

**ORDINANCE NO. 2020-12-XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 146 (ZONING REGULATIONS), SECTION 146-45 (SITE PLAN APPROVAL) AND APPENDIX G (MTC – MCKINNEY TOWN CENTER ZONING DISTRICT) OF THE CODE OF ORDINANCES; 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. The director of planning shall have the authority to approve or approve with conditions site plan applications. The director of planning shall not have the authority to disapprove a site plan application and shall forward any application which he/she cannot approve to the planning and zoning commission for action according to the procedures in subsection (a)(2)c.

1. If the applicant disagrees with the decision of the planning and zoning commission, the applicant may, within seven 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 seven 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 seven 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. Prior to consideration of a proposed site plan that requires approval of a variance or design exception by the planning and zoning commission and/or city council, written notice of the public hearing shall be sent to all property owners in accordance with the procedures in subsection 146-164(2)(a). Before acting on said site plan, the planning and zoning commission and/or city council 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.”

Section 2. That the Code of Ordinances, City of McKinney, Texas, Appendix G of the Zoning Ordinance, is hereby amended and shall read as indicated in Exhibit “A”, attached hereto.

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. 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 5. 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 THE 1<sup>ST</sup> DAY OF DECEMBER, 2020.**

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
GEORGE C. FULLER  
Mayor

CORRECTLY ENROLLED:

\_\_\_\_\_  
EMPRESS DRANE  
City Secretary

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

APPROVED AS TO FORM:

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

