

ORDINANCE NO. 2015-03-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING SECTION 146-45 (SITE PLAN APPROVAL) OF THE CODE OF ORDINANCES PERTAINING TO APPEALS TO THE CITY COUNCIL; 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 146-45(a)(2) of the Code of Ordinances, is hereby amended and shall read as follows:

“(2) Site plan approval process; Appeals.

- a. For site plan applications, the director of planning shall have the authority to approve, approve with conditions, or schedule the site plan for a planning and zoning commission meeting for action according to the procedures in subsection (a)(2)c. of this section. The director of planning shall not have the authority to disapprove a site plan application and shall forward any application which the director of planning cannot approve to the planning and zoning commission for action.
 1. If the applicant disagrees with the decision of the planning and zoning commission, the applicant may, within 7 days of the planning and zoning commission action, request in writing addressed to the director of planning that the commission’s action on the site plan be appealed to the city council.
 2. If the director of planning disagrees with the decision of the planning and zoning commission, the director of planning may, within 7 days of the planning and zoning commission action, notify the applicant in writing of the director of planning’s appeal of the commission’s action on the site plan to the city council.
 3. Any appeal of the planning and zoning commission’s action regarding a site plan to the city council shall automatically abate the commission’s action until such time as the city council rules upon the appeal. No building or development permit shall be issued for any parcel or structure within a site plan that has been appealed from the planning and zoning commission to the city council until such time as a decision on the appeal is rendered by the city council.

4. The appeal of the planning and zoning commission's action regarding a site plan shall be governed by the following process:
 - i. The applicant's or the director of planning's written notice of appeal shall state, generally, the grounds for the appeal.
 - ii. The applicant and the director of planning shall be provided at least 21 days' notice of the city council meeting at which the appeal will be considered unless such notice is waived in writing by both the applicant and director of planning.
 - iii. The director of planning shall cause all of the documents and materials presented to the planning and zoning commission, together with any approved minutes of the planning and zoning commission regarding the appealed site plan, to be presented to the city council with the agenda packet for the city council meeting at which the appeal will be considered. The foregoing shall constitute the record of the action appealed. The director of planning shall provide a copy of such materials to the applicant at the same time as such materials are submitted for inclusion in the city council agenda packet.
 - iv. The applicant and the director of planning may submit additional materials to be included in the city council's agenda packet for consideration by the city council at least 7 days before the date of the city council meeting at which the appeal will be considered. The applicant and the director of planning shall simultaneously provide copies of such additional materials to each other upon submittal under this subsection.
 - v. At the hearing, the applicant and the director of planning may appear in person, by agent, or by attorney. The city council may reverse, affirm, wholly or partly, or modify the planning and zoning commission's action regarding the site plan. The city council shall be the final approval authority for site plans, and its decision shall be final.
- b. Existing sites impacted by the acquisition of right-of-way for U.S. Highway 75.
 1. For properties for which a site plan has been previously approved or an occupancy permit exists, and from which right-of-way is subsequently acquired for U.S. Highway 75 which impacts the site, the following process shall apply:
 - i. The applicant may submit for approval of a combination site plan and landscape plan showing the proposed site with the proposed right-of-way acquisition area designated for approval. There is no fee required.
 - ii. The director of planning or her designee may approve the proposed plans based on the following factors: adequacy of parking; general access and circulation, including cross access; emergency access - fire lane location; parking space dimensions and backing distance; landscaping; sign location; and general conformance with the goals and objectives of the comprehensive plan.
- c. Detailing report; written notice of public hearing. Before acting on a site plan, the planning and zoning commission shall receive from the director

of planning a report regarding the proposed site plan detailing its conformance or nonconformance with the zoning ordinance and other applicable regulations of the city, and a recommended action regarding the site plan. Prior to consideration of a proposed site plan by the planning and zoning commission, written notice of the public hearing shall be sent to all property owners according to the procedure for a change in a zoning district location or boundary. Such notice may be served using the most recently approved municipal tax roll, and depositing the notice, properly addressed and postage paid, in the United States mail.”

Section 2. 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 3. 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 4. 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 17TH DAY OF MARCH, 2015.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
DENISE VICE, TRMC
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney