

ORDINANCE NO. 2014-09-__ __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING SECTIONS 74 (PRELIMINARY-FINAL PLAT), 75 (PRELIMINARY-FINAL REPLAT), 76 (RECORD PLAT), 77 (MINOR PLAT), 78 (MINOR REPLAT), 79 (AMENDING PLAT), 99 (LOTS) OF SUBDIVISION REGULATIONS (CHAPTER 142 OF THE CODE OF ORDINANCES); CREATING SECTIONS 42 (DORMANCY AND APPROVAL EXPIRATIONS) AND 82 (ADMINISTRATIVELY COMPLETE) OF THE SUBDIVISION REGULATIONS (CHAPTER 142 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 has 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 of the City of McKinney is 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 142-42 of the Subdivision Ordinance, is hereby established and shall read as follows:

“Sec. 142-42. Dormancy and approval expirations.

(a) *General Development Plan.*

1. The approval of a general development plan shall remain in effect so long as progress is being made toward completion of the project on the subject property. If, however, a record plat for all or a part of the subject property has not been filed for recordation with the County Clerk within a period of five years following the original approval of the general development plan, the general development plan's approval shall terminate and become void.
2. Following the expiration of the general development plan, the subdivider at any time thereafter may submit a new general development plan for Commission approval following the procedures and regulations then in effect.

(b) *Preliminary-Final Plat (includes Preliminary-Final Replat).*

1. When a preliminary-final plat has been approved by the Commission, a record plat for all or a part of the area shall be submitted within six months thereafter; otherwise the approval shall terminate and shall be void. However, prior to the expiration of said approval, the time for filing of the application for the record plat may be extended at the written request of the subdivider. The first filing extension (not to exceed 90 days) shall be granted by the Director of Planning. Any further requests for extensions shall be considered by the Planning and Zoning Commission.

2. If a record plat for any portion of the area shown on the preliminary-final plat has been filed for record with the County Clerk, the preliminary-final plat's approval shall remain valid indefinitely.
3. If a preliminary-final plat expires, the general development plan, if one was approved, that underlies and forms the basis for the preliminary-final plat shall also expire contemporaneously with the expiration of the preliminary-final plat.
4. Following the expiration of the plat, the subdivider at any time thereafter may submit a new general development plan, if required, and/or preliminary-final plat for Commission approval following the procedures and regulations then in effect.

(c) *Record Plat.*

1. The approval of a record plat shall remain in effect for five years following the date of approval except that the plat's approval shall remain valid indefinitely as long as consistent progress toward the filing of the record plat is demonstrated. If after the five year approval time period, progress toward the filing of the record plat has not been shown for a period of at least six months, the plat's approval shall immediately terminate and become void. Evidence of progress toward the filing of the record plat shall include, but not necessarily be limited to, the construction of public improvements, application for and receipt of permits, and request(s) for inspections.
2. If the record plat expires and no other record plat that is based on the same preliminary-final plat or preliminary-final replat which underlies and forms the basis for the expired or expiring record plat has been previously filed for recording with Collin County, the preliminary-final plat or preliminary-final replat of the property shall also expire contemporaneously with the expiration of the record plat. If such underlying preliminary-final plat or preliminary-final replat expires, the general development plan shall also contemporaneously expire with the expiration of the record plat.
3. Following the expiration of the record plat the subdivider at any time thereafter may submit a new general development plan, if required, preliminary-final plat or preliminary-final replat, and/or record plat for Commission approval following the procedures and regulations then in effect.

(d) *Amending Plat, Conveyance Plat, Minor Plat, and Minor Replat.*

1. The approval expiration provisions applicable to record plats in Section 142-42(d) of this chapter shall also apply to amending plats, conveyance plats, minor plats, and minor replats.

(e) *Exceptions.*

1. Notwithstanding the foregoing provisions in this section, approvals for all general development plans and plats of any kind or nature for properties for which a developers agreement, annexation agreement, or facilities agreement has been approved and executed by the City of McKinney prior to September 8, 2014, shall be valid indefinitely.
2. If the executed developers agreement, annexation agreement, or facilities agreement regarding the subject property is terminated, voided for any reason, or otherwise expires the approvals for affected general development plans and plats of any kind and nature shall be subject to the expiration timelines specified herein-above.

3. The approval expirations contained herein shall not apply to general development plans or plats approved prior to September 8, 2014. Approval expirations that existed within Chapter 142 of the Code of Ordinances before September 8, 2014 shall apply to any general development plans or plats approved before September 8, 2014.”

Section 2. That the Code of Ordinances, City of McKinney, Texas, Section 142-74(b)(4) of the Subdivision Ordinance, is hereby amended and shall read as follows:

- “(4) New features inside subdivision. The following new features inside the subdivision shall be identified:
- a. The boundary line, accurate in scale, of the tract to be subdivided, with accurate distances and bearings indicated;
 - b. The layout, designations, names and widths of any and all proposed streets, alleys and easements;
 - c. The layout, lot numbers, and approximate dimensions of proposed lots and blocks; and
 - d. A series of connected mutual access and fire lane easements must be shown for any lot(s) being created that does not have direct access to a public street by frontage on such street from the proposed lot(s) to a public street(s). It is understood that the final alignment of all mutual access and fire lane easements may not be known at the time of preliminary-final platting. As such, any mutual access and fire lane easements shown on a proposed preliminary-final plat may be revised as necessary on a subsequent associated record plat so long as adequate mutual access and fire lane access is provided from the proposed lot(s) to a public street(s), subject to the review and approval of the Director of Engineering and the Fire Marshal.
 - e. All parcels of land intended to be dedicated or reserved for public use, or reserved in the deeds for the use of all property owners in the proposed subdivision, or reservations for other uses, together with the purpose or conditions and limitations of such reservations, if any.”

Section 3. That the Code of Ordinances, City of McKinney, Texas, Section 142-74(b)(7) of the Subdivision Ordinance, is hereby amended and shall read as follows:

- “(7) Additional notes.
- a. The subdivider shall place the following notation(s) on each page of a preliminary-final plat of land that is situated within the corporate limits of the city:
 1. PRELIMINARY-FINAL PLAT FOR REVIEW PURPOSES ONLY
 2. All proposed lots situated in whole or in part within the city's corporate limits comply with the minimum size requirements of the governing zoning district and the requirements of the Subdivision Ordinance.
 - b. The subdivider shall place the following notation on each page of a preliminary-final plat containing land that is situated outside the

city's corporate limits and within the extraterritorial jurisdiction of the city:

1. PRELIMINARY-FINAL PLAT FOR REVIEW PURPOSES ONLY
 2. All proposed lots situated entirely outside the city's corporate limits and within the city's extraterritorial jurisdiction comply with the requirements of the Subdivision Ordinance.
- c. The official monuments shall be tied at two points into the plane coordinates for the Lambert Conformal Conic Projection for Texas, North Central Zone. Reference may be made to Special Publication, No. 252, Plane Coordinate Projection Tables for Texas, published and printed by United States Department of Commerce, Coast and Geodetic Survey. State plane coordinates tied to two points on the plat boundary shall be shown on the plat."

Section 4. That the Code of Ordinances, City of McKinney, Texas, Section 142-74(b)(9) of the Subdivision Ordinance, is hereby amended and shall read as follows:

"(9) Approval and variances.

- a. When a preliminary-final plat is found to conform to these regulations, or may be made to conform by making certain changes directed by the commission, a copy of the preliminary-final plat with such changes made thereon, and the approval thereof by the commission, conditioned as necessary on said changes, shall be transmitted to the subdivider. Approval of the preliminary-final plat as such shall in no way constitute final acceptance or approval of the subdivision.
- b. Approval of the preliminary-final plat by the commission shall include the condition that a record plat conforming with the approved preliminary-final plat be submitted for staff review.
- c. If the commission finds that the preliminary-final plat does not conform to these regulations, and that requested changes to make it conform are not acceptable to the subdivider, the commission shall have the authority to disapprove the preliminary-final plat.
- d. Variances. A variance to the requirements of this section may be granted by the city council in accordance with the provisions of section 142-8."

Section 5. That the Code of Ordinances, City of McKinney, Texas, Section 142-75(a) of the Subdivision Ordinance, is hereby amended and shall read as follows:

"(a) Documentation submitted for approval of preliminary-final replats shall meet the preliminary-final plat requirements of section 142-74, except as follows:

- (1) Purpose statement. A purpose statement shall be provided on the proposed preliminary-final replat. This statement shall provide a brief synopsis of the reason for the proposed plat.
- (2) The subdivider shall place the following notation on each page of a preliminary-final plat containing land that is situated within the corporate limits of the city:
 - a. PRELIMINARY-FINAL REPLAT FOR REVIEW PURPOSES ONLY

b. All proposed lots situated in whole or in part within the city's corporate limits comply with the minimum size requirements of the governing zoning district and the requirements of the Subdivision Ordinance.

(3) The subdivider shall place the following notation on each page of a preliminary-final plat containing land that is situated outside the city's corporate limits and within the extraterritorial jurisdiction of the city:

a. PRELIMINARY-FINAL REPLAT FOR REVIEW PURPOSES ONLY

b. All proposed lots situated entirely outside the city's corporate limits and within the city's extraterritorial jurisdiction comply with the requirements of the Subdivision Ordinance.”

