleys.
- (10) *Assisted living facility, nursing home, or rest home* means a private facility that provides care for chronically ill, aged, or disabled persons who need health supervision and related care not including hospital care. Such facilities do not contain facilities for surgical care or the treatment of alcoholism, drug addiction, communicable disease or injury.
- (11) *Awning* means a roof-like cover that can be removed that projects from the wall of a building.
- (12) *Basement* means a building story that is partly underground, but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story in computing building height.
- (13) *Bay* means an opening in a wall or building, whether with or without bay doors, which is designed to allow vehicle access.
- (14) *Bay door* means an oversized door, typically with roll-up or swing-type doors, commonly used in conjunction with docks, bays, and loading spaces.
- (15) *Bed and breakfast facility* means an owner-occupied private home which offers lodging for paying guests, and which serves breakfast to these guests and which contains one or more guest bedrooms.
- (16) *Block* means an area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean

the distance along a side of a street between the nearest two streets which intersect said street.

- (17) *Boardinghouse or roominghouse* means a building, other than a hotel, where lodging and/or meals for three or more persons are provided for compensation.
- (18) *Build* means to erect, convert, enlarge, reconstruct, or alter a building or structure.
- (19) *Buildable area* means the area of a building site left to be built upon after any floodplain, easements, yards, and other unbuildable areas are deducted.
- (20) *Building* means any structure built for the support, shelter and enclosure of persons, animals, chattel or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
- (21) *Building ends* means those sides of a building having the least dimensions as compared to the front or rear of a building. As used herein for the building spacing regulations for multiple family dwelling, a "building end" shall be interpreted as being the most narrow side of a building regardless of whether it fronts upon a street, faces the rear of the lot or is adjacent to the side lot line or another building.
- (22) *Building site* means a single tract of land located within a single block, which (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. A building site may be subsequently subdivided into two or more building sites, and a number of building sites may be combined into one building site, subject to the provisions of this chapter and chapter 142, pertaining to subdivisions.
- (23) *Car wash* means a building or portion thereof, containing facilities for washing motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles (excluding semi-trailer trucks with at least 3 axles that are designed to tow trailers) using automated or manual methods including chain conveyor, blower, steam cleaning device, or other mechanical device. A car wash may also be referred to as an auto laundry.
- (24) *Certificate of occupancy* means an official certificate issued by the City through the enforcing official, which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.
- (25) *Church or rectory* means a place of worship and religious training including the on-site housing of ministers, rabbis, priests, nuns, and similar staff personnel. Church or rectory shall also include church-operated preschools (if the church is situated on a legally conforming lot under applicable subdivision or zoning controls) and/or on-site accessory not-for-profit overnight housing shelter sponsored and operated by the religious entity as a part of its goals, mission or ministry providing temporary free overnight lodging for individuals or families having no regular home or residential address ("Guests"). The provision of temporary free overnight lodging allowed hereby shall be limited to a maximum of 30 nights per calendar year, shall provide housing for no more than 14 Guests per night, and shall require an annual permit for such accessory use issued by the Chief Building Official.

- (26) *City* means the municipal corporation of the City of McKinney, Texas.
- (a) *Board* means the Zoning Board of Adjustment as provided for in section 146-165.
  - (b) *Chief Building Official* means the City administrative official charged with the responsibility of issuing permits and enforcing the Zoning and Building Ordinances.
  - (c) *City Council* means the duly elected governing body of the City.
  - (d) *City Engineer* means the engineer employed by the City, or the engineers retained as consultants to the City, or their duly authorized representative.
  - (e) *City Manager* means the chief administrative office of the City.
  - (f) *Commission* means the governmental body designated in this chapter as the Planning and Zoning Commission and appointed by the City Council as an advisory body to it and which is authorized to recommend changes to this zoning chapter.
- (27) *Cleaning shop and pressing (small shop and pickup)* means a custom cleaning shop not exceeding 3,000 square feet in floor area, or a pickup station for laundry or cleaning where the work is performed other than on the premises.
- (28) *Clinic* means a group of offices for one or more physicians, surgeons, or dentists to treat sick or injured outpatients who do not remain overnight.
- (29) *Comprehensive Plan* means the Comprehensive Plan of the City, as adopted by the City Council. The Comprehensive Plan shall consist of a land use plan, a thoroughfare plan, a water system plan, a sanitary sewer plan, a storm drainage plan, a park system plan, and such other plans as may be adopted from time to time by the City Council.
- (30) *Country club* means an area of at least 25 acres containing a golf course and clubhouse, which is available to a specific recorded membership. Such a club may include as adjunct facilities, a dining room, private club, swimming pool, cabanas, tennis courts and similar service and recreational facilities for the members.
- (31) *Court* means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanent space.
- (32) *Coverage, lot* means the percent of a lot or tract covered by the roof or first floor of a building. Roof eaves, which extend more than three feet from the walls of a building, shall be excluded from coverage computations.
- (33) *Day care* means a facility providing care, training, education, custody, treatment or supervision for four or more individuals for all or part of the 24-hour day and licensed by the state department of human services. No portion of the day care center site may be located within 300 feet of gasoline pumps or underground gasoline storage tanks, or any other storage area for explosive materials.

- (34) *Development or to develop* means and includes the construction of a new building or any structure on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To develop is to create a development.
- (35) *District* means a zoning district that is a part of the City.
- (36) *Dock* means a place for the loading or unloading of goods, materials, or merchandise, with or without a platform.
- (37) *Dwelling* means a building or portion thereof designed and used exclusively for residential occupancy, including one family, two family, or multiple family dwellings but not including hotels, motels or lodginghouses.
- (38) *Dwelling unit* means any building, structure or mobile home, or part thereof, which is designed, used or intended to be used for human occupancy as the living quarters, of one housekeeping unit or family.
- (39) *Farm, orchard or truck garden* means an area of three acres or more that is used for growing of usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry, and farm animals, such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.
- (40) *Farmers market* means an area where space is rented to individual vendors who grow farm products such as agricultural and horticultural goods, or who produce food specialty products such as baked goods, candies, jams, jellies, spices, condiments, cheeses, eggs, milk, honey, meats, fish and pasta. This definition does not include the sale of arts and crafts products or any other item not specifically allowed per this ordinance.
- (41) *Family* means any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage, or adoption.
- (42) *Field office (temporary)* means a structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment and subject to a temporary permit issued by the Chief Building Official and subject to discontinuance at the order of the Chief Building Official.
- (43) *Floodplain* means, geographically, the entire area subject to flooding. In usual practice, it is the area subject to flooding by the 100-year frequency flood.
- (44) *Floor area* means the total square feet of floor space within the outside dimensions of a building including each floor level.
- (45) *Floor area ratio (FAR)* means the ratio between the total square feet of floor area in a structure and the total square feet of land in the lot or tract on which the structure is located (see appendix E, illustration 11).
- (46) *Fraternal organization, lodge or civic club* means a society or association organized for the pursuit of some common objective by working together in a brotherly union.

- (47) *Frontage* means the front or frontage is that side of a lot abutting on a street and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot.
- (48) *Fueling station* or *gasoline station* means a retail fuel sales facility selling fuel for motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles (excluding semi-trailer trucks with at least 3 axles that are designed to tow trailers) with no ancillary services such as vehicle service, vehicle repair, or sale of items other than fuel. The fueling or gasoline station may be attended or automated.
- (49) *Garage, auto repair*, means a building or portion thereof whose principal use is for the repair, servicing, equipping, or maintenance of motor vehicles or motor vehicle components, including engines, radiators, starters, transmissions, brakes, tires and wheels, seats, and similar components.
- (50) *Height* means the vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to:
- (a) The highest point of the roofs surface if a flat surface;
  - (b) The deck line of mansard roof's; or
  - (c) The mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevators, bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes and spires, and parapet walls not exceeding ten feet in height.
- If the street grade has not been officially established, the average front yard grade shall be used for a base level.
- (51) *Home occupation* means a business, occupation, or profession conducted within a residential dwelling unit by the resident thereof.
- (52) *Hospital* means a legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.
- (53) *Hotel or motel* means a building or group of buildings designed and occupied as a temporary abiding place of individuals. To be classified as a hotel or motel, an establishment shall contain a minimum of 12 individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, use and upkeep of furniture.
- (54) *Household appliance sales* means and includes, but not necessarily limited to, the sale and service of radio, television, refrigerators, etc.
- (55) *Independent living facility* means a private living facility that provides its residents community dining with on-site meal preparation and service, transportation services, and may also include light housekeeping and/or recreational/enrichment/socialization activities. These facilities do not provide any on-site health supervision or related care for its residents.
- (56) *Junk or salvage yard* means a lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junkyard" includes an automobile wrecking

yard and automobile parts yard. A "junkyard" does not include such uses conducted entirely within an enclosed building.

- (57) *Kennel, indoor*, means an establishment with indoor pens in which dogs, cats, or other domesticated animals are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes, but excluding pet stores or municipal animal shelters. Veterinary clinics, animal hospitals, and animal clinics shall not be considered a kennel, unless such uses contain indoor pens or facilities for housing, boarding, breeding, training, harboring, or keeping dogs, cats, or other domesticated animals, swine, equine, or other livestock animals.
- (58) *Kennel, outdoor*, means an establishment with outdoor pens, and meeting the criteria in the definition of "Kennel, indoor."
- (59) *Legal height* means the maximum height of a building permitted by any airport Zoning Ordinance or other ordinance restricting the height of structures.
- (60) *Livestock auction* means barns, pens and sheds for the temporary holding and sale of livestock.
- (61) *Living plant screen* means foliage of an acceptable type and of a density that will not permit through-passage, (and which exhibits the same year-round screening characteristics as a screening device, see "screening device.")
- (62) *Loading space* means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks or other vehicles.
- (63) *Lot* means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved place.
  - (a) *Lot area* means the area of a horizontal plane intercepted by the vertical projections of the front, side, and rear lot lines of a building lot.
  - (b) *Lot area per dwelling unit* means the lot area required for each dwelling unit located on a building lot.
  - (c) *Lot, corner*, means a building lot situated at the intersection of two streets, with the interior angle of such intersection not to exceed 135 degrees (see appendix E, illustrations 4 and 5).
  - (d) *Lot coverage* means the percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot or the area determined as the maximum cross sectional area of a building.
  - (e) *Lot depth* means the mean horizontal distance between the front lot line and the rear lot line of a building lot measured at the respective midpoints of the front lot line and rear lot line within the lot boundary (see appendix E, illustration 2).
  - (f) *Lot, interior*, means a building lot other than a corner lot (see appendix E, illustration 5).
  - (g) *Lot line, front*, means the boundary of a building lot that is the line of an existing or dedicated street, or a private street lot

within a private street development. Upon corner lots, either street line may be selected as the front lot line, providing a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.

- (h) *Lot line, rear*, means the boundary of a building lot that is most distant from and is, or is most nearly, parallel to the front lot line.
  - (i) *Lot line, side*, means the boundary of a building lot that is not a front lot line or a rear lot line.
  - (j) *Lot of record* means an area of land designated as a lot on a plat of a subdivision recorded, pursuant to statutes of the state, with the county clerk of the county, or an area of land held in single ownership described by metes and bounds upon a deed recorded or registered with the county clerk.
  - (k) *Lot width* means the width of a lot at the front building line (see appendix E, illustration 1).
- (64) *Main building* means the building or buildings on a lot, which are occupied by the primary use.
- (65) *Mini-warehouse/public storage* means a building containing separate, individual self-storage units of 500 square feet or less for rent or lease. The conduct of sales, business, or any activity other than storage shall be prohibited within any individual storage unit.
- (66) *Mobile home dwelling* means a transient portable dwelling unit, such as a house trailer or mobile home, originally designed to be moved from location to location by automobile, truck or similar prime mover, but which has been made immobile and is used as a temporary or permanent dwelling, or as part of a permanent dwelling. This definition does not include pickup campers or travel trailers used temporarily for camping or outings.
- (67) *Mobile home park* means a tract of land designed, used or intended for the renting or leasing, but not sales, of sites for the location, occupancy, or accommodation of one or more mobile home dwellings. A mobile home park shall have filed with the City a certified land division approved by the commission according to the provisions of this chapter. A mobile home park shall be developed in conformance with the standards set out in chapter 138, article III, division 2.
- (68) *Mobile home subdivision* means a tract of land subdivided into lots, which are designed as permanent sites for mobile home dwellings and which are served by separate utilities, have dedicated street access on a legally filed plat, and are capable of being conveyed as separate lots, and as such shall be considered a subdivision.
- (69) *Multiple family dwelling (apartment)* means any building or portion thereof, which is designed, built, rented, leased or let to contain three or more dwelling units or apartments on a single lot, or which is occupied as a home or place of residence by three or more families living in independent dwelling units on a single lot.
- (70) *Multiple family dwelling, senior (senior apartment)* means any building or portion thereof, which is designed, built, rented, leased or let to contain three or more age-restricted (55 or older) dwelling units or apartments on a single lot, or which is occupied as a home or place of residence by three or more age-restricted (55 or older) families living in independent dwelling



units on a single lot. This use shall also be subject to the following requirements:

- (a) The senior multi-family residential development shall be advertised and marketed as a community for persons who are 55 years of age or older.
- (b) At least one person 55 years of age or older shall reside in at least 80 percent of the senior multi-family residential development's dwelling units. .
- (c) No person may occupy a senior multi-family residential development dwelling unit if occupancy by such person would result in fewer than eighty percent (80%) of all occupied senior multi-family residential development dwelling units being occupied by at least one (1) resident of not less than fifty-five (55) years of age.
- (d) Senior multi-family residential development dwelling units that are occupied solely by a Disregarded Person shall not be included in the calculations required to be made for this use. For purposes of these requirements, a "Disregarded Person" is a person who is either (i) an employee of the senior multi-family residential development who performs substantial duties related to the management of the senior multi-family residential development or maintenance of any common area; or (ii) necessary to provide reasonable accommodation to disabled residents.
- (e) Prior to the issuance of a certificate of occupancy, each senior multi-family residential development shall adopt a series of deed restrictions and covenants, subject to review and approval by the City Attorney, establishing the development's intent to operate as a senior multi-family residential development in accordance with the requirements established herein and any other applicable law or regulation.
- (f) Such deed restrictions and covenants shall not be altered or revoked to remove or reduce the 55 or older age restriction occupancy requirements set forth herein without the advance written approval of the City following a public hearing and notice as required for re-zoning.
- (g) All rental agreements and lease agreements shall include a statement that senior multi-family residential development dwellings units are intended for occupancy by persons fifty-five (55) years of age or older in conspicuous type and the provisions of which such agreements shall be specifically initialed or signed by the tenant. Such agreements shall prohibit the tenant's re-letting of said senior multi-family residential development dwelling unit unless at least one of the sub-tenants is 55 years of age or older. Further, such agreements shall require the tenant(s) to promptly inform the senior multi-family residential development of any change in occupancy and shall require the tenant(s) and any guests and sub-tenants to cooperate in providing such documentation as may be required to confirm the ages of all persons residing in the senior multi-family residential development dwelling unit upon request of the senior multi-family residential development and/or the City.
- (h) Each senior multi-family residential development will maintain

age records of all residents. Each senior multi-family residential development shall publish and adhere to policies, procedures and rules to monitor and maintain compliance with the senior housing age restriction including policies regarding verification of compliance with applicable law. Each senior multi-family residential development shall develop procedures for determining the occupancy of each senior multi-family residential development dwelling unit. The senior multi-family residential development may require residents to produce copies of birth certificates, driver's licenses, passports, immigration cards, military identifications and other official documents containing birth date of comparable reliability.

- (i) At least once every two years, each senior multi-family residential development shall provide to the Development Services Division of the City a certified affidavit demonstrating that the requirements established herein as well as the requirements of the Fair Housing Act continue to be satisfied. Should a senior multi-family residential development fail to provide such affidavit the City shall have the right, but not a corresponding duty, to perform an investigation or survey to determine whether the development is conforming to the age restriction requirements set forth herein as well as the requirements of the Fair Housing Act.
- (j) Failure to completely adhere to the requirements herein shall be deemed a violation of this Chapter and may result in the revocation of the development's certificate of occupancy or other penalties as detailed in Section 146-194 of this Chapter.
- (k) If a senior multi-family residential development is established as an age-restricted condominium regime with occupant ownership of the individual condominium dwelling units, a condominium owner's association shall be established together with the deed restrictions and covenants adopted for the development. Membership in such condominium owner's association shall be mandatory and shall be based upon a person's ownership of a condominium dwelling unit within the senior multi-family residential development. The condominium owner's association shall be run by a board of directors ("Board") elected from and by the members of the condominium owner's association.
  - (i) For purposes of an age-restricted condominium regime, the condominium owner's association will be responsible for assuring compliance with the age-restriction requirements contained in this provision. In addition, for purposes of an age-restricted condominium regime all references to "senior multi-family residential development dwelling unit" herein-above shall be understood to be and mean a "condominium dwelling unit."
  - (ii) Each condominium owner shall be responsible for including the statement that condominium dwelling units are intended for occupancy by persons fifty-five (55) years of age or older, as set forth above, in conspicuous type in any purchase and sale agreement or transfer documents relating to such owner's condominium dwelling unit, which agreements or contracts shall be in writing and signed by the purchaser.

- (iii) The covenants and restrictions for an age-restricted condominium regime shall empower the Board with the authority to disapprove any proposed change in ownership or occupancy of any condominium dwelling unit, as a result of transfer, sale, gift, assignment, death, birth, marriage, separation, divorce or otherwise if the transfer fails to comply with the age restrictions set forth in this provision or causes a violation of the 80% age restriction occupancy requirements.
  - (iv) If the Board disapproves a transfer for the reasons permitted herein, such transfer shall not be permitted and shall be void if attempted. Persons purporting to acquire title or a right of possession to a condominium dwelling unit by sale, gift or other transfer than have not been approved by the Board shall not be entitled to occupy the condominium dwelling unit in question. The Board shall be entitled to bring an action to evict any disapproved resident.
  - (vii) Notwithstanding the foregoing, the Board shall not have the authority to disapprove a transfer to a mortgagee by deed in lieu of foreclosure of its first mortgage, the purchase at a foreclosure sale of a first mortgage held by a mortgagee or the sale by a mortgagee after it acquires title to a condominium dwelling unit by foreclosure or by acceptance of a deed in lieu of foreclosure of a first mortgage; provided, however, that the Board shall have the authority to disapprove every sale, gift or other transfer by the grantee of such mortgagee or the purchaser at a foreclosure sale of a first mortgage and every sale, gift or other transfer thereafter which fails to comply with the age restrictions set forth in this provision or causes a violation of the 80% age restriction occupancy requirements.
- (71) *Museum, library or art gallery (public)* means an institution for the collection, display and distribution of books, objects of art or science, which is sponsored by a public or quasi-public agency and which facility is open to the general public.
- (72) *Nonconforming use* means a building, structure or use of land lawfully occupied at the time of the effective date of the ordinance from which this section is derived (April 29, 1968), or amendments thereto, or which was subsequently annexed to the City and which does not conform to the use regulations of the district in which it is situated.
- (73) *Occupancy* means the use or intended use of the land or buildings by proprietors or tenants.
- (74) *Off-street parking* means parking spaces provided in accordance with the requirements specified by this chapter and located on the lot or tract occupied by the main use.
- (75) *Open area* means that part of a building lot, including a court or a yard, which:
- (a) Is open and unobstructed from its lowest level to the sky;
  - (b) Is accessible to all residents upon a building lot; and
  - (c) Is not part of the roof of that portion of the building containing

dwelling units.

- (76) *Open space* means an area or tract of undeveloped land that is intended to remain generally in its natural state, except for those uses allowed under the provisions of this chapter.
- (77) *Open storage* means the storage of any equipment, machinery, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six feet (6') above ground level.
- (78) *Outdoor display* means the placement of articles for sale in an uncovered area on private property.
- (79) *Park or playground (public)* means an open recreation facility or park owned and operated by a public agency such as the municipal department of parks and recreation or school board and available to the general public.
- (80) *Parking lot or parking garage, commercial*, means an area or structure for the parking of motor vehicles, and which serves as the primary use on the lot.
- (81) *Parking lot, truck*, means any area used for the parking or storage of trucks or trailers larger than three-fourths ton in size.
- (82) *Parking space* means an enclosed or unenclosed all-weather surface meeting the size requirements of this chapter, not on a public street or alley, together with an all-weather surfaced driveway connecting the area to a street or alley permitting free ingress and egress without encroachment on the street or alley. Any parking adjacent to a public street wherein the maneuvering is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use (see appendix E, illustrations 13, 14, 15, 16, and 17).
- (83) *Performance standards* means those standards or criteria by which qualitative and quantitative measures are derived for the regulation of industrial uses and activities. The following definitions are applicable to performance standards:
- (a) *Atmosphere* means the air that envelops or surrounds the earth. Where air contaminants are emitted into a building not designed specifically as air pollution control equipment, such emission into the building shall be considered emission into the atmosphere.
  - (b) *Atmospheric pollution* means the discharging from stacks, open storage, chimneys, exhausts, vents, ducts, openings, or open fires of such air contaminants as visible emissions, sulphur dioxide, particulate matter, hydrocarbons, fumes or similar material or gases.
  - (c) *Background noise* means noise from all sources other than that under specific consideration, including traffic operating on public thoroughfares.
  - (d) *Combustion* means the rapid exothermic reaction of any material with oxygen.
  - (e) *Decibel* means a unit of measurement of sound pressure.

- (f) *Emission* means the act of passing into the atmosphere an air contaminant or a gas stream, which contains or may contain an air contaminant or the material so passed into the atmosphere.
- (g) *Emission point* means the location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.
- (h) *Exhaust gas volume* means the total volume of gas emitted from an emission point.
- (i) *Frequency* means the number of times per second a vibration or sound wave oscillates.
- (j) *Octave band* means all the frequencies between any given frequency and double that frequency.
- (k) *Octave band filter* means an electrical frequency analyzer designed according to the standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.
- (l) *Odor threshold* means the concentration of odorous matter in the atmosphere necessary to be perceptible to the olfactory nerve of a normal person. Determination of the odor threshold is prescribed by ASTM D1391-57, "Standard Method for Measurement of Odor in Atmospheres."
- (m) *Operation* means any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action resulting in a change in the chemical composition or chemical or physical properties of a material. The following are given as examples, without limitation of the generality of the foregoing: heat transfer, calcination, double decomposition fermentation, pyrolysis, electrolysis, combustion material handling, evaporation mixing, absorption, filtration, fluidization, screening, crushing, grinding, demolishing, shoveling, bagging, etc.
- (n) *Particulate matter* means any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions when released into the atmosphere.
- (o) *Person or operation* means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, or owner or any state or local governmental agency or public district or any officer or employee thereof. It includes the owner, lessor, lessee, tenant, licensee, manager and operator, or any of such, of any emission point or any source operation, which may constitute a source of atmospheric pollution related thereto, or any interest in such emission point or operation source.
- (p) *Ppm (vol)* means parts per million by volume.
- (q) *Smoke* means the visible discharge of particulate matter from a chimney, vent exhaust or combustion process.

- (r) *Toxic and noxious matter* means any solid, liquid, or gaseous matter, which is present in sufficient quantities to endanger health, safety and comfort of persons in the vicinity or which may cause injury or damage to property.
  - (s) *Vibration* means a periodic displacement of the earth measured in inches.
- (84) *Personal service* means establishments primarily engaged in providing services generally involved in the care of the person or their apparel, including, but not limited to, barbershops, tailors, and salons.
- (85) *Plat* means a plan of a subdivision or land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City and subject to approval by the Planning and Zoning Commission and/or City Council, and filed in the plat records of the county.
- (86) *Playfield or stadium (public)* means an athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course, football field or stadium.
- (87) *Private club* means an establishment providing social and dining facilities, as well as alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of V.T.C.A., Alcoholic Beverage Code § 32.01 et seq., as it pertains to the operation of private clubs.
- (a) Private clubs shall be restricted to: Planned Center, General Business, Commercial Historic District, Business Commercial, and Planned Development zoning districts.
  - (b) A specific use permit issued for the operation of a private club shall be conditioned that:
    1. Thirty-five percent of the gross receipts be derived from the sale of food, subject to an annual audit provided at the expense of the permittee for review by the City Council;
    2. The permitted premises contain a minimum of 50 dining seats and a minimum of 600 square feet of dining area;
    3. The permittee comply with the provisions of the alcoholic beverage code and receive a private club permit from the state within six months from the date of issuance of the specific use permit by the City Council, each such limitation in time being subject to review and possible extension by the City Council; and
    4. Such other conditions and restrictions, which the City Council determines, at the time of granting the specific use permit, are necessary to protect and provide for the health, safety, and general welfare of the community.
  - (c) The City Council may revoke a specific use permit granted hereunder if it finds that any condition imposed at the time of granting the permits is not met, or thereafter ceases to exist. The City Council may deny a specific use permit for the

operation of a private club if it should affirmatively determine that issuance of the same would be detrimental or offensive to the neighborhood or otherwise be contrary to the health, safety, or general welfare of the City and its inhabitants.

- (d) All specific use permits for the operation of private clubs shall be further conditioned that the same may be canceled, suspended, or revoked in accordance with the provisions of chapter 138, article II, which are incorporated herein by reference and made a part hereof for all purposes.
- (88) *Public building, shop or yard of local, state, federal government* means facilities such as office buildings, maintenance yards or shops required by branches of local, state or federal government for service to an area such as a highway department yard or City service center.
- (89) *Recreation area* means a privately owned park, playground, or open space maintained by a community club, property owners' association, or similar organization.
- (90) *Recreation center (public)* means a building or complex of buildings housing community recreation facilities owned, operated or leased for operation by the City and may include swimming pools, tennis and other indoor or outdoor athletic facilities.
- (91) *Rest home or nursing home* means a private facility for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders. Such homes do not contain facilities for surgical care or the treatment of disease or injury.
- (92) *Residence.* See "Dwelling." When called a residence district, it means an area of residential regulations.
- (93) *Restaurant or cafeteria (carry-out only)* means an establishment where food is prepared for the general public but where there are no designated areas for dining on the premises (indoor or outdoor).
- (94) *Restaurant or cafeteria (indoor service)* means an establishment serving food to the general public in specific, designated indoor dining areas and outdoor seating areas and where food is not served to or eaten in automobiles on the premises.
- (95) *Restaurant or cafeteria (including drive-through windows and drive-in service)* means an establishment where prepared food or drink is served to or consumed by customers in motor vehicles, and specified as one of the following categories:
  - (a) *Drive-through window restaurant* means an establishment where customers are served prepared food or drink at a drive-through window for off-premises consumption.
  - (b) *Drive-in service restaurant* means an eating establishment where consumption of food or drink in vehicles on the premises is permitted.
- (96) *Screening device* means a barrier of permanent material of sufficient height and density so that the objects being screened are not visible from any point on the lot line when viewed from any height between ground level and seven feet above ground level.
- (97) *School, business or trade* means a business organized to operate for a profit and offering instruction and training in a service or art such as a

secretarial school, barber college, beauty school or commercial art school.

- (98) *School, public, private, or parochial* means a school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or business schools.
- (99) *Shopping center* means a group of primarily retail and service commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, and the location for delivery of goods is separated from customer access, which features aesthetically appropriate design and protection from the elements.
- (100) *Servant's quarters* means an accessory building or portion of a main residential building located on the same lot as the principal residential building, occupied only by such persons and their families as are employed by the occupants of the principal residence.
- (101) *Service station* means any building or premises used for the dispensing, sale, or offering for retail sale of any fuels or oils for motor vehicles including, but not limited to, automobiles, motorcycles, buses, or recreational vehicles (excluding semi-trailer trucks with at least 3 axles that are designed to tow trailers). If the dispensing, sale or offering for sale is incidental to a public garage, the premises shall be classified as a public garage, and not as a service station.
- (102) *Single family dwelling (attached)* means a dwelling unit that is joined to another dwelling at one or more sides by a party wall or abutting separate wall, which is designed for occupancy by one family and is located on a separately platted lot, delineated by front, side and rear lot lines and is served by separate utility connections and meters as a single family dwelling. Also known as a "townhome."
- (103) *Single family dwelling (detached)* means a dwelling unit designed and constructed for occupancy by not more than one family, located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract, and occupied by only one family.
- (104) *Stable, commercial,* means a stable and related open pasture where horses are quartered for owners on a fee basis. No horses or other livestock shall be stabled or corralled within 100 feet of any bounding property line.
- (105) *Story* means the height between the succeeding floors of a building or from the top floor to the roof. The standard height of a story is eleven feet six inches (11' 6").
- (106) *Street* means a public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide access to abutting property, and to provide utility service. A street is a right-of-way with an ultimate width of more than 20 feet.
- (107) *Street line* means a dividing line between a lot, tract or parcel of land and a contiguous street or the right-of-way line.
- (108) *Structural alterations* means any change in the supporting member of a building, such as a bearing wall, column, beam or girder.
- (109) *Structure* . See "Building."



- (110) *Swim or tennis club* means a private recreational club with restricted membership, usually of less area than a country club but including a clubhouse and a swimming pool or tennis courts and similar recreational facilities one of which are available to the general public.
- (111) *Swimming pool (private)* means a pool or spa that is located on private property under the control of the property owner and intended for use by not more than two resident families and their guests, and located and fenced in accordance with the regulations of the City.
- (112) *Thoroughfare* means any planned or existing roadway within the City and its ETJ. A major thoroughfare is a planned or existing right-of-way with an ultimate right-of-way width of 60 feet or greater. A minor thoroughfare is a planned or existing roadway with an ultimate right-of-way width of less than 60 feet.
- (113) *Tires, batteries and accessories* means any retail operation wherein the sale and/or installation of tires, batteries, brakes and other related minor parts or accessories not listed as a separate use in this chapter is carried on; specifically intended to exclude heavy automotive repair, upholstery and muffler installation, automotive tune-up, automotive salvage or painting, used part sales or storage, tire retreading or recapping.
- (114) *Tower, radio, television, communications, or microwave*, means structures supporting antennas for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antenna installations for home use of radio or television. In any event, the use as a communications, microwave, radio, or television tower in a given zone is still subject to the height, setback, and other requirements, of section 146-137 and the zoning district requirements in which the tower is located.
- (115) *Two-family dwelling* means a single structure designed and constructed with two dwelling units under a single roof for occupancy by two families. Also known as a “duplex.”
- (116) *Use* means the purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of such activity with respect to the standards of this chapter.
- (117) *Variance* means an adjustment in the application of the specific regulations of this zoning chapter to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to enable the property to enjoy the same or similar enjoyed by other parcels in the same vicinity and zoning district.
- (118) *Yard* means an open space on the same building lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the building site and lot line shall be used. A "yard" extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the zoning district in which such building is located.
- (a) *Yard, front*, means an open, unoccupied space on a lot facing a street extending across the front of a lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located (see appendix E, illustrations 3, 6, and 7).

- (b) *Yard, rear*, means an open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line as specified in the district in which the lot is situated (see, appendix E, illustrations 3 and 6).
- (c) *Yard, side*, means an open, unoccupied space or spaces on one side or two sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line, not the rear line or a front line, shall be deemed a side line (see appendix E, illustrations 3, 4, 5, and 6).

(119) *Zoning district map* means the official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this zoning chapter.

Unless otherwise defined herein, words contained in these regulations shall have the meanings found in chapter 142 and section 146-46, and as such provisions may be hereafter amended.”

Section 2. That the Code of Ordinances, City of McKinney, Texas, Section 146-130(1) of the Code of Ordinances, is hereby amended and shall read as follows:

“(1) *Parking requirements.*

Assisted living facility, nursing home, or rest home	1 parking space for every 4 beds.
Bank, savings and loan, or similar institution	1 parking space for every 400 square feet plus 5 stacking spaces per drive-through teller or ATM station.
Bed and breakfast facility	1 parking space for every guest room plus the parking requirements for a detached single family dwelling shall apply to the owner/occupant of the facility
Car wash (full service)	1 parking space for every 250 square feet of floor area plus 7 stacking spaces for each wash, vacuum, or gas pump lane.
Car wash (self-serve)	1 parking space for each bay or stall (in addition to washing areas or stalls) plus 3 stacking spaces for each wash bay if automated drive-through or 2 stacking spaces for each wash bay if wand-type.
Church or other place of worship	1 parking space for each 3 seats in the main auditorium or assembly hall. If no fixed seating is proposed, 1 parking space shall be provided for every 50 square feet of floor area in the main auditorium or assembly hall.
College or university	10 parking spaces per classroom.
Amusement (indoor):	1 parking space for each 100 square feet of gross floor area for uses not listed below.
a. Amusement center	1 parking space for every 50 square feet.
b. Bingo parlors	1 parking space for every 3 seats or one for every 100 square feet, whichever is greater.
c. Bowling alley	6 parking spaces for each alley.

d.	Racquetball or handball courts	3 parking spaces for each court.
e.	Indoor tennis courts	6 parking spaces for each court.
f.	Indoor jogging or running tracks	1 parking space for every 300 linear feet.
g.	Swimming pool	1 parking space for every 100 square feet of water surface plus deck area.
h.	Theatres and auditoriums, including motion picture theaters	1 parking space for every 4 seats.
i.	Areas for subsidiary uses not listed, such as restaurants, offices, etc.	Calculate required parking for each subsidiary use in addition to the minimum standards for other uses.
Amusement (outdoor):		
a.	Areas with fixed seating or bleachers	1 parking space for every 4 seats for fixed seating or for every 6 linear feet of benches for bleacher seating.
b.	Golf course	5 parking spaces per hole, plus requirements for retail parking, office parking, country club parking, and other uses as applicable.
c.	Golf driving range	1.5 parking spaces per driving tee.
d.	Soccer, football, baseball, or other play fields with no fixed seating	50 parking spaces per field.
e.	Tennis courts, basketball courts, or similar recreation courts with no fixed seating	6 parking spaces per court.
f.	Neighborhood pool	1 parking space per 200 square feet of pool surface area (not including wading pools or whirlpool baths) and 1 space per 400 square feet of building area.
g.	Swimming Pool	1 parking space for every 100 square feet of water surface plus deck area.
Community center, library, museum, or art gallery		10 parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one space for each 4 seats that it contains.
Contractor's yard		1 parking space for every 5,000 square feet of lot area, with a minimum of 5 spaces.
Convenience store (with or without gas pumps)		1 parking space for every 250 square feet of floor area, with a minimum of 5 parking spaces. Spaces provided for fueling at the pump stations shall not be considered parking spaces.
Day nursery or day care center		1 parking space for every 8 pupils, based on design capacity plus 6 stacking spaces shall be required per drive-through/pick-up lane.
Dry cleaners (with drive-		1 parking space for every 250 square feet of floor area

through)	plus 3 stacking spaces shall be required per drive-through lane.
Dwellings, duplex	2 parking spaces for every unit, including 1 covered or enclosed space.
Dwellings, multiple family	1 parking space for each dwelling unit plus 0.5 space for each bedroom in all dwelling units. No less than 30% of the units shall have an enclosed parking space. No less than 20% of the units shall have a covered parking space. Enclosed parking spaces shall not be counted as covered parking spaces for the purposes of this requirement. Enclosed parking spaces may include, but not be limited to an open-air, multi-level parking structure (excluding the top floor of said structure), tuck-under parking, and a detached garage(s). If a garage door is associated with the enclosed parking space, a 20-foot long driveway in front of the garage door shall be provided or an additional 0.5 parking space per enclosed space shall be provided elsewhere on-site. The 20-foot driveway in front of a garage door may be counted as a parking space.
Dwellings, multiple family (senior)	1 parking space for each dwelling unit. No less than 30% of the units shall have an enclosed parking space. No less than 20% of the units shall have a covered parking space. Enclosed parking spaces shall not be counted as covered parking spaces for the purposes of this requirement. Enclosed parking spaces may include, but not be limited to an open-air, multi-level parking structure (excluding the top floor of said structure), tuck-under parking, and a detached garage(s). If a garage door is associated with the enclosed parking space, a 20-foot long driveway in front of the garage door shall be provided or an additional 0.5 parking space per enclosed space shall be provided elsewhere on-site. The 20-foot driveway in front of a garage door may be counted as a parking space.
Dwellings, Single Family attached	2 parking spaces for each unit including 2 covered or enclosed spaces.
Dwellings, Single Family detached	2 parking spaces for each unit including 2 covered or enclosed spaces, except that if a dwelling is constructed under a program for affordable housing sponsored by the City or sponsored by a non-profit corporation approved by the City 2 parking spaces must be provided for each unit, including a minimum of 1 covered or enclosed space.
Flea and farmers' market	1 parking space for every 250 square feet of market area.
Fraternity, sorority, or dormitory	1 parking space for each 2 beds.
Fueling station or gasoline station (no ancillary services)	1 parking space for every 4 pumping stations. Spaces provided for fueling at the pump stations shall not be considered parking spaces.
Furniture or appliance store, hardware store, wholesale establishments	1 parking space for every 400 square feet.
Fitness club, gymnasium, exercise area or similar use	1 parking space for every 150 square feet.
Hospital	1 parking space for each bed.

Hotel/motel or residence hotel	1 parking space for each sleeping room without a kitchen or 1.5 parking spaces for each sleeping room with a kitchen, plus 1 parking space for every 200 square feet of restaurant, retail, conference, or office area.
Independent living facility	1 parking space for every dwelling unit.
Industrial and manufacturing uses	1 parking space for every 1,000 square feet up to 20,000 square feet plus 1 parking space for every 2,000 square feet in excess of 20,000 square feet.
Junk yard, recycling center, and similar industrial uses	1 parking space for every 10,000 square feet of lot area.
Lodge, fraternal organization, country club or golf club	1 parking space for each 200 square feet of floor area.
Lumber yard	1 parking space for every 400 square feet of floor area, plus 1 parking space for every 1,000 square feet of warehouse.
Machinery or heavy equipment sales	1 parking space for every 400 square feet of gross floor area.
Mini-warehouse (self-storage)	4 parking spaces. A 12-foot wide loading zone shall be constructed in front of all access areas for each unit and shall not conflict with required fire lanes. A single loading zone may accommodate units on both sides of fire lane.
Mobile home or mobile home park	2 parking spaces for each mobile home plus additional spaces as required herein for accessory uses.
Mortuary or funeral home	1 parking space for each 200 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms.
Motor vehicle/automobile sales and new or used car lots	1 parking space for each 500 square feet of sales floor for indoor uses plus 1 parking space for each 1,000 square feet of outdoor display area in addition to spaces calculated for office and repair areas at their respective rates.
Motor vehicle/automobile repair and service (with or without gasoline sales)	2 parking spaces for each service bay with a minimum of 5 spaces plus parking requirements for office and overnight storage of vehicle. For quick lube or similar services, three stacking spaces for each service bay shall also be provided. Spaces provided for fueling at the pump stations shall not be considered parking spaces. All types of motor vehicle service or repair facilities must have a designated area on the site plan for the overnight storage of vehicles awaiting repair. If overnight storage is proposed a minimum of 1 overnight storage parking space must be provided for each proposed service bay.
Office, (business, professional or research)	1 parking space for each 400 square feet.
Office, medical, dental, or similar health services	1 parking space for each 300 square feet of floor area.
Race track, horses or dogs	1 parking space for each 4 seats.
Restaurant, private club, nightclub, cafe, or similar recreational or amusement establishment	1 parking space for each 150 square feet of floor area, plus 6 stacking spaces from the point where the order is placed.
Retail store or personal	1 parking space for every 250 square feet of floor area.

service establishment, except as otherwise specified herein	
Roominghouse or boardinghouse	1 parking space for each sleeping room.
School, elementary	2.5 parking spaces for each classroom, plus 1 pick-up/drop-off lane consisting of at least 10 stacking spaces.
School, high	8 parking spaces for each classroom plus 1 parking space for each 4 seats in the main auditorium. Additional parking need not be provided for ancillary uses such as swimming pools or practice fields used solely by students and staff. The number of parking spaces required for stadiums or facilities used jointly by the public outside of regular school hours may be reduced by the number of spaces provided for use during regular school hours.
School, junior high or middle	2.5 parking spaces for each classroom plus 1 parking space for each 4 seats in the auditorium plus 1 pick-up/drop-off lane consisting of at least 10 stacking spaces. Additional parking need not be provided for ancillary uses such as swimming pools or practice fields used solely by students and staff. The number of parking spaces required for stadiums or facilities used jointly by the public outside of regular school hours may be reduced by the number of spaces provided for use during regular school hours.
Truck stops	1 parking space for each 10,000 square feet of site area plus 1 vehicle space for each 250 square feet of building area.
Veterinarian clinic	1 parking space for each 300 square feet of floor space.
Warehouse type uses	1 parking space for each 4,000 square feet.”

Section 3. That the Code of Ordinances, City of McKinney, Texas, Section 146-139(l)(3)(a) of the Code of Ordinances, is hereby amended and shall read as follows:

“a. Multi-family projects, including senior multi-family projects, shall not be required to achieve a minimum point score, and shall be approved if all the following criteria are met:

1. *Roof Treatment.*

- (a) A pitched roof of any style, including, but not limited to, hipped, gabled or shed roofs shall be acceptable. The roof must cover 100 percent of the total roof area, excluding porches and porte-cocheres. No flat roof line shall be visible.
- (b) A parapet wall shall be acceptable if constructed around the entire perimeter of a building so that no flat roof shall be visible.
- (c) Standing seam metal roofs, which meet all the criteria of this section shall be acceptable.
- (d) No more than one color shall be used for visible roof surfaces, however, if more than one type of roofing material is used, the materials shall be varying hues of the same color.

2. *Exterior finishing materials.*

- (a) Each wall of each building shall be finished with at least 85 percent masonry, unless the wall is located within an interior courtyard and/or the wall is not visible from adjacent rights-of-way or properties zoned or used for residential purposes. Walls located within interior courtyards and/or walls that are not visible from adjacent rights-of-way or properties zoned or used for residential purposes shall be a minimum of 50 percent brick, stone, or synthetic stone materials, with the remaining 50 percent of each side being wood lap siding, vinyl siding, stucco, cast concrete modular siding, or EIFS. Acceptable masonry finishing materials are brick, stone and/or synthetic stone materials including, but not necessarily limited to slate, flagstone, granite, limestone, and marble. The area of exterior finish shall be calculated exclusive of doors and windows.
- (b) The balance of any exterior finishing materials shall be stucco, EIFS, architectural concrete masonry units (CMU), wood lap siding, vinyl siding, and/or glass curtain wall systems;

3. *Exterior color.*

- (a) 100 percent of total exterior building surfaces (exclusive of glass) shall be neutrals, creams, pastels, or deep, rich, non-reflective natural or earth-tone colors (including approved finishing materials). Examples of acceptable colors include, but are not limited to burgundy, forest green, navy blue, eggplant, rust, or ochre. Subtle variations of such colors shall also be permitted.
- (b) No more than six (6) colors shall be used; however, natural, unaltered materials such as brick or stone used on the building shall not be counted toward the maximum number of colors allowed.

5. *Building massing.*

- (a) Horizontal wall planes longer than 30 feet in width shall be segmented in to smaller sections by a structural or ornamental minor facade offset (recess or projection) of a minimum five feet deep and 10 feet wide.
- (b) The height of such offsets shall be equal to the building's height at the location of the offset.

6. Amenities conforming to the regulations provided herein shall be provided.

- (a) The number of required amenities shall be based on the number of units within the development.

- i. Developments with less than 20 dwelling units shall provide at least 1 amenity.
  - ii. Developments with 20 or more dwelling units but less than 100 dwelling units shall provide at least 2 amenities.
  - iii. Developments with 100 or more dwelling units but less than 180 dwelling units shall provide at least 3 amenities.
  - iv. Developments with 180 or more dwelling units but less than 260 dwelling units shall provide at least 4 amenities.
  - v. Developments with 260 or more dwelling units but less than 520 dwelling units shall provide at least 5 amenities;
  - vi. Developments with 520 or more dwelling units but less than 1000 dwelling units shall provide at least 7 amenities;
  - vii. Developments with 1000 or more dwelling units shall provide 10 amenities.
- (b) The following items shall be classified as acceptable amenities. Providing two or more of the same amenity shall not count as multiple required amenities unless specifically stated:
- i. Swimming pool (minimum 1,000 square foot surface area) with cooling deck (minimum 10 feet wide in all areas);
  - ii. Centralized swimming pool (minimum 3,000 square foot surface area) with cooling deck (minimum 20 feet wide in all areas). This amenity shall qualify as 2 required amenities;
  - iii. Centralized swimming pool (minimum 5,000 square foot surface area) with cooling deck (minimum 20 feet wide in all areas). This amenity shall qualify as 4 required amenities;
  - iv. Jacuzzi or hot tub area (minimum 8 person);
  - v. At least 4 barbeque grills with shaded seating areas for at least 16 people;
  - vi. Ramada(s), arbor(s), and/or trellis(es) covering at least 2,000 square feet of recreation space;
  - vii. Tot play lot (minimum 4,000 square foot area);
  - viii. A splash pad (water play amenity for children) which is a minimum of 1,000 square feet in area;



- ix. A dog park which is at least 5,000 square feet in area which satisfies the following requirements:
  - 1. The dog park is enclosed by a minimum five foot tall vinyl coated chain link fence;
  - 2. No side of the enclosure shall be shorter than 50 feet in length;
  - 3. One dog waste station which shall include a bag dispenser and waste receptacle must be installed along the perimeter of the enclosure for every 2,500 square feet of the associated dog park; and
  - 4. One 25 square foot animal washing bay (with associated plumbing) is provided in conjunction with the dog park.
- x. One regulation size volleyball, basketball, tennis, or other similarly related playing court. Each court shall count as an amenity up to a limit of 2;
- xi. Fitness center and/or weight room (minimum 500 square feet);
- xii. Library and/or business center (minimum 500 square feet);
- xiii. Movie theater room including seating for a minimum of 50 people;
- xiv. Outdoor amphitheater with seating for at least 50 people (if individual seats are not provided, then 150 linear feet of seating shall be provided);
- xv. Golf putting green (minimum 1,000 square feet);
- xvi. A centralized internal open space meeting or exceeding the following minimum specifications. This amenity shall qualify as 5 required amenities:
  - (a) The minimum size of the centralized internal open space shall be 1 acre with no side being less than 50 feet. The shape of the centralized internal open space shall be rectangular insofar as practicable.
  - (b) A 5 foot wide handicap accessible concrete sidewalk shall be provided adjacent to the entire perimeter of the open space.

- (c) One seating area which is a minimum of 6 feet long shall be provided along each side of the open space.
- (d) One canopy tree shall be planted every 30 linear feet adjacent to the perimeter of the open space.
- (e) The centralized internal open space shall be completely covered with grass, unless otherwise specified herein, and shall be provided with an automatic underground irrigation system as specified in Section 146-135(e)(2) of the Zoning Ordinance.
- (f) Other amenities as required herein shall not be located within the centralized internal open space.
- (g) The centralized open space shall be free of any drainage facilities and/or related easements, floodplain, erosion hazard setbacks, or other related facilities.

xvii. Other amenity as approved by the Planning and Zoning Commission as part of the site plan approval process.

7. *Major architectural and site enhancements.* All buildings or developments shall be required to provide at least two of the following elements:

- (a) Each ground-floor residential unit which fronts onto a public right-of-way, a major internal drive aisle designed to function as a public right-of-way or boulevard, an amenity as required herein, a centralized internal open space as provided for herein, or another similar community gathering space (excludes units which front onto parking fields, multi-level structured parking facilities, minor drive aisles, or other similar vehicular use areas) has an exterior oriented entrance that features an articulated front entrance through the use of lintels, pediments, keystones, pilasters, arches, columns, canopies, awnings, or other similar architectural elements;
- (b) Each unit is provided a private balcony or porch that is at least 50 square feet in area. Balconies shall be designed so that visual and auditory intrusions on private outdoor space of other units or adjacent developments are minimized;
- (c) All entrances into the multi-family residential development shall feature a landscaped median. The median shall be provided as indicated below:

- i. The landscaped median shall be at least 8 feet wide and at least 50 feet long (measured from back of curb to back of curb). The median and its plantings shall not be permitted to interfere with necessary sight visibility lines;
- ii. At least one canopy tree for every 50 linear feet that the median extends (in length);
- iii. At least two ornamental trees for every 50 linear feet that the median extends (in length); and
- iv. The required median shall be completely covered with living plant materials and shall be provided with an automatic underground irrigation system as specified in Section 146-135(e)(2) of the Zoning Ordinance. Non-living materials including, but not limited to concrete, pavers, stone, decomposed granite, or similar materials may be utilized for secondary design elements, sidewalks, and/or crosswalks.
- v. The City Engineer and/or Fire Marshal shall be permitted to allow deviations to these standards as needed on a case by case basis to facilitate proper vehicular access, emergency access, sight visibility, and other related engineering design or life safety principles.

(d) A structured parking garage (at least two levels) is provided and wrapped with or screened from the view of right-of-way by the multi-family residential building(s) it serves; or

(e) Another major architectural or site enhancement as approved by the Planning and Zoning Commission as part of the site plan approval process which is comparable to the significance of the other elements listed herein may count as one of the required elements.

8. *Minor architectural and site enhancements.* All buildings or developments shall be required to provide at least four of the following elements:

(a) Each exterior wall of each building shall be finished with 100 percent masonry. Walls within internal courtyards and/or walls that are not visible from adjacent rights-of-way or properties zoned or used for residential purposes shall not be required to satisfy this requirement;

(b) Each building's façade contains two types of complementary masonry finishing materials and each of the materials is used on at least 25 percent of the facade;

- (c) A minimum of 15 percent of each building's façade(s) which faces a right-of-way or property zoned or used for residential purposes features patterned brick work;
- (d) At least one dormer is provided for each roof plane over 1,000 square feet in area which faces a public street. The dormer must be appropriately scaled for the roof plane and shall not be wider than the windows on the building elevation below;
- (e) All chimneys are finished on all sides with 100 percent masonry finishing materials;
- (f) All ground level mechanical, heating, ventilation, and air conditioning equipment is completely screened by a masonry screening wall that is at least six feet tall;
- (g) All mechanical, heating, ventilation, and air conditioning equipment is roof-mounted and is screened per Section 146-132 (Fences, Walls, and Screening) of this Chapter;
- (h) All windows feature shutters. The shutters provided must be operational or appear operational and must be in scale with the corresponding window;
- (i) All windows are emphasized through the use of molding around the windows, plant ledges, sills, shaped frames, awnings, or another similarly related architectural element;
- (j) Downspouts associated with gutters are internally incorporated into the building's construction rather than attached to the building after construction of the façade is complete; and/or
- (k) Another minor architectural or site enhancement as approved by the Planning and Zoning Commission as part of the site plan approval process which are comparable to the significance of the other elements listed herein may count as two of the required elements.

9. *Additional requirements.*

- (a) All covered and enclosed parking shall be of similar and conforming architectural design and materials as the main multi-family structures. Exposed steel or timber support columns for covered parking structures shall be prohibited and shall be finished with a masonry finishing material to match the building.
- (b) All off-street parking areas shall be screened from view from public thoroughfares by one or more of the following:

- (i) A combination of low masonry walls and earthen berms reaching a minimum of six feet tall;
  - (ii) Earthen berms reaching a minimum of six feet tall;
  - (iii) A six foot tall brick masonry, stone masonry, or other architectural masonry finish; or
  - (iv) A six foot tall primed and painted tubular steel or wrought iron fence with masonry columns spaced 20 feet on center with structural supports placed every 10 linear feet, and with sufficient evergreen landscaping to create a screening effect;
  - (v) A multi-family residential building(s) that the off-street parking is serving; or
  - (vi) Another alternate screening device as approved by the Planning and Zoning Commission.
- (c) All paving for drives, fire lanes, and parking shall be concrete and shall feature curbs.
- (d) All multi-family residential buildings (excluding senior multi-family residential buildings) located outside of the Regional Employment Center Overlay District shall be limited to two stories in height.
- (e) Exterior stairways shall be covered with a roof, roof overhang, or porch and shall be incorporated into the architectural design of the building rather than appearing as an appendage to the building.
- (f) Multi-family residential structures located outside of the Regional Employment Center Overlay District and within 150 feet of an adjacent single family residential use or zone shall be situated so that no exterior facing window is oriented towards said adjacent single family residential use or zone. If a right-of-way with an ultimate width of 120 feet or greater is located between said multi-family residential structure and an adjacent single family residential use or zone, this requirement shall not be applicable. Windows, for the purposes of this subsection, shall be defined as any transparent panel in an otherwise opaque wall surface.”

Section 4. That the Code of Ordinances, City of McKinney, Texas, Chapter 146, Appendix F, Section F-4 of the Code of Ordinances, is hereby amended and shall read as indicated in Exhibit A, attached hereto.

Section 5. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which

shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 6. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 7. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 25<sup>TH</sup> DAY OF FEBRUARY, 2013.**

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

\_\_\_\_\_  
SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK S. HOUSER  
City Attorney







Type Use	AG	RED-1	RED-2	RS	RS	RS	RS	RS	RS	RD	RG	RG	RG 15	MF-1	MF-2	MF-3	MP	NC	BN	BG	C	O-1	O	BC	ML	MH	AP	GC	MTC			
				120	84	72	60	45	30	27	25	(18)																				
Recreational vehicle sales																														N-1		
Service station or motor vehicle fuel sales (subject to section 14C.04, (101))																				*	*	*	*	*	*	*	*	*	*	N-1		
Taxi or shuttle service																				*	*	*	*	*	*	*	*	*	*	N-1		
The recycling																													*	N-1		
Truck sales, storage, or repair																													*	N-1		
<b>Commercial Type, Retail, and Service Uses</b>																																
Retail shop		*																														N-1
Bakery or confectionery (retail)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Bakeries (wholesale)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Barbers and financial institutions																				*	*	*	*	*	*	*	*	*	*	*		N-1
Barber or beauty shops																				*	*	*	*	*	*	*	*	*	*	*		N-1
Building materials sales or monument sales																				*	*	*	*	*	*	*	*	*	*	*		N-1
Carpetry or sign shop																				*	*	*	*	*	*	*	*	*	*	*		N-1
Cleaning plant (laundry)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Cleaning shop and pressing (small shop and pickup) (27)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Department or discount store																				*	*	*	*	*	*	*	*	*	*	*		N-1
Drug store or pharmacy																				*	*	*	*	*	*	*	*	*	*	*		N-1
Exterminator																				*	*	*	*	*	*	*	*	*	*	*		N-1
Farmers market (40)		*																		*	*	*	*	*	*	*	*	*	*	*		N-1
Fruit or garden shop																				*	*	*	*	*	*	*	*	*	*	*		N-1
Field office (42) or real estate sales office		T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		N-1
Food stores, groceries																				*	*	*	*	*	*	*	*	*	*	*		N-1
Frozen food lockers																				*	*	*	*	*	*	*	*	*	*	*		N-1
Funeral homes and mortuaries														S	S	S	S														N-1	
Furniture sales														S	S	S	S														N-1	
Greenhouse or plant nursery																				*	*	*	*	*	*	*	*	*	*	*		N-1
Hardware store (paint, plumbing, and related sales)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Heavy machinery sales and storage																				*	*	*	*	*	*	*	*	*	*	*		N-1
Hotel or motel (53)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Household appliance sales (54)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Laboratories (medical, dental, science)																				*	*	*	*	*	*	*	*	*	*	*		N-1
Almshouse or shelter shop																				*	*	*	*	*	*	*	*	*	*	*		N-1
Mobile home display and sales														S						*	*	*	*	*	*	*	*	*	*	*		N-1
Office building																				*	*	*	*	*	*	*	*	*	*	*		N-1
Offices with showrooms														S						*	*	*	*	*	*	*	*	*	*	*		N-1
Office use		*																		*	*	*	*	*	*	*	*	*	*	*		N-1
Office supplies																				*	*	*	*	*	*	*	*	*	*	*		N-1
Part and related sales																				*	*	*	*	*	*	*	*	*	*	*		N-1
Partnerships																				*	*	*	*	*	*	*	*	*	*	*		N-1
Personal service (54)																				*	*	*	*	*	*	*	*	*	*	*		N-1

EXHIBIT A

Type Use	Industrial and Manufacturing Uses																												
	AG	RED-1	RED-2	RS 120	RS 84	RS 72	RS 60	RS 45	RD 30	RD 27	RG 25	RG 15 [18]	MF-1	MF-2	MF-3	MP	NC	BN	BG	C	O-1	O	BC	ML	MH	AP	GC	MTC	
Pet store, kennel, animal boarding (no outside runs)	*																												
Pet store, kennel, animal boarding (outside runs)																													
Psychiatric/mental readings																													
Radio or TV broadcast studio																													
Retail store (indoor)																													
Restaurant or cafeteria (carry-out only) (83)																													
Restaurant or cafeteria (indoor service) (94)																													
Restaurant or cafeteria (including drive-through window) (86a)																													
Restaurant or cafeteria (drive-in service) (86b)																													
Studios, photo, music, art, health, etc.																													
Tattoo Parlor																													
Travel agent																													
Upholstery shop																													
Veterinarian (no outside runs)	*																												
Veterinarian (with outside runs)																													
Wholesale establishments																													
<b>Industrial and Manufacturing Uses</b>																													
Concrete or asphalt batch plant																													
Contractor's yard																													
Dirt or topsoil extraction, sand and gravel mining or storage	S																												
Fat rendering, animal reduction																													
Food processing																													
Forestry, mining and oil/gas drilling uses	*																												
Forge plant																													
Industrial and manufacturing plants (apparel, drugs and pharmaceuticals, electronic, plastic, or other products manufacturing)																													
Industrial and manufacturing plants (acid cement, chemicals, fertilizer, gypsum, lime, paper or pulp, or similar products manufacturing)																													
Junk or salvage yard (54)																													
Laboratories, medical, dental, science																													
Machine shop or welding																													
Meal fabrication																													
Mini-warehouse (See Sec. 165-41)																													
Open storage (77)																													
Paper or pulp manufacture																													
Printing plant																													
Refining or storage (petroleum products, gas, butane, propane)																													
Sanitary landfill																													
Smelting of ores or metals																													
Son-drum bottling plant																													
Warehousing																													

**EXHIBIT A**

Type Use	AG	RED-1	RED-2	RS	RS	RS	RS	RS	RS	RD	RG	RG	RG 15	MF-1	MF-2	MF-3	MP	NC	BN	BG	C	O-1	O	BC	ML	MH	AP	GC	MTC		
				120	84	72	60	45	30	27	25	(18)																			
<i>Agricultural and Related Uses</i>																															
Agricultural and ranching uses	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Cleanery (dairy products)																														N-1	
Fairgrounds or rodeo	S																													N-1	
Farm implement sales and service		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Farm, orchard or truck garden (30)		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Hatchery (poultry), egg farm, feed lot		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Livestock auction (50)		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Livestock auction (104)		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Stable, private		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	
Stables or slaughterhouse		*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	N-1	

• Footnotes for the McKinney Town Center District ("MTC"):  
 N-1 Refer to Appendix G, Section G-2 for the Schedule of Uses specifically applicable only to the McKinney Town Center ("MTC") District.

• The following is the legend for interpreting schedule of uses (Sec. 146-66):

*	Use is prohibited.
S	Use is permitted with a Specific Use Permit under Sec. 146-41.
T	Use is permitted with a Temporary Use Permit.

- The numbers following a prescribed use (for example: Accessory building or use (11) refer to a corresponding definition found in Section 146-46 of the Code.
- For a listing of uses allowed in a specific "PD" – Planned Development District, please contact the City of McKinney's Planning Department.

**EXHIBIT A**