

ORDINANCE NO. 2018-04-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 142, ENTITLED "SUBDIVISION REGULATIONS," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF EXISTING ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTIONS 142-6 AND 142-9 AS SET FORTH HEREIN BELOW; THROUGH THE AMENDMENT OF EXISTING ARTICLE II, ENTITLED "SPECIAL PROVISIONS," BY AMENDING SECTIONS 142-37, 142-38, 142-40, AND 142-41 AS SET FORTH HEREIN BELOW; THROUGH THE AMENDMENT OF EXISTING ARTICLE III, ENTITLED "PROCEDURE," BY AMENDING SECTIONS 142-71, 142-76, 142-80, AND 142-81 AS SET FORTH HEREIN BELOW; THROUGH THE AMENDMENT OF EXISTING ARTICLE IV, ENTITLED "DESIGN STANDARDS," BY AMENDING SECTIONS 142-100, 142-102, 142-103, 142-105, AND 142-106 AS SET FORTH HEREIN BELOW; THROUGH THE AMENDMENT OF EXISTING ARTICLE V, ENTITLED "ENFORCEMENT," BY AMENDING SECTIONS 142-130, 142-131, AND 142-132 AS SET FORTH HEREIN BELOW; THROUGH THE AMENDMENT OF EXISTING ARTICLE VII, ENTITLED "PRIVATE STREET REGULATIONS," BY AMENDING SECTIONS 142-192, 142-193, 142-194, 142-196, 142-199, 142-201, AND 142-203 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 for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, the City Council of the City of McKinney, Texas enacted Chapter 142 of the Code of Ordinances, City of McKinney, Texas ("McKinney Code"), adopting the terms for the safe, efficient, and orderly development of the city, and the provision of adequate streets, utilities, services, and facilities, all in accordance with the comprehensive plan and has recognized that certain provisions of the McKinney Code should be reviewed and updated from time to time; 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 142 of the McKinney Code must be consistent with the requirements, terms, and standards of the Engineering Design Manual; 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, the City Council of the City of McKinney, Texas, finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of McKinney, Texas, to amend certain provisions of Chapter 142, entitled "Subdivision Regulations," 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 142-6 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-6 to hereafter read as follows:

"Sec. 142-6. - Improvements required.

All of the improvements required under these regulations, or improvements specified in the comprehensive plan of the city, or improvements which, in the judgment of the director of engineering, are necessary for the adequate provision of streets, utilities, drainage, services, and facilities to the subdivision and to surrounding areas of the city, shall be constructed at the sole expense of the developer, unless other provisions are approved by the city council. All improvements required by this chapter shall be constructed by the developer and accepted by the director of engineering prior to filing an associated plat with the county, unless otherwise specified in a binding contractual facilities agreement. Payment for any and all improvements that are not to be made at the time of the primary construction of the subdivision or development shall be made a part of a binding contractual facilities agreement, signed by the developer and approved by the city."

Section 3. From and after the effective date of this Ordinance, Section 142-9(3)(b) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-9(3)(b) to hereafter read as follows:

"b. *Director of Engineering* means the engineer employed by the City of McKinney, Texas, or the engineers retained as consultants to the city, or their duly authorized representative."

Section 4. From and after the effective date of this Ordinance, Section 142-9(4) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-9(4) to hereafter read as follows:

"(4) *Collector streets* means a C2U roadway or larger, as indicated by the Engineering Design Manual."

Section 5. From and after the effective date of this Ordinance, Section 142-9 of the McKinney Code, is hereby amended by adding a definition for the phrase "Engineering Design Manual" Section 142-9(9) to hereafter read as follows and renumbering all following definitions within Section 142-9, accordingly:

"(9) *Engineering Design Manual* or *City of McKinney Engineering Design Manual* means the current Engineering Design Manual adopted by the City of McKinney, and as such Engineering Design Manual is thereafter amended."

Section 6. From and after the effective date of this Ordinance, Section 142-37(d) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-37(d) to hereafter read as follows:

“(d) The city delegates to the director of engineering the ability to approve standard facilities agreements. In the event of a disagreement between the subdivider and the director of planning or the director of engineering concerning stipulations of the facilities agreement, the city council shall review said stipulations and make recommendation for resolving the disagreement.”

Section 7. From and after the effective date of this Ordinance, Section 142-37(e) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-37(e) to hereafter read as follows:

“(e) The subdivider shall have a continuing responsibility under this facilities agreement after the filing of the record plat, minor plat, minor replat, or final plat with the county until all facilities and improvements required under this facilities agreement have been completed. When the construction of required improvements has proceeded to the point that certain parts of the subdivision are adequately served, the director of engineering may release specified portions of the subdivision for use prior to the completion of all improvements, unless the release of such improvements will jeopardize or hinder the continued construction of required improvements. Any facilities agreement shall remain in force for all portions of the subdivision for which a release has not been executed.”

Section 8. From and after the effective date of this Ordinance, Section 142-38(a) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-38(a) to hereafter read as follows:

“(a) *Required.* A permit shall be obtained from the city before commencing any construction including, but not limited to, grading, paving, utility installation or foundation work. Requirements for permits related to buildings and structures are further defined in chapter 122 of the Code of Ordinances. Permits may be issued in phases or groups depending on the applicant's development needs. All public improvements required by this chapter must be installed and accepted prior to filing a plat for record, unless otherwise specified in an approved facilities agreement or waived by approval of a variance.”

Section 9. From and after the effective date of this Ordinance, Section 142-40(a)(2) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-40(a)(2) to hereafter read as follows:

“(2) If the developer's property abuts only one side of a street right-of-way, the developer shall provide not less than two travel lanes of paved width, including on-street bicycle facilities if applicable.”

Section 10. From and after the effective date of this Ordinance, Section 142-40(b) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-40(b) to hereafter read as follows:

“(b) The construction of certain facilities required by the provisions of this chapter may not be possible or practical at the time the developer prepares their plans for public improvements. Such deletion or delay of improvements may be specified in a facilities agreement, together with provisions for escrow deposits or future payments by the city and/or developer. The city shall not be

responsible for payment until the street is extended into or through property other than that being subdivided, and/or until funds are available, unless otherwise provided in the facilities agreement for the subdivision.”

Section 11. From and after the effective date of this Ordinance, Section 142-41 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-41 to hereafter read as follows:

“Sec. 142-41. - Floodplains.

- (a) Prior to the clearing, grading, filling, dredging, or other improvement within a designated floodplain, a permit shall be issued as provided herein. Plans accompanying such permit shall be certified by a professional engineer competent to make certification that such improvements shall not increase the elevation of the 100-year floodplain, as described in Chapter 130, Article IV, Storm Water Management. A determination of other possible adverse environmental effects on adjacent properties will also be made by the director of engineering in approving or disapproving such permit.
- (b) Upon, and as a condition for approval of the permit, all lands remaining within the 100-year floodplain shall be dedicated as an easement; unless designated as open space under terms and conditions approved by the city council.”

Section 12. From and after the effective date of this Ordinance, Section 142-71 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-71 to hereafter read as follows:

“Sec. 142-71. - Pre-development meeting.

Prior to applying for a preliminary-final plat or preliminary-final replat, the subdivider should consult with the director of planning, the fire marshal, and the director of engineering or their duly authorized representatives concerning the ultimate land use of the proposed development, the most advantageous subdivision plan, the suitability of the location of the proposed subdivision, the arrangement of streets, alleys, and lots, the layout of utility lines and availability of service from trunk mains and other regulations and policies of the city regarding development.”

Section 13. From and after the effective date of this Ordinance, Section 146-76(b)(8) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 146-76(b)(8) to hereafter read as follows:

- “(8) *Construction plans.* Construction plans and profile sheets for all public improvements shall be submitted with the record plat. The approval of the record plat shall be contingent upon approval of construction plans and specifications by the director of engineering. Construction plans and profiles shall be drawn on sheets measuring 24 inches by 36 inches and shall be the same size as the record plat. Each sheet shall include north point, scales, date and benchmark description to sea level datum. Each sheet shall show the seal and signature of the professional engineer who prepared the plans and shall include the following in accordance with the Engineering Design Manual:
 - a. A plan and profile of each street with top of curb grades shown. Scales shall be in one-inch equals 40 feet horizontally, and one-inch equals five or six feet vertically or such other scale approved by the director of engineering;

- b. The cross section of proposed streets, alleys and sidewalks showing the width and type of pavements, base and subgrade and location within the right-of-way.;
- c. A plan and profile of proposed sanitary sewers with grades and pipe size indicated and showing locations of manholes, cleanouts and other appurtenances, with a section showing embedment;
- d. A plan of the proposed water distribution system showing pipe sizes and location of valves, fire hydrants, fittings and other appurtenances, with a section showing embedment;
- e. A plan to scale of all areas contributing stormwater runoff or drainage within and surrounding the proposed subdivision. Such plan shall indicate size of areas, storm frequency and duration data, amounts of runoff, points of concentration, time of concentration and other data necessary to adequately design drainage facilities for the area; and
- f. A plan and profile of proposed storm sewers, showing hydraulic data, pipe grades and sizes, manholes, inlets, pipe connections, culverts, outlet structures, bridges and other structures.
- g. Other drawings as necessary for a complete installation, including an erosion control plan and post construction stormwater quality plan.”

Section 14. From and after the effective date of this Ordinance, Section 146-76(b)(12) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 146-76(b)(12) to hereafter read as follows:

“(12) *Development permit.* A development permit, as described in section 142-38, shall be issued by the director of engineering prior to initiation of improvements. Before issuance of a development permit, the developer or their designated representative may be requested to meet with the director of engineering and/or project inspector in a pre-construction conference.”

Section 15. From and after the effective date of this Ordinance, Section 142-76(b)(13) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-76(b)(13) to hereafter read as follows:

“(13) *Recording of the record plat.* The record plat shall be recorded in the map and plat records of the county by the director of planning after the acceptance of public improvements in subdivisions not requiring a facilities agreement and after all conditions of approval are satisfied, as determined by the director of planning and the director of engineering. The director of planning shall provide prints of the record plat to the affected city offices as they may require. The record plat shall not be returned or released to the subdivider until recorded as provided above.”

Section 16. From and after the effective date of this Ordinance, Section 142-76(b)(14) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-76(b)(14) to hereafter read as follows:

“(14) *Release of covenants.* Upon satisfactory completion of the required improvements, the director of engineering shall issue a release of covenants to the subdivider.”

Section 17. From and after the effective date of this Ordinance, Section 142-76(b)(15) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-76(b)(15) to hereafter read as follows:

“(15) *Acceptance of improvements.* Following completion and final inspection of improvements, the developer shall provide the City with a statement or affidavit specifying the value of street, drainage, and other general fixed assets and the value of water, sewerage, and other utility assets being dedicated to the city. The director of engineering shall accept such improvements in writing and make payments to the developer as specified in the facilities agreement, if applicable.”

Section 18. From and after the effective date of this Ordinance, Section 142-80(e) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-80(e) to hereafter read as follows:

“(e) *Submittal requirements.* If a property owner petitions the city to abandon a certain portion of its right-of-way, the information detailed below shall be submitted to the director of engineering by the property owner. This required information will allow the director of engineering to thoroughly review the property owner's right-of-way vacation request and draft a report of their findings to be submitted to the city council for consideration.

- (1) An application;
- (2) The appropriate application fee as specified in Appendix A of the Code of Ordinances, which fee may be amended from time to time by ordinance;
- (3) A letter of intent detailing the reasons for the requested right-of-way vacation;
- (4) A right-of-way vacation petition signed by all property owners whose property shares a boundary line with, or is directly served by, the right-of-way in question;
- (5) An affidavit signed by the applicant identifying all private utilities situated within the right-of-way to be vacated;
- (6) An exhibit, drawn to a scale of up to 100 feet to the inch, or as determined by the director of planning, showing the location of the right-of-way to be vacated;
- (7) A metes and bounds description of the right-of-way to be vacated; and
- (8) Any other relevant information as requested by the director of planning or director of engineering.”

Section 19. From and after the effective date of this Ordinance, Section 142-81(d)(4) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-81(d)(4) to hereafter read as follows:

“(4) If a parcel is to be created adjacent to a right-of-way shown on the city's master thoroughfare plan or another existing roadway with insufficient right-of-way based on its classification type, the

appropriate amount of right-of-way based on its roadway classification, as defined by the Engineering Design Manual, shall be dedicated to the city via the proposed conveyance plat.”

Section 20. From and after the effective date of this Ordinance, Section 142-100 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-100 to hereafter read as follows:

“Sec. 142-100. - Blocks.

- (a) *Length.* The maximum block length for residential use shall be determined by the zoning district. If the zoning district does not specify a block length, the maximum block length for residential use shall be in accordance with the Engineering Design Manual.
- (b) *Width.* Block width shall be in accordance with the requirements of the Engineering Design Manual.
- (c) *Lettering.* Blocks are to be lettered consecutively within the overall plat and/or section of an overall plat as recorded.”

Section 21. From and after the effective date of this Ordinance, Section 142-102 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-102 to hereafter read as follows:

“Sec. 142-102. - Alleys.

- (a) The planning, design, construction and standards of all alleys, right-of-way improvements and any other related roadway improvements by any person, firm, public utility, corporation, or business in the city or in its extraterritorial jurisdiction shall conform to the requirements of the Engineering Design Manual, as it may now exist or may hereafter be amended.
- (b) The Engineering Design Manual, whether adopted in whole or in part, shall become part of the official alley design guidelines utilized by all persons designing alleys, right-of-way improvements, and any other related roadway improvements in the city or its extraterritorial jurisdiction, whether said person is subdividing property or constructing improvements without a subdivision.”

Section 22. From and after the effective date of this Ordinance, Section 142-103(b) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-103(b) to hereafter read as follows:

- “(b) *Size.* Where possible, easements shall be provided fully located upon one lot and shall be consistent with the guidelines of the Engineering Design Manual. Where overhead utility service on poles is allowed, an additional easement of five feet on each side beginning at a plane 20 feet above the ground shall be provided. The full width of easements shall not be less than 15 feet at ground level nor less than 25 feet above ground. Erosion hazard setback easements shall be of a size as defined within the Engineering Design Manual.”

Section 23. From and after the effective date of this Ordinance, Section 142-105 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-105 to hereafter read as follows:

“Sec. 142-105. - Improvements.

The improvements referenced herein must be constructed per the Engineering Design Manual, standard construction details and specifications and accepted by the director of engineering prior to filing an associated plat for record with the county clerk, unless otherwise specified in an approved facilities agreement.

- (1) *Monuments and markers.*
 - a. Concrete monuments six inches in diameter and 24 inches long shall be placed on at least two block corners, boundary corners or angle points for each plat or each phase of a multi-platted area or subdivision. A one-half-inch iron reinforcing bar shall be embedded at least 18 inches in the concrete monument and placed at the exact intersecting point on the monument. The iron bar should extend from one-eighth to one-quarter of an inch above the concrete. The monuments shall be tied 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. The monuments shall be set at such an elevation that they will not be disturbed during construction and the top of the monument shall be not less than 12 inches below the finish ground elevation.
 - b. Lot markers shall be one-half-inch reinforcing bar, 18 inches long, or approved equal, and shall be placed at all lot corners flush with the ground, or below ground if necessary in order to avoid being disturbed.
 - c. Where no benchmark is established or can be found within 300 feet of the boundary of the subdivision, such benchmark shall be established as a monument, and shall be readily accessible and identifiable on the ground and shall be recorded on city bench mark datum.
- (2) *Underground utilities.* All distribution and service lines of electrical, telephone, television, and other wire carrier type utilities may be underground, except that the system of supply lines for multiple subdivision service by utilities may be overhead. Transformers, amplifiers, or similar devices associated with the underground lines shall be located upon the ground level.
- (3) *Sidewalks.* Paved sidewalks shall be provided along and adjacent to both sides of all major thoroughfares, and along residential or local streets that are located immediately adjacent to a school site and for a distance of one block along such streets leading directly to a school site. On streets other than those above, sidewalks on one side of the street shall be provided.
- (4) *Hike and bike trails.* Hike and bike trails shall be provided as referenced in the adopted Parks Master Plan.
- (5) *Street lighting.* Street lighting wires shall be underground in all subdivisions and developments. Where ownership of street lighting facilities such as poles and standards, luminaries, lamps, etc., will be retained by the electrical power supplier, the type of street lighting facilities to be installed shall be acceptable to both the city and the supplier of electrical power.

- a. The subdivider or developer shall be fully responsible for the construction and installation of the required street light poles, fixtures and power line connections and wiring. The city shall be responsible for light maintenance and energy consumption on standard lighting upon acceptance of the subdivision and/or system.
 - b. Standard lighting is established as specified in the Engineering Design Manual.
 - c. Systems using lights other than the standards set forth within this subsection may be approved if payment is made, at the time of platting or development, for the difference in the cost between operating and maintaining the proposed system and a standard system for a period of 20 years.
 - d. The subdivider or developer will be responsible for the installation, maintenance, and power consumption for all landscape lighting or any other device or fixture requiring electrical power.
- (6) *Storm sewer and storm drainage facilities.* An adequate storm sewer system consisting of inlets, pipes and other underground drainage structures with approved outlets shall be constructed where the runoff of stormwater and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities, and as required by the stormwater management ordinance. Storm drainage facilities shall be designed in accordance with provisions of the stormwater management ordinance as it now exists or as it may hereafter be amended.
- (7) *Streets and alleys.* The planning, design, construction and standards of all streets, alleys, right-of-way improvements and any other related roadway improvements by any person, firm, public utility, corporation, or business in the city or in its extraterritorial jurisdiction shall conform to the requirements of the Engineering Design Manual, as it may now exist or may hereafter be amended.

The Engineering Design Manual shall be utilized by all persons designing streets, right-of-way improvements, and any other related roadway improvements in the city or its extraterritorial jurisdiction, whether said person is subdividing property or construction without a subdivision.

- (8) *Sanitary sewers.* Sanitary sewer facilities shall be provided per the Engineering Design Manual to adequately service the subdivision and conform to the city Wastewater Collection System Master Plan. Should the subdivision abut and use a sewer main of the city, the developer shall pay to the city, a pro rata charge as prescribed by ordinance for use of same.
- (9) *Water.* Water systems shall have a sufficient number of outlets and shall be of sufficient size to furnish adequate domestic water supply, to furnish fire protection to all lots, and to conform to the City Water Distribution Master Plan. Water system facilities shall be provided per the Engineering Design Manual.
- (10) *Median landscaping.* Landscaping improvements shall be installed within the medians of all proposed or planned or divided roadways within the city limits as shown on the city master thoroughfare plan.

- a. Only developments or subdivisions abutting or adjacent to a divided roadway, as such road is defined in the City Comprehensive Plan, shall be subject to this section.
- b. The subdivider or developer shall be fully responsible for the construction and installation of the required landscaping and maintenance of the improvements for a period of one year. However, in the event that the director of engineering, in their sole discretion, determines that construction of improvements is impractical, the subdivider or developer shall pay an amount as specified in appendix A of the Code of Ordinances which may be amended from time to time by ordinance in-lieu-of constructing the required improvements. Frontage is wherever a property abuts the right-of-way of the divided thoroughfare, and separate frontages exist on each side of the thoroughfare. The fee in lieu of construction is collected once from each frontage. At the discretion of the director of engineering, the subdivider may install landscaping across the full width of the median and be reimbursed by the city for the landscaping provided for the additional frontage at the per linear foot of frontage rate or the actual cost of the improvements, whichever amount is less, if funds are available.
- c. Landscape plans and construction plans shall be subject to review and approval by the director of parks and recreation and/or director of planning. The location of landscaping shall conform to the Engineering Design Manual and shall be placed to accommodate the ultimate number of traffic lanes.
- d. The collected fee in lieu of construction shall be applied to construction, reconstruction, upgrading, and installation of medians of divided roadways within the adjacent roadway benefits area, as that term is defined in chapter 130, article III, pertaining to roadway impact fees. Any fees not expended within ten years of collection shall be returned to the developer or subdivider that deposited the fees with the city.
- e. Notwithstanding the ten-year provision of subparagraph (d) of this section 142-105, hereinabove, [the] city shall not be required to return fees that have not been expended if roadway medians have not been constructed on divided roadways within the adjacent roadway benefit area thus preventing the purchasing, planting, growing and/or irrigation of the required standard median landscaping by the city. The time period for the expenditure of fees escrowed with the city for the construction of median landscaping shall not begin to run until such time as the roadway medians within the applicable roadway benefits area have been constructed on such divided roadways, the roadway medians have been accepted by the city, and the roadway medians are ready for standard median landscaping.”

Section 24. From and after the effective date of this Ordinance, Section 142-106(i) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-106(i) to hereafter read as follows:

- “(i) *Maintenance.* Maintenance of the screening and buffering requirements mentioned herein shall be established prior to plat approval and shall be clearly outlined as part of the facilities agreement or as a condition of plat approval. A homeowners’

association (HOA) shall be responsible for maintenance of all landscaping, buffering, screening, irrigation and associated improvements adjacent to residential subdivisions along public thoroughfares.”

Section 25. From and after the effective date of this Ordinance, Section 142-130 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-130 to hereafter read as follows:

“Sec. 142-130. - Authority of the director of engineering.

- (a) The director of engineering is hereby authorized and directed to promulgate rules, regulations, standards, and specifications (collectively “Requirements”) for the construction, installation, design, location and arrangement of streets, right-of-way improvements, related roadway improvements, curbs, streetlights, traffic control devices, alleys, utility layouts, utility easements, sidewalks, water supply and distribution systems, fire hydrants, sewage disposal systems, drainage facilities, and other public improvements. The director of engineering shall file such Requirements with the city secretary at least 30 days before they shall become effective. The director of engineering may amend the Requirements from time to time; provided that an amendment shall be filed with the city secretary at least 30 days before it becomes effective. No such Requirements shall conflict with this chapter or any other ordinance of the city.
- (b) All such improvements shall be designed, constructed, installed, located, and arranged by the subdivider or person constructing streets, right-of-way improvements, or related roadway improvements in accordance with said Requirements.”

Section 26. From and after the effective date of this Ordinance, Section 142-131 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-131 to hereafter read as follows:

“Sec. 142-131. - Inspection of construction.

- (a) The director of engineering or their duly authorized representative shall make periodic inspection of the construction of improvements for subdivisions. Inspection of improvements by the director of engineering or their representative is not intended to and does not relieve the subdivider or their contractor from ensuring that the improvements are constructed in accordance with the approved plans, specifications, and all city ordinances. The subdivider or their contractor, shall maintain contact with the director of engineering or their representative during construction of improvements.
- (b) No sanitary sewer, water or storm sewer pipe shall be covered without approval of the director of engineering or their representative. No flexible base material, subgrade material, or stabilization shall be applied to the street subgrade without said approval. No concrete shall be poured nor asphaltic surface applied to the base without said approval.
- (c) The director of engineering or their representative may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in their judgment, the requirements of this chapter or the standards and specifications as hereinbefore provided have been violated and may require such reconstruction or other work as may be necessary to correct any such violation. The cost of materials testing shall be borne by the developer.”

Section 27. From and after the effective date of this Ordinance, Section 142-132 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-132 to hereafter read as follows:

“Sec. 142-132. - Maintenance bond.

The subdivider shall furnish a good and sufficient maintenance bond in the amount of 15 percent of the contract price of all public improvements, or in such amount as approved by the director of engineering, with a reputable and solvent corporate surety in favor of the city to indemnify the city against any repairs which may become necessary to any part of the construction of public improvements in connection with the subdivision, arising from defective workmanship or materials used therein, for a period of two full years from the date of final acceptance of the improvements. Final acceptance will be withheld until said maintenance bond is furnished to the city.”

Section 28. From and after the effective date of this Ordinance, Section 142-192(6) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-192(6) to hereafter read as follows:

“(6) Except where substantial existing natural or manmade barriers would render the requirement unreasonable, each such development should have direct access to a two-lane collector street (C2U - 37-foot pavement width, unless a lesser width two-lane collector is determined adequate by the director of engineering due to an absence of need for on-street parking), in addition to any access to one or more arterial streets that may be proposed. Any private street development of such limited size that it does not require direct collector street access for appropriate traffic service may instead have access to a collector street within the neighborhood by way of another local street.”

Section 29. From and after the effective date of this Ordinance, Section 142-193(a) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-193(a) to hereafter read as follows:

“(a) The private street system must comply with the Engineering Design Manual and the standards of this chapter. All references in this chapter to "public right-of-way" shall apply to private street lots.”

Section 30. From and after the effective date of this Ordinance, Section 142-194(g) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-194(g) to hereafter read as follows:

“(g) *Site plan.* For each private street development, a site plan shall be submitted and shall conform to section 146-45, “site plan approval,” with the exception of those exemptions listed in section 146-45, which shall not apply. In addition to the requirements of section 146-45, the following shall be submitted:

- (1) A rendering of elevation of proposed structures, including description of proposed building materials, roof pitches, signage, and such other items as the city staff might reasonably request (said rendering of elevation of proposed structures does not refer to residential structures, but rather to other structures that are components of the private street development);
- (2) An illustration of the relationship of the development to the qualifying criteria section of this chapter/policy;

- (3) An illustration of the fencing, the guard house (if any) and entry way, and the location of any other items within the private street development; and
- (4) An illustration of the items outside the private street development, such as, but not limited to, entrance area, barriers, perimeter walls, exterior landscaping, and other elements as required by city staff.”

Section 31. From and after the effective date of this Ordinance, Section 142-196 of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-196 to hereafter read as follows:

“Sec. 142-196. - Relationship to the city comprehensive plan.

The following components shall be evaluated when reviewing potential private street developments. This evaluation will aid in logical implementation of the current city comprehensive plan.

- (1) *Future land use plan.* Impact on land uses, their configuration, and function shall be examined as part of each request for a private street development.
- (2) *The Parks and Recreation Master Plan (PRMP).* The proposed private street development shall be evaluated to assess the impact of private streets on access, including ingress and egress, and continuity of the hike/bike/jogging/open space linkage system within the community, as well as the functioning of other PRMP elements.
- (3) *The transportation plan (TP).* The proposed private street development will be evaluated to assess its impact on the efficiency, convenience, and safe functioning and implementation of the TP as outlined in the City Comprehensive Plan.”

Section 32. From and after the effective date of this Ordinance, Section 142-199(a) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-199(a) to hereafter read as follows:

“(a) *Required.* The design and construction of the infrastructure within a private street subdivision shall conform to the same rules, regulations, standards, and specifications established for public subdivisions and as regulated in the Engineering Design Manual.”

Section 33. From and after the effective date of this Ordinance, Section 142-199(b) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-199(b) to hereafter read as follows:

“(b) *Promulgation.* The director of engineering is hereby authorized to promulgate rules, regulations, standards, and specifications for the design and construction of improvements unique to a private street subdivision.”

Section 34. From and after the effective date of this Ordinance, Section 142-201(c) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-201(c) to hereafter read as follows:

“(c) Proposed condominium drives shall be located within access/fire lane/utility easements as determined necessary by the director of engineering and fire marshal.”

- Section 35. From and after the effective date of this Ordinance, Section 142-201(d) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-201(d) to hereafter read as follows:
- “(d) Condominium drive names shall be approved by the director of engineering.”
- Section 36. From and after the effective date of this Ordinance, Section 142-203(b)(3) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-203(b)(3) to hereafter read as follows:
- “(3) The director of engineering is hereby authorized to establish rules, regulations, standards, and specifications for the design and construction of improvements unique to the specific private motor court subdivision, during the process of approval of the associated PD planned development district or subdivision plat.”
- Section 37. From and after the effective date of this Ordinance, Section 142-203(b)(4) of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 142-203(b)(4) to hereafter read as follows:
- “(4) If a motor court has a paved area less than the usual standard for a local residential street, it shall have access from a street with a pavement width of not less than 31 feet, or such width as may be required by the city to provide for anticipated traffic flow or parking needs generated by the cluster housing development.”
- Section 38. 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 39. 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 40. 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 41. 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 42. 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 43. 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 44. 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 45. 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