Section 6. That the Code of Ordinances, City of McKinney, Texas, Section 142-75(c) of the Subdivision Ordinance, is hereby amended and shall read as follows:

“(c) Approval and variances.

(1) The approval provisions applicable to preliminary-final plats (Section 142-74) shall also apply to preliminary-final replats.

(2) Variances. A variance to the requirements of this section may be granted by the city council in accordance with the provisions of section 142-8.”

Section 7. That the Code of Ordinances, City of McKinney, Texas, Sections 142-76(b)(7)(e) and 142-76(b)(7)(f) of the Subdivision Ordinance, are hereby amended and shall read as follows:

“e. The subdivider shall place the following notation on each page of a record plat containing land that is situated within the corporate limits of the city:

1. All proposed lots situated in whole or in part within the city's corporate limits comply with the minimum size requirements of the governing zoning district and the requirements of the Subdivision Ordinance.

f. The subdivider shall place the following notation on each page of a record plat containing land that is situated outside the city's corporate limits and within the extraterritorial jurisdiction of the city:

1. All proposed lots situated entirely outside the city's corporate limits and within the city's extraterritorial jurisdiction comply with the requirements of the Subdivision Ordinance.”

Section 8. That the Code of Ordinances, City of McKinney, Texas, Section 142-77(g) of the Subdivision Ordinance, is hereby amended and shall read as follows:

“(g) Approval and variances.

(1) The approval and variances provisions applicable to record plats (Section 142-76) shall also apply to minor plats.”

Section 9. That the Code of Ordinances, City of McKinney, Texas, Section 142-78(c)(4) of the Subdivision Ordinance, is hereby amended and shall read as follows:

“(4) The variances provisions applicable to record plats (Section 142-76) shall also apply to minor replats.”

Section 10. That the Code of Ordinances, City of McKinney, Texas, Section 142-79(c) of the Subdivision Ordinance, is hereby amended and shall read as follows:

“(c) Approval and variances.

(1) The approval and variances provisions applicable to record plats (Section 142-76) shall also apply to amending plats.”

Section 11. That the Code of Ordinances, City of McKinney, Texas, Section 142-81(b) of the Subdivision Ordinance, is hereby amended and shall read as follows:

“(b) Applicability. A conveyance plat may be used in lieu of a record plat to record the subdivision of property with the County Clerk in the following instances:

1. To record the remainder of a parent tract that is larger than five acres, and that is created by the record platting of a portion of the parent tract, provided that the remainder has adequate access to an existing public right-of-way via frontage on said right-of-way or via the dedication of access easements; or
2. To record the subdivision of a property into parcels larger than 5 acres in area, provided that each parcel has adequate access to an existing public right-of-way via frontage on said right-of-way or via the dedication of access easements; or
3. To record the subdivision of a property into parcels, five acres or smaller in area, provided that each parcel has direct access to all required public improvements (water, sanitary sewer, storm sewer) via dedicated easements or direct adjacency to existing infrastructure, no portion of the lot is smaller than 45 feet wide, and each parcel has adequate access to an existing public right-of-way via frontage on said right-of-way or via the dedication of access easements.”

Section 12. That the Code of Ordinances, City of McKinney, Texas, Section 142-81(d)(1)(ii) of the Subdivision Ordinance, is hereby amended and shall read as follows:

“ii. A conveyance plat is a map of property approved by the City for the purpose of sale or conveyance in its entirety or interests thereon defined. Lots created by a conveyance plat may not have all necessary public utilities available for immediate use. No certificate of occupancy shall be issued nor permanent public utility service provided to any lot(s) created by a conveyance plat until all required public improvements have been constructed and accepted and a record plat is filed for record with the County Clerk. Selling a portion of property by metes and bounds, except as shown on an approved, filed and accepted conveyance plat, record plat, minor plat or minor replat is a violation of the City’s Code of Ordinances and State Law.”

Section 13. That the Code of Ordinances, City of McKinney, Texas, Section 142-82 of the Subdivision Ordinance, is hereby established and shall read as follows:

“Sec. 142-82. Administratively Complete.

The official date of a plat submittal and the date on which the plat shall be considered administratively complete, thereby triggering the requirements of V.T.C.A, Local Government Code § 212.009 or any successor statute, shall be the date upon which the plat is determined to be in compliance with the general and administrative provisions of the Code of Ordinances by the Director of Planning and the Director of Engineering. The plat will then be approved by the Director of Planning or scheduled for consideration on the first available Planning and Zoning Commission or City Council meeting agenda, whichever body has approval authority, as determined by the date of acceptance for review and the calendar schedule as maintained by the Director of Planning.”

Section 14. That the Code of Ordinances, City of McKinney, Texas, Section 142-99 of the Subdivision Ordinance, is hereby amended and shall read as follows:

“Sec. 142-99. - Lots.

- (a) Lot dimensions shall be determined by the appropriate zoning classification. However, for lots within the extraterritorial jurisdiction of the city, no lot shall be less than 5,000 square feet.
- (b) For all lots, the following shall apply:
 - (1) *Natural areas including creeks, wooded areas and flood plain.*
 - a. No property shall be subdivided through record platting or “phasing” in a manner which is intended to avoid or circumvent the developer’s obligation to construct public improvements and/or dedicate required easements including, but not limited to, rights-of-ways, erosion hazard setbacks, roads, bridges, trails and parks.
 - b. Minimum usable lot depths for lots backing on natural drainage easements shall not be less than 80 feet measured between front lot line and easement.
 - c. Property located within any flood plain designation (subsequent to any reclamation) or which is subject to, or required to be designated as, an erosion hazard setback easement or another similarly related easement (hereinafter collectively referred to in this section as “No-Build Areas”) shall be designated in a record plat as a common area or included in and platted as a part of a buildable lot. “Buildable lot” shall mean a lot of a size, shape, characteristics and topography which allows for the reasonable construction of improvements and structures allowed in the zoning classification in which it is located.
 - d. A property owners’ association shall be established for the supervision, maintenance and restoration of the No-Build Areas that are included in a Conveyance Plat or which No-Build Areas are identified in a preliminary-final plat/replat or record plat of the entire parcel of property (the “Parent Tract”) in accordance with this paragraph. The ownership of any common areas containing such No-Build Areas shall be conveyed to the property owners’ association in fee simple. An irrevocable perpetual easement for the supervision, maintenance and restoration of the No-Build Areas that are included in and record platted as a part of an otherwise buildable lot shall be conveyed to the property owners’ association. The property owners’ association shall be formed and established, in accordance with the City’s requirements regarding the establishment of property owners’ associations for the maintenance of other common areas, at or before the filing of the first record plat of all or a part of the property subject to such preliminary-final plat/replat. The property owners’ association shall ultimately be

responsible for the supervision, maintenance and restoration of all No-Build Areas within the property subject to such preliminary-final plat/replat, regardless of whether the No-Build Area is contained in a common area or on an otherwise buildable lot.

- e. The record plat for common areas and buildable lots containing No-Build Areas described in subparagraph (b)(1)c. of this Section shall be filed of record prior to or concurrent with the filing of Record Plats or Conveyance Plats, containing more than 50 percent of the Parent Tract's developable land area. The "Parent Tract's developable land area" shall mean that area lying outside of existing flood plains and erosion hazard setbacks or no-build areas.
- (2) *Lot shape.* Lots should be rectangular insofar as is practical. Sharp angles between lot lines should be avoided. The ratio of depth to width should not ordinarily exceed 2½ to one.
- (3) *Lot facing.*
- a. Each lot shall be provided with adequate access to an existing or proposed street by frontage on such street, or as provided for by an approved plat reflecting a series of mutual access easements connecting lots with no street frontage to a public street..
 - b. Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing facing lots at right angles to each other should be avoided.
 - c. For all single family and two family (duplex) residential lots, the following shall also apply:
 - 1. Lots that front to a street shall only back to an alley. No lot shall front and back to a street.
 - 2. Lots shall have frontage on a public street.
 - 3. No portion of the lot shall have a width of less than 24 feet.
- (4) *Lot lines.* Side lot lines should be perpendicular or radial to street frontage and the following note may be used in lieu of bearings: "All side lot lines are perpendicular or radial to street frontage unless otherwise noted."
- (5) *Lot numbering.* All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary-final plat or preliminary-final replat.
- (6) *Public Improvements.* Irrespective of the phasing of development of any Parent Tract, whether by Conveyance Plat, Record Plat or otherwise, all public improvements required to serve the Parent Tract, or otherwise required by this Code, shall be constructed in conjunction with and as a condition of filing a Record Plat or Conveyance Plat with Collin County when the Record Plats or Conveyance Plats submitted to the City for approval contain more than 50 percent of the Parent Tract's gross developable land area, as defined in this Section. In the alternative, the applicant may seek approval of the City Manager to enter into a facilities agreement establishing the timing for the construction of such required public improvements and containing such other provisions as may be required by Section 142-37 of this Code, as amended."

Section 15. 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 16. 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 17. 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 2ND DAY OF SEPTEMBER, 2014.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

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

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney