

ORDINANCE NO. 2018-12-078

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 142 – “SUBDIVISION REGULATIONS” OF THE CODE OF ORDINANCES, CITY OF MCKINNEY, TEXAS, PERTAINING TO PLATTING AND PERMITTING IN THE CITY’S EXTRATERRITORIAL JURISDICTION (ETJ); 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, in some cases, its extraterritorial jurisdiction (ETJ); and

WHEREAS, the Fifth District Court of Appeals for the State of Texas recently ruled that home-rule cities may not require building permits and corresponding inspections for vertical construction in their ETJ;

WHEREAS, the City Council has recognized that certain provisions of the Code of Ordinances should be reviewed and updated as a result of this opinion; and

WHEREAS, amendments to these provisions have been proposed and the City Council of the City of McKinney is of the opinion that these sections should be amended.

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

Section 1. Section 142-4 of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

“Sec. 142-4. - Jurisdiction.

(a) These regulations shall govern any and every person, firm, corporation, or organization owning any tract of land within the corporate limits of the city and the extraterritorial jurisdiction (ETJ) who may hereafter divide the same into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to said city or ETJ, or for laying out suburban lots or building lots, or any lots, and street, alleys, public infrastructure, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto. These regulations shall also govern any and every person, firm, corporation, or organization constructing any public infrastructure, street, right-of-way improvement or any related roadway improvement, whether or not a subdivision as defined herein is being created.

(b) By the authority of the Municipal Annexation Act, 1963, V.T.C.A., Local Government Code chs. 42, 43 and V.T.C.A., Local Government Code ch. 212, which are hereby made a part of these regulations, these regulations shall be extended to and shall apply to all of the area outside of the corporate limits of the city, but within the extraterritorial jurisdiction of the city. Such jurisdiction shall extend into and encompass all those areas not within the jurisdiction of some other municipality, as classified in V.T.C.A., Local Government Code chs. 42, 43 and 212, and extend in all directions from the corporate limits of the city, and all of its extensions.”

Section 2. Section 142-5 of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

“Sec. 142-5. – Approval Required.

- (a) Unless and until any plat or replat shall have been first approved in the manner provided by law, it shall be unlawful for any person, firm, corporation, or organization to construct or cause to be constructed any streets, utilities, drainage, public infrastructure, right-of-way improvement, or any related roadway or other public improvements within or adjacent to any tract of land, except as provided in (b) below; and any official of the city, shall not issue any permit for such improvements or to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, lights, gas, etc., which may be owned, controlled, distributed, franchised, or supplied by such city, except as provided in (b) below.
- (b) From and after September 5, 2017, a plat or replat otherwise required by (a) above shall not be required prior to the constructing, repair, renovating or remodeling of one (1) existing or new single family residential dwelling unit, private utility service lines, or any accessory residential structures, such as a barn, residential storage shed, arbor, gazebo, or swimming pool on a single, undivided tract of land in the ETJ that is not being conveyed or created from a larger tract.
- (c) No building permits will be issued for the construction of any building on any unplatted land within the corporate limits of the city. Minor repair permits may be issued. When building additions, alterations, or repairs within any 12-month period exceed 50 percent of the value of an existing building or structure on previously unplatted property, the land upon which such building or structure is located shall be platted in accordance with the provisions of this chapter.”

Section 3. Section 142-7 of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

“Sec. 142-7. – Zoning.

- (a) If property located within the corporate limits is not zoned as required for the proposed subdivision, permanent zoning shall be requested. Application for zoning includes completion of required forms, payment of required fees, and performance of other requirements of the zoning ordinance and the rules and regulations of the city, as the same may be passed or amended from time to time.”

Section 4. 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 5. 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 6. 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 4TH DAY OF DECEMBER, 2018.

CITY OF MCKINNEY, TEXAS

TRACY RATH
Mayor Pro Tem

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
MELISSA LEE
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney