

**ORDINANCE NO. 2011-06-\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 2011-05-031 OF THE CITY OF MCKINNEY, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR A RESTAURANT WITH DRIVE-THROUGH WINDOW USE, APPROXIMATELY 1.34 ACRES, LOCATED ON THE SOUTH SIDE OF ELDORADO PARKWAY AND APPROXIMATELY 200 FEET WEST OF HUDSON CROSSING; PROVIDING REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INJUNCTIVE RELIEF, PROVIDING FOR NO VESTED INTEREST; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF**

**WHEREAS**, the owner of an approximately 1.34 acre tract of land located on the northwest corner of Stacy Road and Henneman Way, which is more fully depicted in Exhibit A and made a part hereof for all purposes, have petitioned the City of McKinney to amend Ordinance No. 2011-05-031 for a Specific Use Permit for a restaurant with drive-through window use; and

**WHEREAS**, the owner is willing to accept and agree to be bound by and comply with the written requirements of the Specific Use Permit; and

**WHEREAS**, after due notice of the requested rezoning as required by law, and the required public hearings held before the Planning and Zoning Commission and the City Council of the City of McKinney, Texas, the City Council is of the opinion that such amendment should be made.

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

Section 1. Ordinance No. 2011-05-031 is hereby amended in order to provide for a Specific Use Permit for a restaurant with drive-through window use on approximately 1.34 acres, located on the south side of Eldorado Parkway and approximately 200 feet west of Hudson Crossing, which is more fully depicted in Exhibit A attached hereto.

Section 2. Use and development of the subject property shall conform to the following regulations:

1. The subject property shall develop in accordance with Ordinance No. 2011-05-031, except as follows:

- Drive-through restaurant be an allowed use.
- The site shall generally develop in accordance with Exhibit B.

Section 3. 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 4. It shall be unlawful for any person, firm or corporation to develop this property, or any portion thereof, in any manner other than is authorized by this Ordinance, and upon conviction therefore, shall be fined any sum not exceeding \$2,000.00, and each day that such violation shall continue shall be considered a separate offense. These penal provisions shall not prevent an action on behalf of the City of McKinney to enjoin any violation or threatened violation of the terms of this Ordinance, or an action for mandatory injunction to remove any previous violation hereof.

- Section 5. That no developer or property owner shall acquire any vested interest in this Ordinance or specific regulations contained herein. The ordinance, and the subsequent site plans (if any) and regulations may be amended or repealed by the City Council of the City of McKinney, Texas, in the manner provided by law.
- Section 6. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and shall become effective upon such publication.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 21<sup>ST</sup> DAY OF JUNE, 2011.**

CITY OF MCKINNEY, TEXAS

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BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

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

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

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney