

ORDINANCE NO. 2018-04-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 146, ENTITLED "ZONING REGULATIONS," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF EXISTING ARTICLE II, ENTITLED "SPECIAL PROVISIONS," BY AMENDING SECTION 146-46; THROUGH THE AMENDMENT OF EXISTING ARTICLE IV, ENTITLED "SPECIAL REGULATIONS," BY AMENDING SECTION 146-135; THROUGH THE AMENDMENT OF EXISTING APPENDIX B, ENTITLED "URBAN DESIGN STANDARDS FOR THE REGIONAL EMPLOYMENT CENTER," BY AMENDING SECTION B-2 AS SET FORTH HEREIN BELOW; REPEALING ALL CONFLICTING ORDINANCES; RESERVING ALL EXISTING RIGHTS AND REMEDIES; PROVIDING FOR IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas is a Home Rule City possessing the full power of local self-government pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code and its Home Rule Charter; and

WHEREAS, the City of McKinney adopted the Code of Ordinances, City of McKinney, Texas ("McKinney Code"), for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, Chapter 211 of the Texas Local Government Code, as amended, authorizes a municipality to adopt and update zoning ordinances for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance; and

WHEREAS, the City has previously adopted a Zoning Ordinance under the authority of Chapter 211 of the Texas Local Government Code, which Zoning Ordinance is codified as Chapter 146 of the McKinney Code ("Zoning Ordinance"); and

WHEREAS, the City of McKinney, Texas has updated its design criteria and policies through the adoption and implementation of a new Engineering Design Manual for the City of McKinney that will take effect on or about April 4, 2018 ("Engineering Design Manual") and replace existing City of McKinney Street, Stormwater, and Water and Wastewater Design Manuals that were previously adopted; and

WHEREAS, Chapter 146 of the McKinney Code must be consistent with the requirements, terms, and standards of the Engineering Design Manual of the City of McKinney, Texas; and

WHEREAS, the purpose of the Engineering Design Manual is to protect the health, safety, and welfare of the public by establishing standard engineering practices and minimum engineering criteria for application throughout the City of McKinney, Texas, and to the fullest extent allowed by law in its extraterritorial jurisdiction; and

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of McKinney, Texas, has recommended the adoption of certain provisions of Chapter 146 of the McKinney Code as provided herein below; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to these matters coming before the City Council of the City of McKinney; and

WHEREAS, the City Council of the City of McKinney, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission of the City of McKinney and of all testimony and information submitted during said public hearings, has determined that in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of McKinney, Texas, to amend certain provisions of Chapter 146 of the McKinney Code as provided herein below.

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

Section 1. All of the above premises are found to be true and correct legislative determinations and are incorporated into the body of this Ordinance as if set forth in their entirety.

Section 2. From and after the effective date of this Ordinance, Section 146-46(26)(d) of the Code of Ordinances, is hereby deleted in its entirety and replaced with a new Section 146-46(26)(d) to hereafter read as follows:

“(d) City engineer means the director of engineering, or the engineers retained as consultants to the city, or their duly authorized representative.”

Section 3. From and after the effective date of this Ordinance, Section 146-135(e)(3) of the Code of Ordinances, is hereby deleted in its entirety and replaced with a new Section 146-135(e)(3) to hereafter read as follows:

“(3) Earthen berms shall have side slopes not to exceed 4:1 (four feet of horizontal distance for each one foot of height). All berms shall contain necessary drainage provisions as may be required by the city engineer.”

Section 4. From and after the effective date of this Ordinance, Section 146-Appendix B(B-2)(II) of the McKinney Code, is hereby amended in part by deleting the definition of “Alley” and replacing said definition with a new definition for the phrase “Alley” to hereafter read as follows:

“*Alley*: A public or private way set aside as a permanent right-of-way for the movement of vehicular traffic. An alley is meant to provide access to abutting property, provide utility service, and as a right-of-way with an ultimate width of 20 feet or less.”

Section 5. From and after the effective date of this Ordinance, Section 146-Appendix B(B-2)(IV)(D)(2)(ii) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 146-Appendix B(B-2)(IV)(D)(2)(ii) to hereafter read as follows:

“ii. Type A streets are designed with, or characterized by, features that promote safety, comfort, and convenience of pedestrians and transit users. A streets shall provide monolithic curbing, sidewalks on both sides at least six feet wide and at least ten feet wide in neighborhood centers and commercial main streets, street trees spaced 30 feet on-center, narrow streets with narrow curb turning radii at intersections, buildings sited close to the street, pedestrian-scaled lighting, on-street parking, no onsite parking between the street and the building facade facing the street, aligned building facades, and building entrances facing the street. The A streets

shall be organized in a continuous network so that the pedestrian experience is uninterrupted throughout the neighborhood. On type A streets, 100 percent of the off-street surface parking should be located behind the rear face of the buildings.”

Section 6. From and after the effective date of this Ordinance, Section 146-Appendix B(B-2)(IV)(D)(3)(a)(i) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 146-Appendix B(B-2)(IV)(D)(3)(a)(i) to hereafter read as follows:

“i. The street layout for the REC neighborhood areas shall incorporate a hierarchy of streets as set forth below. The street design shall be in accordance with the city subdivision ordinance. Each development in the REC shall contain a clearly identified A street - B street network. A network of neighborhood streets designed according to the principles in subsections b. thru e. below shall be provided. However, the street design shall meet the city engineering design manual criteria except as approved through a variance to the subdivision ordinance.”

Section 7. From and after the effective date of this Ordinance, Section 146-Appendix B(B-2)(IV)(D)(3)(d)(iv) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 146-Appendix B(B-2)(IV)(D)(3)(d)(iv) to hereafter read as follows:

“iv. Sidewalks shall be provided on both sides of the street and shall have a minimum width of six feet.”

Section 8. 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 9. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereof to any person or circumstance, is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of the Ordinance, and the City Council hereby declares it would have passed such remaining portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 10. All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 11. All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

Section 12. Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of McKinney in a court of competent jurisdiction, and this

remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City of McKinney.

Section 13. Any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to the penalty provisions set forth in Section 1-18 of the McKinney Code; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

Section 14. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council's adoption hereof as provided by law.

Section 15. 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 3RD DAY OF APRIL, 2018.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney