

ORDINANCE NO. 2012-11-056

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING SECTION 138-429 (LOCATION – GENERALLY) OF THE CODE OF ORDINANCES PERTAINING TO SEXUALLY ORIENTED BUSINESSES; AMENDING SECTIONS 5 (APPROVAL REQUIRED), 8 (VARIANCES AND APPEALS), 9 (DEFINITIONS), 73 (GENERAL DEVELOPMENT PLAN), 74 (PRELIMINARY-FINAL PLAT), 75 (PRELIMINARY-FINAL REPLAT), 76 (RECORD PLAT), 77 (MINOR PLAT), 78 (MINOR REPLAT), 79 (AMENDING PLAT), 81 (CONVEYANCE PLAT), 99 (LOTS), AND 106 (SCREENING AND BUFFERING OF CERTAIN RESIDENTIAL LOTS ADJACENT TO STREETS) OF THE SUBDIVISION ORDINANCE (CHAPTER 142 OF THE CODE OF ORDINANCES); AMENDING SECTIONS 40 (NONCONFORMING USES AND NONCONFORMING STRUCTURES), 41 (SPECIFIC USE PERMITS), 42 (TEMPORARY USES), 44 (ACCESS MANAGEMENT PLAN APPROVAL), 45 (SITE PLAN APPROVAL), 67 (AG – AGRICULTURAL DISTRICT), 68 (RED-1 – RESIDENTIAL ESTATES DISTRICT), 69 (RED-2 – RESIDENTIAL ESTATES DISTRICT), 70 (RS 120 – SINGLE FAMILY RESIDENCE DISTRICT), 71 (RS 84 – SINGLE FAMILY RESIDENCE DISTRICT), 73 (RS 60 – SINGLE FAMILY RESIDENCE DISTRICT), 74 (RS 45 – SINGLE FAMILY RESIDENCE DISTRICT), 75 (RD 30 – DUPLEX RESIDENCE DISTRICT), 77 (RG 25 – GENERAL RESIDENCE DISTRICT), 78 (RG 18 – GENERAL RESIDENCE DISTRICT), 79 (MF-1 – MULTI-FAMILY RESIDENTIAL – LOW DENSITY DISTRICT), 80 (MF-2 – MULTI-FAMILY RESIDENTIAL – MEDIUM DENSITY DISTRICT), 81 (MF-3 – MULTI-FAMILY RESIDENTIAL – MEDIUM-HIGH DENSITY DISTRICT), 83 (NC – NEIGHBORHOOD CONVENIENCE DISTRICT), 84 (BN – NEIGHBORHOOD BUSINESS DISTRICT), 85 (BG – GENERAL BUSINESS DISTRICT), 86 (C – PLANNED CENTER DISTRICT), 87 (O-1 – NEIGHBORHOOD OFFICE DISTRICT), 88 (O – OFFICE DISTRICT), 89 (BC – COMMERCIAL BUSINESS DISTRICT), 90 (ML – LIGHT MANUFACTURING DISTRICT), 91 (MH – HEAVY MANUFACTURING), 95 (MTC – MCKINNEY TOWN CENTER DISTRICT), 96 (CHD – COMMERCIAL HISTORIC DISTRICT), 132 (FENCES, WALLS, AND SCREENING), 133 (ACCESSORY BUILDINGS AND USES), 134 (PERFORMANCE STANDARDS), 137 (COMMUNICATIONS ANTENNAS, SATELLITE DISHES AND SUPPORT STRUCTURES/TOWERS), 162 (ADMINISTRATIVE OFFICIAL), 164 (CHANGES AND AMENDMENTS), 165 (BOARD OF ADJUSTMENT), APPENDIX C (HISTORIC DISTRICT MAPS), APPENDIX F-1 (SCHEDULE OF YARDS AND SETBACKS), AND APPENDIX F-2 (SCHEDULE OF HEIGHTS, AREAS, AND DENSITIES) OF THE ZONING ORDINANCE (CHAPTER 146 OF THE CODE OF ORDINANCES); CREATING SECTIONS 42 (DORMANCY AND APPROVAL EXPIRATIONS) AND 82 (ADMINISTRATIVELY COMPLETE) OF THE SUBDIVISION ORDINANCE (CHAPTER 142 OF THE CODE OF ORDINANCES); AND CREATING SECTION 141 (RESIDENTIAL DEVELOPMENT DESIGN STANDARDS) OF THE ZONING ORDINANCE (CHAPTER 146 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 138-429 of the Code of Ordinances, is hereby amended and shall read as follows:

**“Sec. 138-429. - Location—Generally.**

- (a) A person commits an offense if he operates or causes to be operated a sexually oriented business in any zoning district other than the MH heavy manufacturing district and/or within 1,000 feet of:
- (1) A church, rectory, convent, synagogue, monastery, or other similar institution of a nonprofit, religious or philanthropic nature;
  - (2) A school;
  - (3) A child care facility;
  - (4) A public or private park or recreation area;
  - (5) Historic sites as determined by the city historic preservation officer;
  - (6) A boundary of a residential district as defined by the zoning ordinance of the city;
  - (7) A cemetery; or
  - (8) The property line of a lot devoted to residential use.
- (b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business located within 1,000 feet of another sexually oriented business.
- (c) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- (d) For the purposes of subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, child care facility, school or historic site, residential lot, or to the nearest boundary of a public or private park, or recreation area, cemetery, or residential district.
- (e) For purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(f) Any sexually oriented business lawfully operating on August 15, 1989, that is in violation of subsection (a), (b) or (c) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business, which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(g) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, school, child care facility, public or private park or recreation area, historic site, cemetery, residential district, or residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked."

Section 2. That the Code of Ordinances, City of McKinney, Texas, Section 142-5(c) of the Subdivision Ordinance, is hereby amended and shall read as follows:

"(c) A subdivision shall be defined as the division of any lot, tract, or parcel of land into two or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision or replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land into tracts where each resulting tract is ten acres or more and does not involve or require any new street, alley or easement of access. As part of a subdivision, if any lot is proposed to be smaller than ten acres in size, the entire parent tract must be platted together with such other lots or tracts."

Section 3. That the Code of Ordinances, City of McKinney, Texas, Section 142-8(c) of the Subdivision Ordinance, is hereby amended and shall read as follows:

"(c) The approval or denial of a plat by the Planning and Zoning Commission may be appealed to the City Council if said action is not in legal conformance with any applicable ordinance, regulation, statute or law. Within 14 calendar days of the action by the Commission, the appellant shall notify the Director of Planning in writing of the desire to appeal the decision of the Commission to the City Council. Any appeal to the City Council shall not be considered a filing under V.T.C.A, Local Government Code § 212.009 or any successor statute, and thus shall not require Council action within 30 days. The Director of Planning shall prepare a report and place the plat on the agenda for consideration of the appeal by the Council within 45 days of being notified in writing of the desire to appeal."

Section 4. That the Code of Ordinances, City of McKinney, Texas, Definition number 28 contained within Section 142-9 of the Subdivision Ordinance, is hereby amended and shall read as follows:

"(28) *Subdivision* means the division of any lot, tract, or parcel of land into two or more lots or sites for the purpose of sale or of building development, whether immediate or future. The term includes resubdivision or replatting of an existing subdivision, building upon, or other development of land, but does not include the division of land into tracts where each resulting tract is ten acres or more and does not involve or require any new street, alley or easement of access. As part of a subdivision, if any lot is proposed to be smaller than ten acres in size, the entire parent tract must be platted together with such other lots or tracts. When appropriate to context, the term

subdivision shall relate to the process of subdividing or to the land subdivided. Subdivisions of mobile home spaces for sale, lease or rent shall comply with all provisions of chapter 138, article III, division 2, regulating mobile home parks, as it now exists or it may hereafter be amended.

- a. *Amending plat* means a map, drawing or chart that modifies a recorded final plat, record plat, or minor plat in accordance with the provisions of section 142-77.
- b. *Certified land division* means a map, drawing or chart delineating parcels of land offered for rent or lease for other than agricultural uses and which:
  1. Is not required by state statute to be filed in the map and plat records of the county; and
  2. Does not involve or require the dedication of public street or alleys; and
  3. Has been certified by the city council as having met the conditions of this chapter. A certified land division shall be treated as a subdivision plat under these regulations, except that it is properly certified for filing with the city secretary rather than the county clerk. In addition, a plat of the property indicating legal boundaries and any public dedications and easements shall be prepared, reviewed by staff, approved by the city council, and filed with the county clerk.
- c. *Conveyance plat* means a map of property approved by the city for the purpose of sale or conveyance. A conveyance plat is not the first step in the development of a project as it does not provide any detail regarding a project. As such the submission and approval of a conveyance plat does not vest any rights in the property.
- d. *General development plan* means a map, drawing or chart drawn to scale on which is shown the subdivider's proposed arrangement of streets, lots, easements, other public spaces, and general land uses on all contiguous properties owned or held under single ownership from which a proposed subdivision is intended to be made.
- e. *Minor plat* means a map, drawing or chart prepared according to the provisions of this chapter, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county, and meeting the criteria defined in section 142-76.
- f. *Minor replat* means a map, drawing or chart drawn to scale that modifies a platted lot(s) of record that front onto an existing street and involves four lots or less, does not require the creation of a new public street, and does not require the extension of municipal facilities.
- g. *Preliminary-final plat* means a map, drawing or chart drawn to scale, on which is shown the subdivider's proposed arrangement of streets, lots, easements and other public spaces in the subdivision that he intends to submit in form for recording via an associated record plat.
- h. *Preliminary-final replat* means a map, drawing or chart drawn to scale that modifies a platted lot(s) of record that may or may not front onto an existing street and involves more than four lots, the creation of a new public street, or requires the extension of municipal facilities.

- i. *Record plat* means a map, drawing or chart prepared according to the provisions of this chapter, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county. A record plat may also be referred to as a final plat."

Section 5. 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 (include 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 November 12, 2012, 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.”

Section 6. That the Code of Ordinances, City of McKinney, Texas, Section 142-73 of the Subdivision Ordinance, is hereby amended and shall read as follows:

**“Sec. 142-73. Reserved.”**

Section 7. 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 8. 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 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. That the Code of Ordinances, City of McKinney, Texas, Section 142-106 of the Subdivision Ordinance, is hereby amended and shall read as follows:

**"Sec. 142-106. – Screening and buffering of certain residential lots adjacent to streets.**

(a) *Intent and purpose.* The intent of this section is to provide screening and buffering guidelines in residential subdivisions adjacent to public thoroughfares. The intent is to create an aesthetically pleasing corridor which encourages harmony and discourages monotony, while insuring safety and security and reducing noise and glare in neighborhoods. It is also the intent to encourage screening and buffering at a reasonable (moderate) cost with low to moderate maintenance requirements and to encourage sound planting principals including the use of indigenous plant material with reduced watering requirements. A variety of plant materials shall be provided in order to discourage monotony, subject to review and approval by the landscape administrator.

(b) *Application.* Buffering shall be provided in the form of a common area wherever a residential lot would otherwise back or side to a street. The common area buffer must meet the requirements as follows:

- (1) Width of the common area (buffer) for lots backing or siding a right-of-way.
  - a. The common area (buffer) shall be 10 feet for a lot backing an adjacent right-of-way that is equal to 50 feet or less in width.

b. The common area (buffer) shall be 20 feet for a lot backing or siding an adjacent right-of-way greater than 50 feet in width.

(2) At least one of the alternatives listed below is required for the common area (buffer). The alternatives are as follows:

a. *Alternate One.* A continuous six foot in height masonry wall shall be provided with masonry columns spaced a minimum of 40 feet on center. The color and style of masonry shall be consistent with the surrounding vicinity. If there is 600 feet or greater distance between openings of the masonry wall present a minimum of one offset shall be provided of one foot to three feet at a minimum of 100 feet and a maximum of 300 feet. Landscaping shall be provided with a minimum of one four inch caliper canopy tree and two ornamental trees at two inch caliper per 50 linear feet of frontage. A minimum of 50% of the linear footage of masonry wall must have beds of shrubs and groundcover.

b. *Alternate Two.* A continuous six foot in height wrought iron or tubular steel fence with masonry columns spaced a minimum of 20 feet on center. The color and style of masonry shall be consistent with the surrounding vicinity. If there is 600 feet or greater distance between openings of the wrought iron or tubular steel fence present a minimum of one offset shall be provided of one foot to three feet at a minimum of 100 feet and a maximum of 300 feet. Landscaping shall be provided with a minimum of one four inch caliper canopy tree and two ornamental trees at two inch caliper per 50 linear feet of frontage. A minimum of 75% of the linear footage of buffering area must have beds of shrubs and groundcover with a minimum of 50% of the linear footage to have a three foot high earth berm. There shall be a maximum of a 4:1 slope on berms with additional common area dedications as required.

c. *Alternate Three.* A continuous evergreen shrub screen six foot high with masonry columns spaced 40 feet on center shall be provided with the color and style of masonry consistent with surrounding vicinity. Landscaping shall be provided with a minimum of one four inch caliper tree per 50 linear feet of frontage. Shrubs must reach required height within two full growing seasons or 18 months, whichever is less.

d. *Alternate Four.* A continuous 3' height earth berm with a maximum of a 4:1 slope. Additional common area dedications shall be made as required. Landscaping shall be provided with a minimum of one four inch caliper canopy tree and two ornamental trees two inch caliper per 50 linear feet of frontage. A minimum of 75% linear footage of buffering area must have beds of shrubs and groundcover.

(c) *Standards.* Screening shall be a minimum of six feet in height and shall not exceed the maximum height allowed for fences (except for living screens). No canopy tree shall be planted within 5 feet of walls or fences. In the case of a living plant screen, two full growing seasons to a maximum time of 18 months shall be allowed to attain the required height and screening characteristics specified above. Where the design of a residential subdivision along a street employs a combination of lots backing and siding toward the street, the plan shall provide for consistency of landscaping and fencing design and materials along both the backing and siding lots so as to create an overall desirable effect. Walls or fences along the sides of lots which are continuous with walls or fences along adjacent backing lots shall be located within a common area and shall be maintained by the same entity.

(d) *Irrigation.* An underground automatic irrigation system equipped with rain and freeze sensors and evapotranspiration (ET) weather based controllers shall be provided for all landscape planting areas. Irrigation systems shall comply with the city's water conservation ordinance as it exists or may be amended. Irrigation systems shall be

designed for maximum irrigation efficiency, including the maximization of bubblers and drip emitters and the minimization of rotors and spray sprinklers.

(e) *Conflicts.* No improvements shall conflict with vehicular or pedestrian traffic movement. No improvements, including trees or large shrubs which do not meet the guidelines established by the utility company or the city shall be planted over or under and existing utilities. A minimum of ten feet of the required common area (buffer) shall be unencumbered by utilities or easements. Sidewalk or hike and bike trail locations shall be coordinated with other improvements and shall be shown on the screening and buffering plan.

(f) *Submittal.* Plans for screening and buffering shall be submitted concurrently with the applicant for minor plat, minor replat or record plat approval. Plans will be evaluated by the planning department concurrently with the minor plat, minor replat or record plat consideration. Approval of the screening and buffering plans by the landscape administrator is required prior to the approval of a minor plat, minor replat or record plat. Plans for screening and buffering shall also be submitted and included within the civil engineering drawings.

(g) *Administration.* The developer shall provide three complete sets of plans to the planning department which shall include, but not be limited to, the following information: location of berming, fencing, walls or landscaping; sidewalks; location of the street and property line; location of the screening and buffering area within the open space common area; location of existing and proposed utilities (water, sanitary sewer, electric, cable, gas, etc.); location of existing and proposed easements; construction details of the fencing or walls; specific plant materials being used (including common name, scientific name, quantity, size, spacing); planting details; berm details; and an irrigation plan; and any additional information as requested by the landscape administrator to assist in the complete and thorough review of the proposed plans. Sheet size shall be 24 inches by 36 inches with the scale not to exceed one inch equals 40 feet, or as determined by the landscape administrator. Construction drawings of all improvements shall be approved by the landscape administrator and the chief building official, prior to the installation of any proposed screening and buffering improvements.

Prior to the filing of the minor plat, minor replat or record plat, a compact disk (CD) with a copy of the as-built plans for the screening and buffering improvements shall be submitted to the engineering department in Adobe Acrobat (.pdf) format, subject to review and inspection by the landscape administrator.

(h) *Certificate of acceptance.* A certificate of acceptance shall be required prior to the filing of a plat with the county clerk. Upon completion of construction of the required screening and buffering improvements, the applicant for a plat shall request an inspection of said improvements from the landscape administrator. If the required screening and buffering is installed per the approved screening and buffering plan, the landscape administrator shall issue a certificate of acceptance. Where installation of landscaping is required to occur during a stage 3 or stage 4 drought situation as determined by the city subject to approval by the landscape administrator, the developer may provide the city with a letter of credit or some financial assurance determined by the landscape administrator equal to the cost of installing the landscaping which will remain in effect until the screening and buffering improvements are installed and accepted by the city. Once stage 3 restrictions are lifted, the landscaping required by the plan must be installed within six months, or the development shall be deemed to be in violation of this chapter and no additional building permits or certificates of occupancy will be issued.

(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 21. That the Code of Ordinances, City of McKinney, Texas, Section 146-40 of the Zoning Ordinance, is hereby amended and shall read as follows:

**"Sec. 146-40. Nonconforming uses and nonconforming structures.**

- (a) *Purpose.* This section is intended to establish regulations for the allowance and alteration of uses, lots, and/or structures which do not conform to currently applicable regulations, but which have been in continuous use and were in conformance with the regulations in place at the time of their inception and have been rendered nonconforming due to a change in the applicable regulations.
- (b) *Nonconforming status.* A nonconforming status shall exist under the following provisions of this chapter:
  - (1) When a use, lot, or structure, which does not conform to the current regulations of this chapter, was in existence and lawfully operating prior to April 29, 1968, and has been operating since without discontinuance.
  - (2) When a use, lot, or structure does not conform to the current regulations of this chapter, but was legally established at a prior date when the use, lot, or structure was in conformance with applicable regulations and such use, lot, or structure has been in continuous use or operation since its establishment.
  - (3) When a use, lot, or structure, which does not conform to the current regulations of this chapter, was in existence at the time of annexation to the city, and has been operating since without discontinuance.
- (c) *Burden to establish legal nonconformity.* The burden of demonstrating that any use, lot, or structure is a legal nonconformity as defined by this section shall belong to the owner(s) or the proponent of such purported nonconformity.
- (d) *Continuing lawful use of property and structures.* Any nonconforming use, lot, or structure may be continued for definite periods of time as indicated hereinbelow subject to the board of adjustment's power of amortization:
  - (1) *Uses.*
    - i. Nonconforming uses may continue to operate indefinitely unless the use ceases to operate for a period longer than six (6) months. If a nonconforming use ceases to operate for a period longer than six (6) months, the nonconforming use shall be deemed permanently abandoned. The nonconforming use shall not thereafter be renewed or instituted on that property or another property in any district which does not permit the abandoned use, unless otherwise approved by the Board of Adjustment. For the purposes of this paragraph, the phrase "ceases to operate" shall mean to intentionally terminate operations of the nonconforming use. Any nonconforming use that does not involve a permanent type of structure and which is moved from the property shall be deemed permanently abandoned.
    - ii. A nonconforming use may not be replaced by or changed to another nonconforming use.
    - iii. The Board of Adjustment shall have the authority to reinstate the nonconforming status of a use if the Board finds there was clear intent not to abandon the use even though the use was

discontinued for more than six (6) months. The failure of the owner and/or operator to remove on-premise signs related to the nonconforming use shall not be sufficient, as the sole evidence presented by the applicant, to establish a clear intent not to abandon the use.

(2) Structures.

- i. Nonconforming structures may be occupied by conforming uses and may be repaired and maintained to preserve or extend their usability.
- ii. Structures conforming to all currently applicable regulations may be constructed on nonconforming lots provided that all setbacks and yard areas are observed.
- iii. Nonconforming structures may be relocated within the same lot so long as no existing nonconformity is exacerbated.

(3) Lots.

- i. Any nonconforming lot may be replatted so long as the existing nonconformities of the lot are not exacerbated by the replat and the size of the nonconforming lot is not reduced.
- ii. Lots containing nonconforming structures may be replatted so long as the nonconformities of the structure are not exacerbated by the replat and the size of the nonconforming lot is not reduced.

(e) *Expansion of nonconforming uses or structures.* A nonconforming use or structure shall not be expanded or increased, except as follows:

- (1) A nonconforming use located within a building may be expanded throughout the existing building, provided:
  - i. No alterations to the building are required by ordinance to accommodate the expansion of the nonconforming use; and
  - ii. The number of dwelling units in a building is not increased.
- (2) The minimum single family residential lot width, depth, and/or area for the various zoning districts shall be in accordance with their respective district's standards, except that a lot having less width, depth, and/or area than herein required, which lot was a lot of record prior to the adoption of the chapter, may be used for a single family residential use.

(f) *Destruction of structure by fire, the elements, or other cause.* If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this chapter. A restoration or reconstruction in violation of this subsection immediately terminates the right to occupy the nonconforming structure except as specifically provided otherwise herein-below.

(1) Partial Destruction:

- i. In the case of partial destruction of a nonconforming structure not exceeding 50 percent of its total appraised value as determined by the Collin Central Appraisal District, reconstruction will be permitted



to restore the nonconforming structure to its previously existing condition.

- ii. The nonconforming structure may only be restored or reconstructed so as to have the same, but not greater, height, shape, floor area, and appearance that it had immediately prior to the damage or destruction. The Chief Building Official shall estimate the height, shape, floor area, and appearance of the structure immediately prior to the damage or destruction, and shall consult with the property owner, if necessary, to make a determination. Should the property owner not agree with the determination of the Chief Building Official, the property owner may appeal the determination of the Chief Building Official to the Board of Adjustment, in accordance with this chapter.

(2) Total Destruction:

- i. If a nonconforming structure is totally destroyed by fire, the elements, or other cause, it may not be rebuilt unless it adheres to all applicable regulations. Total destruction for the purposes of this section shall mean destruction of 50 percent or more of the structure's total appraised value as determined by the Collin Central Appraisal District.

(3) Multi-Family Residential Destruction. In the case of the destruction of a multi-family residential structure or development that is nonconforming due to the adoption of Ordinance 2010-05-011 (adopted on May, 17, 2010), the following shall apply:

- i. The non-conforming structure(s) may be restored or reconstructed so as to have the same, but not greater, height, shape, floor area, and appearance that it had immediately prior to the damage or destruction if the damage to the structure(s) represents less than 50 percent of its appraised value, as determined by the Collin Central Appraisal District.
- ii. The non-conforming structure(s) may be restored or reconstructed so as to have the same, but not greater, height, shape, floor area, and appearance that it had immediately prior to the damage or destruction if the damage to the structure(s) equals or exceeds 50 percent of its appraised value, as determined by the Collin Central Appraisal District, but the damage to the structure(s) represents less than 50 percent of the appraised value of the overall development, as determined by the Collin Central Appraisal District.
- iii. The non-conforming structure(s) must be rebuilt to all currently applicable regulations if the damage to the structure(s) equals or exceeds 50 percent of its appraised value, as determined by the Collin Central Appraisal District, and the damage to the structure(s) equals or exceeds 50 percent of the appraised value of the overall development, as determined by the Collin Central Appraisal District.
- iv. The Chief Building Official shall estimate the height, shape, floor area, and appearance of the structure immediately prior to the damage or destruction, and shall consult with the property owner, if necessary, to make a determination. Should the property owner not agree with the determination of the Chief Building Official, the property owner may appeal the determination of the Chief Building Official to the Board of Adjustment, in accordance with this chapter.

- (g) *Completion of structures.* Nothing contained herein shall require any change in the plans, construction, or designated use of a structure for which a building permit has been issued or a site plan approved prior to the effective date of this section, nor shall any structure for which a substantially complete application for a building permit was accepted by the Chief Building Official on or before the effective date of this section, provided that the building permit shall comply with all applicable regulations on the date that the application was filed and the building permit is issued within 30 days of the effective date of these regulations."

Section 22. That the Code of Ordinances, City of McKinney, Texas, Section 146-41(11)(c) of the Zoning Ordinance, is hereby amended and shall read as follows:

- "c. Private club. A private club may be approved to allow for social and dining facilities, as well as alcoholic beverage service in all districts specified in the schedule of uses. Private clubs shall meet the requirements listed under the definition of "private clubs" in section 146-46."

Section 23. That the Code of Ordinances, City of McKinney, Texas, Section 146-41(11)(f) of the Zoning Ordinance, is hereby amended and shall read as follows:

- "f. Mini-warehouse uses. Mini-warehouse facilities shall be allowed with the approval of a specific use permit in all districts specified in the schedule of uses. All proposed mini-warehouse developments requiring approval of a specific use permit shall satisfy the following development standards:

1. No overhead bay doors or loading areas shall be visible from an adjacent use or public right-of-way;
2. Each building shall be covered with 100 percent masonry materials (brick or stone);
3. Proposed mini-warehouse buildings located directly adjacent to residential uses or zones shall be limited to a single story; and
4. Proposed mini-warehouse buildings located directly adjacent to single family residential uses or zones shall feature a pitched roof (minimum 4:12 slope).

In determining whether a specific use permit should be approved to allow this use in a district where such permit would be required, the following factors shall be considered:

1. The compatibility of the proposed use with the adjacent uses and other uses in the immediate area;
2. The development's proposed location within the city; and
3. Any other factors deemed appropriate."

Section 24. That the Code of Ordinances, City of McKinney, Texas, Section 146-42 of the Zoning Ordinance, is hereby amended and shall read as follows:

**"Sec. 146-42. - Temporary uses.**

The following temporary uses as well as the temporary uses indicated in the Schedule of Uses may be allowed under the conditions and for the time specified upon proper application and review by the Chief Building Official:

- (1) A permitted temporary use shall be allowed at a specific location for a period not to exceed 30 days per year, except that two extensions of up to 30 days each may be possible upon application and approval by the Chief Building Official, unless otherwise specified herein.
- (2) The Chief Building Official, in approving or denying such applications shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated; health and sanitary conditions; and compliance with other regulations of this chapter. The Chief Building Official shall have the right, upon finding that a hazard or nuisance shall exist by continuing such use, to revoke any temporary use at any time or to deny any extension. After the revocation of, or the denial of a requested extension for, a temporary use, such temporary use shall immediately cease and all temporary structures shall be removed within ten days of notification of such finding.
- (3) A temporary building may be used as an office incidental to construction work if such building is located upon the same property as the site under construction, does not contain living quarters, and provides only for uses incidental to construction on the premises. Such buildings shall be removed within 30 days following final acceptance of the construction by the City.
- (4) A temporary facility or a permanent residential structure located on any platted lot in an approved residential subdivision may be used as a construction office, or as a sales office, or for display purposes. No more than one office and no more than four display facilities shall be allowed for any purposes for any subdivision. Such temporary use shall be allowed for a period of one year, with extensions upon application and approval of six months possible, provided construction remains continuous and no more than ten lots remain unsold in the subdivision. However, in no case shall more than four such extensions be granted.
- (5) Temporary uses of a religious or philanthropic nature by those organizations not normally conducting business for profit may be allowed for the period of their actual duration up to a maximum of 30 days, except that two extensions of up to 30 days may be possible upon application and approval.
- (6) Temporary sales of seasonal products such as firewood, cut trees, plants, fruits and vegetables, and the like may be allowed during their normal and generally accepted season for a period of up to 30 days, except that two extensions of up to 30 days may be possible upon application and approval. Temporary sales of seasonal products may be allowed no more than 120 days, whether consecutive or cumulative, per site."

Section 25. That the Code of Ordinances, City of McKinney, Texas, Section 146-44 of the Zoning Ordinance, is hereby amended and shall read as follows:

**"Sec. 146-44. Reserved."**

Section 26. That the Code of Ordinances, City of McKinney, Texas, Section 146-45(a)(2) of the Zoning Ordinance, is hereby amended and shall read as follows:

- "(2) Site plan approval process.
  - 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. The actions of the Planning and Zoning Commission may be appealed to the City Council. The City Council shall be the final approval authority for site plans.

- 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 27. That the Code of Ordinances, City of McKinney, Texas, Sections 146-67 through 146-71 of the Zoning Ordinance, are hereby amended and shall read as follows:

**"Sec. 146-67. - AG - Agricultural district regulations.**

- (a) Purpose. The "AG" - Agricultural zone is designed to preserve lands best suited for agricultural use from encroachment of incompatible uses, and to preserve in agricultural use land suited to eventual development in other uses, pending proper timing for practical and economical provision of utilities, major streets, schools and other facilities so that reasonably compact development will occur and the fiscal integrity of the city preserved. A change of zoning from "AG" agricultural to any other classification shall be in accordance with planning practices established by the commission.
- (b) Permitted uses. Those uses indicated as being permitted in the "AG" – Agricultural zone in the Schedule of Uses shall be allowed.

- (c) Space limits. The space limits identified in Appendix F of the Zoning Ordinance as being applicable to the "AG" - Agricultural zone shall apply.

**Sec. 146-68. - RED-1 - Residential Estates district.**

- (a) Purpose. The "RED-1" - Residential Estates zone is designed to promote and encourage a suitable environment for family life on large parcels of land. The "RED-1" - Residential Estates classification is to be used for only suburban single family homes and the community services and facilities appurtenant thereto.
- (b) Permitted uses. Those uses indicated as being permitted in the "RED-1" - Residential Estates zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The space limits identified in Appendix F of the Zoning Ordinance as being applicable to the "RED-1" - Residential Estates zone shall apply.

**Sec. 146-69. - RED-2 - Residential Estates district.**

- (a) Purpose. The "RED-2" - Residential Estates zone is designed to promote and encourage a suitable environment for family life on large parcels of land. The "RED-2" - Residential Estates classification is to be used for only suburban single family homes and the community services and facilities appurtenant thereto.
- (b) Permitted uses. Those uses indicated as being permitted in the "RED-2" - Residential Estates zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The space limits identified in Appendix F of the Zoning Ordinance as being applicable to the "RED-2" - Residential Estates zone shall apply.

**Sec. 146-70. - RS 120 - Single Family Residence district.**

- (a) Purpose. The "RS 120" - Single Family Residence zone is designed to stabilize and protect the residential characteristics of the district and to encourage a suitable family life environment on relatively ample lots.
- (b) Permitted uses. Those uses indicated as being permitted in the "RS 120" - Single Family Residence zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The space limits identified in Appendix F of the Zoning Ordinance as being applicable to the "RS 120" - Single Family Residence zone shall apply.

**Sec. 146-71. - RS 84 - Single Family Residence district.**

- (a) Purpose. The "RS 84" - Single Family Residence zone is designed to stabilize and protect the residential characteristics of the district and to encourage a suitable family life on medium size lots. More uses are allowed as a matter of right throughout the zone than in the larger lot size zones.
- (b) Permitted uses. Those uses indicated as being permitted in the "RS 84" - Single Family Residence zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The space limits identified in appendix F of the zoning ordinance as being applicable to the "RS 84" - Single Family Residence zone shall apply."

Section 28. That the Code of Ordinances, City of McKinney, Texas, Sections 146-73 through 146-75 of the Zoning Ordinance, are hereby amended and shall

read as follows:

**“Sec. 146-73. - RS 60 - Single Family Residence district.**

- (a) Purpose. The "RS 60" - Single Family Residence zone is designed to encourage a suitable family life on medium size lots. More uses are allowed as a matter of right throughout the zone than in the larger lot size zones.
- (b) Permitted uses. Those uses indicated as being permitted in the "RS 60" - Single Family Residence zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The space limits identified in Appendix F of the Zoning Ordinance as being applicable to the "RS 60" - Single Family Residence zone shall apply.

**Sec. 146-74. - RS 45 - Single Family Residence district; zero lot line homes.**

- (a) Purpose. The "RS 45" - Single Family Residence zone is designed to provide single family homes on lots of moderate size.
- (b) Permitted uses. Those uses indicated as being permitted in the "RS 45" - Single Family Residence zone in the schedule of uses shall be allowed.
- (c) Space limits. The space limits identified in Appendix F of the zoning ordinance as being applicable to the "RS 45" - Single Family Residence zone shall apply.

**Sec. 146-75. - RD 30 - Duplex Residence district.**

- (a) Purpose. The "RD 30" - Duplex Residence zone is designed to provide suitable family life for one- and two-family dwelling areas on lots of moderate size.
- (b) Permitted uses. Those uses indicated as being permitted in the "RD 30" - Duplex Residence zone in the Schedule of Uses shall be allowed.
- (c) Permitted accessory uses. The following accessory uses are permitted in the "RD 30" - Duplex Residence zone:
  - (1) The keeping of dogs, cats and other household pets, but limited to two animals over six months old;
  - (2) Rental of sleeping rooms to two individuals not members of the family of the occupant of the dwelling. No signs advertising the availability of such rooms shall be displayed.
- (d) Space limits.
  - (1) Minimum lot area: 5,000 square feet for one unit; 6,000 square feet for a duplex; and
  - (2) All other space limits identified as being applicable to the "RD 30" - Duplex Residence zone in Appendix F of the Zoning Ordinance shall apply.”

Section 29. That the Code of Ordinances, City of McKinney, Texas, Sections 146-77 through 146-81 of the Zoning Ordinance, are hereby amended and shall read as follows:

**“Sec. 146-77. - RG 25 - General Residence district.**

- (a) Purpose. The "RG 25" - General Residence zone is designed to provide for a medium density residential environment allowing some latitude to the designers as to form but limiting the overall intensity of use of the land. Lot area requirements are modified to meet existing lot situations in a large part of the city.
- (b) Permitted uses. Those uses indicated as being permitted in the "RG 25" - General Residence zone in the Schedule of Uses shall be allowed.
- (c) Permitted accessory uses. The following accessory uses are permitted in the "RG 25" - General Residence zone:
  - (1) The keeping of dogs, cats and other household pets, but limited to two animals over six months old;
  - (2) Rental of sleeping rooms to two individuals not members of the family of the occupant of the dwelling. No signs advertising the availability of such rooms shall be displayed.
- (d) Space limits. The following space limits shall apply to the "RG 25" - General Residence zone:
  - (1) Minimum lot area: 5,000 square feet for one or two units; 2,500 square feet for each additional unit; and
  - (2) All other space limits identified as being applicable to the "RG 25" - General Residence zone in Appendix F of the Zoning Ordinance shall apply.

**Sec. 146-78. - RG 18 - General Residence district.**

- (a) *Purpose.* The "RG 18" - General Residence zone was originally designed to provide for moderately high density apartment development and other uses, which have characteristics similar to those found in the operation of apartment houses. Densities in this district are higher than presently considered acceptable in the city. Rezoning to this classification will not generally be considered after January 1, 2000.
- (b) *Permitted uses.* Those uses indicated as being permitted in the "RG 18" - General Residence zone in the Schedule of Uses shall be allowed.
- (c) *Space limits.* The following space limits shall apply to the "RG 18" - General Residence zone:
  - (1) All space limits identified as being applicable to the "RG 18" - General Residence zone in Appendix F of the Zoning Ordinance.
- (d) *Miscellaneous provisions.*
  - (1) Off-street parking shall be provided for all uses established in this zone.
  - (2) Only one building for living purposes shall be permitted on one zoning lot except as otherwise provided herein.

**Sec. 146-79. - MF-1 - Multiple Family Residential-Low Density district.**

- (a) Purpose. The "MF-1" - Multiple Family Residential-Low Density zone is designed to provide for low density multiple family residential development characterized by smaller scale buildings and extensive open space and landscaping. This district should not be located with frontage or direct access

on major thoroughfares or with principal access to local residential streets. This district permits two story apartments, fourplexes, and duplexes.

- (b) Permitted uses. Those uses indicated as being permitted in the "MF-1" – Multiple Family Residential – Low Density zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The following space limits shall apply to the "MF-1" - Multiple Family Residential-Low Density zone:
  - (1) All space limits identified as being applicable to the "MF-1" - Multiple Family Residential-Low Density zone in Appendix F of the Zoning Ordinance.
- (d) Miscellaneous provisions.
  - (1) The minimum separation of buildings shall conform to the distance requirements as specified in section 146-129(4)c.
  - (2) The keeping of dogs, cats and other household pets is limited to two animals over six months old.

**Sec. 146-80. - MF-2 - Multiple Family Residential-Medium Density district.**

- (a) *Purpose.* The "MF-2" - Multiple Family Residential-Medium Density zone is designed to provide for medium density multiple family residential development characterized by smaller scale buildings and more open space than higher density districts. This district should not be located with direct access on major thoroughfares or with principal access to local residential streets. This district permits two story apartments, fourplexes, and duplexes.
- (b) *Permitted uses.* Those uses indicated as being permitted in the "MF-2" – Multiple Family Residential – Medium Density zone in the Schedule of Uses shall be allowed.
- (c) *Space limits.* The following space limits shall apply to the "MF-2" - Multiple Family Residential-Medium Density zone:
  - (1) All space limits identified as being applicable to the "MF-2" - Multiple Family Residential-Medium Density zone in Appendix F of the Zoning Ordinance.
- (d) *Miscellaneous provisions.*
  - (1) The minimum separation of buildings shall conform to the distance requirements as specified in section 146-129(4)c.
  - (2) The keeping of dogs, cats and other household pets is limited to two animals over six months old.

**Sec. 146-81. - MF-3 - Multiple Family Residential-Medium-High Density district.**

- (a) *Purpose.* The "MF-3" - Multiple Family Residential-Medium-High Density zone is designed to provide for moderately high density multiple family residential development characterized by smaller scale buildings and more open space. This district is appropriately located with direct access to major thoroughfares. This district permits two story apartments, fourplexes, and duplexes.



(b) Permitted uses. Those uses indicated as being permitted in the "MF-3" – Multiple Family Residential – Medium-High Density zone in the Schedule of Uses shall be allowed.

(c) Space limits. The following space limits shall apply to the "MF-3" - Multiple Family Residential-Medium-High Density zone:

(1) All space limits identified as being applicable to the "MF-3" - Multiple Family Residential-Medium-High Density zone in Appendix F of the Zoning Ordinance.

(d) Miscellaneous provisions.

(1) The minimum separation of buildings shall conform to the distance requirements as specified in section 146-129(4)c.

(2) The keeping of dogs, cats and other household pets is limited to two animals over six months old."

Section 30. That the Code of Ordinances, City of McKinney, Texas, Sections 146-83 through 146-91 of the Zoning Ordinance, are hereby amended and shall read as follows:

**"Sec. 146-83. - NC - Neighborhood Convenience District.**

(a) Purpose. The "NC" - Neighborhood Convenience zone is designed to provide for a limited range of service and light retail land uses in small districts up to two acres in size, which are appropriately located at intersections of thoroughfares to serve the immediately adjacent residential neighborhood area. This district is not intended for extensive parceling-off of tracts or creation of pad sites, especially along the frontage of an arterial street, not extending the full depth of the district.

(b) Permitted uses. Those uses indicated as being permitted in the "NC" – Neighborhood Convenience zone in the Schedule of Uses shall be allowed.

(c) Space limits. The following space limits shall apply to the "NC" - Neighborhood Convenience zone:

(1) All space limits identified as being applicable to the "NC" - Neighborhood Convenience zone in appendix F of the zoning ordinance.

**Sec. 146-84. - BN - Neighborhood Business District.**

(a) Purpose. The "BN" - Neighborhood Business zone is designed to provide for limited commercial uses serving the common and frequent needs of the residents of the immediate vicinity.

(b) Permitted uses. The following uses are permitted in the "BN" - Neighborhood Business zone:

(1) Those uses indicated as being permitted in the "BN" - Neighborhood Business zone in the Schedule of Uses shall be allowed; and

(2) Motor vehicle fuel sales only with facilities to fuel not more than four vehicles at one time (not a gasoline service station), which does not conduct any type of automotive repairs or servicing and motor vehicle fuel sales only with facilities to fuel not more than eight vehicles at one time which does not conduct any type of automotive repairs or servicing; provided that the gas pumps are located within 350 feet of the intersection of two arterial roadways as shown on the thoroughfare plan. Additionally, no stock of goods may be displayed out of doors with the exception of lubricants and additives for frequent sale, and no lighting may be constructed to shine on neighboring

properties used for residential purposes. A maximum of two brand identification signs shall be allowed if their only illumination is non-flashing and shall not contain a rotating, oscillating or revolving beam or beacon of light. Such signs may be installed at the property line and shall conform to chapter 134 (see section 146-41 for regulations concerning specific use permit approval of facilities to fuel more than four and eight vehicles with location criteria at one time).

(c) Space limits. The following space limits shall apply to the "BN" - Neighborhood Business zone:

(1) All space limits identified as being applicable to the "BN" - Neighborhood Business zone in appendix F of the zoning ordinance.

**Sec. 146-85. - BG - General Business district.**

(a) Purpose. The "BG" - General Business zone is designed to provide for a wide range of retail and service establishments.

(b) Permitted uses. Those uses indicated as being permitted in the "BG" - General Business zone in the Schedule of Uses shall be allowed.

(c) Specific use permits. The following specific uses require a permit in the "BG" - General Business zone:

(1) All uses indicated as being allowed in the "BG" - General Business zone with a specific use permit in the schedule of uses; and

(2) The city may allow residential and mixed business and residential structures to conform with the space limits of the "RG 18" - General Residence zone or any other zone requiring more lot area per dwelling unit, upon a finding that the proposed density of residential use will be in harmony with nearby residential zoning, and when said mixed occupancy building is specifically designed and constructed for such mixed occupancy, but shall not include the construction of a business building in the yard of a residence or within an existing residence.

(d) Space limits. The following space limits shall apply to the "BG" - General Business zone:

(1) All space limits identified as being applicable to the "RG 18" - General Residence zone in Appendix F of the Zoning Ordinance.

(e) Miscellaneous provisions.

(1) Only one building for living purposes shall be permitted on one zoning lot except as otherwise provided herein.

**Sec. 146-86. - C - Planned Center district.**

(a) Purpose. The "C" - Planned Center zone is designed to provide for high-intensity concentrations of shopping and related commercial activities along regional highways or large arterial roadways.

(b) Permitted uses. Those uses indicated as being permitted in the "C" - Planned Center zone in the Schedule of Uses shall be allowed.

(c) Space limits. The following space limits shall apply to the "C" - Planned Center zone:

(1) All space limits identified as being applicable to the "C" - Planned Center zone in appendix F of the zoning ordinance.

(d) Special provisions.

- (1) The entire parcel of land in the planned center zone shall be considered as one zoning lot in arranging buildings and other facilities.
- (2) The commission and the council shall take into consideration the ability of nearby streets to handle traffic generated by the proposed development and shall take into consideration the effects upon the value and amenities of the nearby neighborhood residential properties and in the event of conflict between the maintenance of such values and the proposed development, shall weigh the equities between the two using the criterion of community service and maintaining the concept of the zoning plan in assessing the position of the proposed development.
- (3) It is intended that a planned center zone be designated to carry out the objectives and planning practices established by the commission for development of the city and particularly the development of unified planned business centers, whether in single or multiple ownership, and to be so developed within a reasonable time. The district is not intended for extensive parceling-off of tracts or creation of pad sites, especially along the frontage of an arterial street, not extending the full depth of the district. The intent of the district shall be considered in determining whether any tract shall be zoned as a planned center district and its associated site plan approved. Thenceforth, any development or subdivision of the property shall be consistent with an approved conceptual site plan, as originally approved or as may be subsequently amended and approved.

**Sec. 146-87. - O-1 - Neighborhood Office district.**

- (a) Purpose. The "O-1" - Neighborhood Office zone is designed to provide for low intensity office uses, which are appropriately located at intersections of thoroughfares and which can be in close proximity to adjacent residential neighborhood areas.
- (b) Permitted uses. Those uses indicated as being permitted in the "O-1" - Neighborhood Office zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The following space limits shall apply to the "O-1" - Neighborhood Office zone:
  - (1) All space limits identified as being applicable to the "O-1" - Neighborhood Office zone in Appendix F of the Zoning Ordinance.

**Sec. 146-88. - O - Office district.**

- (a) Purpose. The "O" - Office zone is designed to provide for office buildings with attendant retail and service uses intended primarily for occupants of such office buildings.
- (b) Permitted uses. Those uses indicated as being permitted in the "O" - Office zone in the Schedule of Uses shall be allowed.
- (c) Permitted accessory uses. The following accessory uses are permitted in the "O" - Office zone:
  - (1) The incidental retail sale of food, beverages and other convenience items or services is permitted to the occupants, employees and guests, as long as these items are not advertised nor offered for sale to the general public;
  - (2) Drive-in facilities for banks or financial institutions; and

- (3) Accessory buildings and uses customarily incident to any of the above uses; provided that such be not objectionable because of odor, smoke, dust, noise, vibration, or similar nuisance.

(d) Space limits. The following space limits shall apply to the "O" - Office zone:

- (1) All space limits identified as being applicable to the "O" - Office zone in appendix F of the zoning ordinance.

**Sec. 146-89. - BC - Commercial Business district.**

(a) Purpose. The "BC" - Commercial Business zone is designed to provide for commercial land uses, which can be more intensive than those permitted within a retail district. This district is not intended to be established along highly visible thoroughfares nor adjacent to residential properties due to the intensive nature of the permitted uses, although access onto a four lane or greater thoroughfare is a requirement for this district. Generally, this district would be appropriate only for properties on arterial roadways with an adjacent future land use plan designation of industrial. This district allows on-site storage either inside or outside of the main structure, and some assembly is permitted within this district. This district is not intended for extensive parceling-off of tracts or creation of pad sites, especially along the frontage of an arterial street, not extending the full depth of the district.

(b) Permitted uses. Those uses indicated as being permitted in the "BC" - Commercial Business zone in the Schedule of Uses shall be allowed.

(c) Space limits. The following space limits shall apply to the "BC" - Commercial Business zone:

- (1) All space limits identified as being applicable to the "BC" - Commercial Business zone in appendix f of the zoning ordinance.

**Sec. 146-90. - ML - Light Manufacturing district.**

(a) Purpose. The "ML" - Light Manufacturing zone is designed to provide for a wide range of commercial and industrial uses, all of which shall be comparatively nuisance-free. The zone specifically excludes residences on the theory that the mixture of residential use, and public services and facilities for residences with those for industry is contrary to the purposes of these regulations irrespective of whether the industry is encroaching on a living area or a living area is encroaching on an industrial area.

(b) Permitted uses. Those uses indicated as being permitted in the "ML" - Light Manufacturing zone in the Schedule of Uses shall be allowed.

(c) Permitted accessory use. The following accessory uses are permitted in the "ML" - Light Manufacturing zone:

- (1) Any accessory use normally appurtenant to a permitted use shall be allowed; and
- (2) Recreational uses that are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the zone for its primary purpose of providing for manufacturing and heavy commercial establishments, may be allowed.

(d) Space limits. The following space limits shall apply to the "ML" - Light Manufacturing zone:

- (1) All space limits identified as being applicable to the "ML" - Light Manufacturing zone in Appendix F of the Zoning Ordinance.

**Sec. 146-91. - MH - Heavy Manufacturing district.**

- (a) Purpose. The "MH" - Heavy Manufacturing zone is designed to provide for the widest range of industrial operations permitted in the city. It is the zone for location of those industries, which have not reached a technical stage in processing, which renders them free of nuisance factors or where economics precludes construction and operation in a nuisance-free manner.
- (b) Permitted uses. Those uses indicated as being permitted in the "MH" - Heavy Manufacturing zone in the Schedule of Uses shall be allowed.
- (c) Permitted accessory uses. The following accessory uses are permitted in the "MH" - Heavy Manufacturing zone:
  - (1) Any accessory use normally appurtenant to a permitted use shall be allowed; and
  - (2) Recreational uses that are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the zone for its primary purpose of providing for manufacturing and heavy commercial establishments, may be allowed only upon appeal to the board of adjustment.
- (d) Space limits. The following space limits shall apply to the "MH" - Heavy Manufacturing zone:
  - (1) All space limits identified as being applicable to the "MH" - Heavy Manufacturing zone in appendix f of the zoning ordinance."

Section 31. That the Code of Ordinances, City of McKinney, Texas, Sections 146-95 and 146-96 of the Zoning Ordinance, are hereby amended and shall read as follows:

**"Sec. 146-95. - MTC - McKinney Town Center district.**

- (a) Purpose. The "MTC" - McKinney Town Center zone is intended to allow both commercial and residential uses in buildings, which match the character and style of the historic downtown. Buildings within the district should be located close to the street and multistory. This zone is appropriate for the area near the "CHD" - Commercial Historic District, and is inappropriate for areas not near the "CHD" - Commercial Historic District.
- (b) Permitted uses. Those uses indicated as being permitted in the "MTC" - McKinney Town Center zone in the Schedule of Uses shall be allowed.
- (c) Space limits. The following space limits shall apply to the "MTC" - McKinney Town Center zone:
  - (1) Minimum lot coverage: 50 percent.
  - (2) Maximum lot coverage: 95 percent.
  - (3) All other space limits identified as being applicable to the "MTC" - McKinney Town Center zone in appendix F of the zoning ordinance.
- (d) Miscellaneous provisions.
  - (1) Parking. Off-site parking spaces required must be located within 750 feet of the use.
  - (2) Off-street loading.

- a. Uses within the district are not required to provide off-street loading spaces.
- b. Loading spaces that are provided must be screened in accordance with the screening requirements of section 146-132

(3) Landscaping requirements.

- a. Properties used for non-residential uses or a combination of residential and non-residential uses shall provide landscaping on site.
- b. Landscaping can be provided with planters, either freestanding or incorporated into a structure, subject to review and approval as part of a site plan for development.
- c. No other provision of section 146-135 regarding landscaping will apply in this district.

(4) Approval of building elevations. Approval of all building elevations by the historic preservation officer is required, prior to issuance of a building permit.

**Sec. 146-96. - CHD - Commercial Historic district.**

(a) Purpose. The CHD commercial historic district is intended to ensure the development, redevelopment, and renovations within the downtown area are consistent with the historic character of the city's original business district and the surrounding area. The boundaries of the CHD commercial historic district are delineated on the official boundary map herein (see appendix C to this chapter).

(b) Land use. Land uses within the commercial historic district are described in the schedule of uses in the appendixes, illustrations, and schedule of uses to this Code and in the notes following said schedule.

(c) Space limits. The following space limits shall apply to the CHD commercial historic district:

- (1) All other space limits identified as being applicable to the "CHD" – Commercial Historic District in appendix F of the zoning ordinance.

(d) Parking requirements. Refer to section 146-130, except as provided herein:

- (1) Off-street parking shall be provided for all uses established in this zone.
- (2) One off-street parking space per fulltime employee who works more than 30 hours per week shall be provided.
- (3) Any parking adjacent to a public street, wherein the maneuvering is done on the public street, shall not be classified as off-street parking in computing the parking requirements.
- (4) All required off-street parking areas shall be located within two city blocks of the subject property.

(e) Off-street loading.

- (1) Uses within the district are not required to provide off-street loading spaces.
- (2) Loading spaces that are provided must be screened in accordance with the screening requirements of section 146-132.

(f) Permits.

- (1) Historic preservation officer. The historic preservation officer shall administer this section and advise the city council on matters related to it.
- (2) Certificate of appropriateness. No person shall carry out any exterior alteration, restoration, reconstruction, new construction or moving of a landmark or property within an historic district; nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public right-of-way or adjacent property, which affect the appearance and cohesiveness of the historic landmark or district, without first obtaining a certificate of appropriateness from the planning department. A building permit must be obtained from the chief building official after the certificate of appropriateness has been approved before any work may commence. Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within the CHD commercial historic district, which does not involve a change in design, material, color or outward appearance.
- (3) Criteria for approval. All requests for a certificate of appropriateness within the CHD commercial historic district shall be approved by the historic preservation officer. The historic preservation officer shall have ten working days after a completed application is received by the planning department in which to approve or deny a certificate of appropriateness application. The historic preservation officer shall follow the secretary of the interior's standards for the rehabilitation of historic buildings in the consideration of all applications for a certificate of appropriateness within the CHD commercial historic district. These standards shall be made available to the property owners within the historic district.
- (4) Painting. A building permit and the approval of the historic preservation officer, shall be required to paint the exterior of a building any color other than the existing color. Any person wishing to repaint the exterior of their building the same color as that which exists at the time of this section shall not be required to obtain a building permit.
- (5) Demolition permit. A permit for the demolition of a historic landmark or property within the CHD commercial historic district, including secondary buildings or landscape features, shall not be granted by the chief building official without review of a completed application and issuance of a certificate of appropriateness for demolition by the historic preservation officer.

(g) Economic hardship for demolition in CHD commercial historic district.

- (1) Criteria. An applicant whose demolition permit has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that all three of the following criteria have been met:
  - a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  - b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
  - c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(2) Application procedure.

- a. After receiving written notification from the historic preservation officer of the denial of a certificate of appropriateness for demolition, an

applicant may, within ten working days, commence the hardship process. No building permit or demolition permit shall be issued unless the city council makes a finding that a hardship exists.

- b. The city council shall consider the request on the hardship application at the first available city council meeting, at which time an opportunity will be provided for proponents and opponents of the application to represent their views.
  - c. The applicant shall consult in good faith with the historic preservation officer, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in the preservation of the property.
  - d. A copy of the city council's decision shall be sent to the applicant and a copy filed with the planning department for public inspection. The city council's decision shall state the reasons for granting or denying the hardship application.
- (h) Demolition by neglect. No owner or person with an interest in real property designated as a landmark or included within the commercial historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature, which would, in the judgment of the historic preservation officer, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:
- (1) Deterioration of exterior walls or other vertical supports;
  - (2) Deterioration of roofs or other horizontal members;
  - (3) Deterioration of exterior chimneys;
  - (4) Deterioration or crumbling of exterior stucco or mortar;
  - (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors; and
  - (6) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.
- (i) Administration.
- (1) Conformance. All work performed pursuant to the issuance of a certificate of appropriateness, building permit or a demolition permit issued under this section shall conform to any requirements included therein. It shall be the duty of the chief building official to inspect periodically any such work to ensure compliance. In the event work is found that is not being performed in accordance with the state provisions, the chief building official shall issue a stop work order; and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
  - (2) Penalties. Any person, firm or corporation who shall violate any of the provisions of this section or who shall fail to comply with the provisions hereof shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed the maximum permissible fine allowed by state law; and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.
  - (3) Appeals. Any person aggrieved by a decision of the historic preservation officer, relating to the issuance of a certificate of appropriateness, may, within ten working days of receipt of the written decision, file a written application



with the planning department for review of the decision. The city council shall consider the application at the next available city council meeting."

Section 32. That the Code of Ordinances, City of McKinney, Texas, Section 146-132(2) of the Zoning Ordinance, is hereby amended and shall read as follows:

"(2) *Screening device.* A screening device shall be erected or placed in all locations and in accordance with all provisions specified below:

a. A screening device required under this section shall meet the following minimum requirements:

1. The minimum height of the screening device shall be as follows:

- (i) Garbage, trash or refuse container screening: seven feet (7').
- (ii) Screening of outdoor storage: seven feet (7').
- (iii) All other required screening: six feet (6').

2. The maximum height of the screening device shall be as follows:

- (i) "ML", "MH" and Industrial "PD" districts: ten feet (10').
- (ii) All other districts: eight feet four inches (8' 4").

3. The materials shall consist of:

- (i) Brick masonry, stone masonry, or other architectural masonry finish;
- (ii) Tubular steel (primed and painted) or wrought iron fence with masonry columns spaced a maximum of 20 feet (20') on center with structural supports spaced every ten feet (10'), and with sufficient evergreen landscaping to create a screening effect;
- (iii) Living plant screen, upon approval by the Planning and Zoning Commission; or
- (iv) Alternate equivalent screening, upon approval by the Planning and Zoning Commission.

b. All required screening devices must be equally finished on both sides.

c. All openings in the surface for passage shall be equipped with opaque gates equal in height and screening characteristics specified above, but need not be of the same material as the main fence or wall.

d. Prior to the issuance of an occupancy permit, all approved screening devices must be in place.

e. All screening devices shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The occupancy permit may be revoked by the Chief Building Official for failure to adequately maintain such screening device."

Section 33. That the Code of Ordinances, City of McKinney, Texas, Section 146-132(3)(d) of the Zoning Ordinance, is hereby amended and shall read as

follows:

- "d. Garbage, trash, or refuse containers shall be screened on all sides. Screening materials shall be masonry and the same color as the exterior walls of the main structure. A solid metal gate shall be provided and shall be primed and painted to match the building. Garbage, trash, or refuse containers shall not be located in front of the main building unless no other option is available. Gates shall be kept closed except when in use for access. Sanitation containers shall also meet the screening and landscaping requirements as defined in section 146-135."

Section 34. That the Code of Ordinances, City of McKinney, Texas, Section 146-132(3)(g) of the Zoning Ordinance, is hereby amended and shall read as follows:

- "g. Loading docks and/or structures, bays, and bay doors related to loading facilities shall be screened from adjacent non-industrial property. Overhead bay doors in any non-industrial district shall be oriented away from adjacent street frontage."

Section 35. That the Code of Ordinances, City of McKinney, Texas, Section 146-132(4) of the Zoning Ordinance, is hereby amended and shall read as follows:

"(4) *Meritorious exception.*

- a. If unique circumstances that exist on the property or an innovative design prevent strict adherence with the requirements of this section, the Planning and Zoning Commission may consider a meritorious exception through the site plan approval process detailed in subsection 146-45(a)(2). The applicant shall prove that the meritorious exception from this Section 146-132 is warranted under the circumstances presented. A meritorious exception may be granted if the Planning and Zoning Commission finds that:
  - i. Unique circumstances exist on the property or an innovative design is proposed that make application of specific items in this section unduly burdensome on the applicant;
  - ii. The meritorious exception will have no adverse impact on current or future development;
  - iii. The meritorious exception is in keeping with the spirit of the zoning regulations, and will have a minimal impact, if any, on the surrounding land uses;
  - iv. The meritorious exception will have no adverse impact on the public health, safety and general welfare; and
  - v. The meritorious exception will not reduce the quality of the development.
  - vi. A financial hardship shall not be considered a basis for the granting of a meritorious exception.
- b. Action by the Planning and Zoning Commission regarding a requested meritorious exception may be appealed to the City Council. If the Planning and Zoning Commission denies a meritorious exception requested pursuant to this section, the appeal shall not be required to receive a super-majority vote from the City Council in order to be approved. Within 14 calendar days of the action by the Commission,

the appellant shall notify the Director of Planning in writing of the desire to appeal the decision of the Commission to the City Council. The Director of Planning shall prepare a report and place the site plan on the agenda for consideration by the Council."

Section 36. That the Code of Ordinances, City of McKinney, Texas, Section 146-133(a) of the Zoning Ordinance, is hereby amended and shall read as follows:

"(a) *Area regulations.* The following area regulations shall be observed for all accessory buildings or accessory structures in all residential, multiple family, or mobile home districts:

(1) *Front yard.* Attached accessory buildings or structures shall have the same front yard as that of the main building.

(2) *Side yard.*

a. There shall be a side yard for any detached accessory building of not less than three feet from any side lot line when such detached accessory building is located in the rear of the lot (the rear of a line connecting the midpoints on the two opposite side lot lines of any lot, tract or plot), and when the detached accessory building is a minimum distance of ten feet from the main structure.

b. When a detached accessory building is located in front of the line connecting the two midpoints of the opposite side lot lines as herein described, or is closer than ten feet from the main structure, such accessory building shall observe the same side yard as specified for the main building.

c. If an accessory structure is adjacent to a side street, the side yard for the accessory structure must be a minimum of 15 feet from the side property line.

(3) *Rear yard.*

a. There shall be a rear yard for accessory buildings not less than three feet from any lot line, alley line, or easement line, except that if no alley exists, the rear yard shall not be less than ten feet as measured from the rear lot line. Where apartments are permitted, the main building and all accessory buildings shall not cover more than 50 percent of the rear of the lot (that portion of the lot lying to the rear of a line erected adjoining the midpoint of one side lot line with the midpoint of the opposite side lot line).

b. Detached accessory buildings or structures shall be located in the area defined as the rear yard.

(4) *Air conditioning equipment.* Air conditioning compressors, cooling towers, and similar accessory structures shall observe all front, side, or rear yards specified for accessory buildings. When such accessory structures are located in the side yard or that portion of a lot herein designated as the rear of the lot, the minimum side yard shall be three feet.

(5) *Swimming pools.* All swimming pools shall be located behind the front yard or front building line and in no case shall the pool proper be nearer than five feet to any bounding property line of the lot or tract on which it is situated.

- (6) *Driveways.* Garages or carports shall be set back from the street or alley a minimum distance of 20 feet to allow for the construction of a driveway that facilitates access without interference with the use of the street or alley by other vehicles or persons.
- (7) *Accessory buildings on residential lots.* Accessory buildings shall be permitted on residential lots and shall meet the following requirements:
- a. No accessory building, other than an allowed accessory dwelling, shall be rented or leased.
  - b. No accessory building shall be used for commercial purposes.
  - c. No accessory building or structure, except fences, may be erected within three feet of any rear or side property line, or be located within any recorded easement.
  - d. No accessory building shall exceed 200 square feet in area, except:
    1. Detached garages are limited to 500 square feet in area; and
    2. Accessory dwellings are limited to 600 square feet in area.
  - e. No accessory building shall exceed one story in height, except that an allowed accessory dwelling may be located on a second story above a garage.
- (8) *Accessory dwellings.* Accessory dwellings shall meet the following requirements:
- a. An accessory dwelling may not be located on a lot less than 12,000 square feet in area.
  - b. An accessory dwelling must be behind the front building line, and must observe the same setbacks as the main structure.
  - c. An accessory dwelling shall be constructed of the same exterior materials as the main structure.
  - d. An accessory dwelling may not be sold separately from the main structure.
  - e. An accessory dwelling shall not have a separate electric meter."

Section 37. That the Code of Ordinances, City of McKinney, Texas, Section 146-133(c) of the Zoning Ordinance, is hereby amended and shall read as follows:

"(c) *Home occupations.* A home occupation, in permitted single family residential structures, shall meet the following standards to maintain the residential character of the neighborhood while providing opportunities for home-based businesses.

- (1) Home occupations shall be conducted entirely within the main building.

- (2) Home occupations shall not produce any alteration or change in the exterior appearance of the residence which is inconsistent with the typical appearance of a residential dwelling.
  - a. No external evidence of the occupation shall be detectable at any lot line, including advertising, signs, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, or outside storage of materials or equipment.
  - b. The home occupation shall not have a separate entrance.
  - c. Not more than two patron or business related vehicles shall be present at any one time, and the proprietor shall provide adequate off-street parking for such vehicles.
  - d. A maximum of one commercial vehicle, capacity one ton or less, may be used or parked on the property in connection with the home occupation. The commercial vehicle shall not be parked in the street.
  - e. The home occupation shall not require regular or frequent deliveries by large delivery trucks or vehicles in excess of 1 1/2 tons.
  - f. The home occupation shall not display advertising signs or other visual or audio devices which call attention to the business use.
- (3) The home occupation shall be clearly incidental and secondary to the use of the premises for residential purposes.
- (4) The home occupation shall employ no more than one individual who is not an occupant of the residence.
- (5) The address of the home occupation shall not be included in any classified advertisement, yellow pages listing, or other advertisement.
- (6) The home occupation shall not offer a ready inventory of any commodity for sale, except as specifically listed under subsection (c)(8) of this section.
- (7) The home occupation shall not accept clients or customers before 7:00 a.m. or after 10:00 p.m. This limitation on hours of operation shall not apply to allowed childcare home occupations.
- (8) Uses allowed as home occupations shall include the following:
  - a. Office of an accountant, architect, attorney, engineer, realtor, minister, rabbi, clergyman, or similar profession;
  - b. Office of a salesman or manufacturer's representative; provided that no retail or wholesale transactions or provision of services may be personally and physically made on premises, except as permitted by this chapter;
  - c. Author, artist, sculptor;
  - d. Dressmaker, seamstress, tailor, milliner;
  - e. Music/dance teacher, tutoring, or similar instruction; provided that no more than three pupils may be present at any one time;

- f. Swimming lessons or water safety instruction; provided that a maximum of six pupils may be present at any one time;
- g. Home craft, such as weaving, model making, etc.;
- h. Repair shop for small electrical appliances, cameras, watches, or other small items; provided that items can be carried by one person with no special equipment, and provided that no internal combustion engine repair is allowed;
- i. Food preparation such as cake decorating, catering, etc.; provided that no on-premises consumption by customers is allowed, and provided that the business is in full compliance with all health regulations;
- j. Day care: registered family home in compliance with state law, with a maximum of six children at any one time;
- k. Barbershop, beauty salon, or manicure studio; provided that no more than one customer is served at any one time; and
- l. Community home and other residential care facility that qualifies as a community home under the Community Homes for Disabled Persons Location Act, Chapter 123 of the Texas Human Resources Code and as amended.

(9) Uses prohibited as home occupations shall include the following:

- a. Animal hospital, commercial stable, kennel;
- b. Bed and breakfast inn, boardinghouse or roominghouse;
- c. Day care center with more than six children;
- d. Schooling or instruction with more than one pupil (except as noted above);
- e. Restaurant or on-premises food/beverage consumption of any kind;
- f. Automobile, boat or trailer repair, small engine or motorcycle repair, large appliance repair, repair of any items with internal combustion engine, or other repair shops except as specifically provided for in section 146-133(c)(8);
- g. Cabinetry, metal work, or welding shop;
- h. Office for doctor, dentist, veterinarian, or other medical-related profession;
- i. On-premises retail or wholesale sale of any kind, with the following exceptions:
  - 1. Home craft items produced entirely on premises;
  - 2. Garage sales as provided for within chapter 54, article II;
  - 3. Sales incidental to a service; and
  - 4. Orders previously made by telephone, internet, or at a sales party.

- j. Commercial clothing laundering or cleaning;
- k. Mortuary or funeral home;
- l. Trailer, vehicle, tool, or equipment rental;
- m. Antique, gift, or specialty shop; and
- n. Any use defined by the building code as assembly, factory/industrial, hazardous, institutional, or mercantile occupancy.

(10) The Director of Planning shall determine whether a proposed use not specifically listed is appropriate as a home occupation. The Director of Planning shall evaluate the proposed home occupation in terms of its impact on neighboring property, its similarity to other allowed and prohibited uses, and its conformance with the regulations herein. If the applicant disagrees with the determination of the Director of Planning, the applicant may request that the use be evaluated by the City Council.

(11) Any home occupation that was legally in existence as of the effective date of the ordinance from which this chapter is derived and that is not in full conformity with these provisions shall be deemed a legal nonconforming use."

Section 38. That the Code of Ordinances, City of McKinney, Texas, Section 146-134(1)(f) of the Zoning Ordinance, is hereby amended and shall read as follows:

"f. Exemptions. The following uses and activities shall be exempt from the noise level regulations herein specified:

1. Noises not directly under control of the property user;
2. Noises emanating from construction and maintenance activities during daytime hours;
3. Noises of safety signals, warning devices, and emergency pressure relief valves;
4. Transient noise of moving sources such as automobiles, trucks, airplanes, helicopters, and railroads;
5. Noises caused by back-up utility operations for 24 hour health care facilities with emergency services; and
6. Noises caused in the performance of emergency or public service work, including police, fire and public utility operations acting in the performance of lawful duties to protect the health, safety or welfare of the community."

Section 39. That the Code of Ordinances, City of McKinney, Texas, Section 146-137(d)(1) of the Zoning Ordinance, is hereby amended and shall read as follows:

"(1) Residential zoning districts (RED-1, RED-2, RS SM, RS 120, RS 84, RS 72, RS 60, RS 45, RD 30, RG 27, RG 25, RG 18, MF-1, MF-2, MF-3, MP and PD). Commercial antennas and antenna support structures are allowed only as follows:

- a. A commercial antenna may be attached to a utility structure (e.g., electrical transmission/distribution tower, elevated water storage tank, etc.) regardless of the height of said structure; provided that the antenna does not extend more than ten feet above the height of said structure.
- b. A commercial antenna may be placed wholly within any building permitted in the zoning district. A commercial antenna may be mounted flush to the exterior of a building/structure if it is painted and/or disguised to integrate into the overall architectural design and is not readily visible/identifiable as an antenna from public roadways or neighboring residential properties.
- c. All commercial signs, flags, lights, and attachments shall be prohibited on any antenna or antenna support structure, unless required for communications operations, structural stability, or as required for flight visibility by the FCC and the Federal Aviation Administration (FAA).
- d. No commercial antenna support structure shall exceed height limitations imposed by virtue of aircraft approach and turning zone height restrictions.”

Section 40. That the Code of Ordinances, City of McKinney, Texas, Section 146-141 of the Zoning Ordinance, is hereby established and shall read as follows:

**“Sec. 146-141. Residential Development Design Requirements.**

- (a) *Purpose.* The purpose of this section is to set minimum standards for the appearance and design of single family residential developments, which is recognized as enhancing property values and are in the interest of the general welfare of the City.
- (b) *Applicability.* The regulations contained in this section shall apply to all single family residential (attached and detached) developments for which a plat is submitted for review and approval on or after the effective date of the ordinance from which this section is derived (November 12, 2012), unless otherwise stated by this Chapter or a valid “PD” – Planned Development District. The term “plat” as used herein means and includes a preliminary-final plat, preliminary-final replat, minor plat, and a minor replat.
- (c) *Standards for approval.* All single family (attached and detached) residential developments shall satisfy all of the following requirements:
  - 1. Developments outside of the “REC” – Regional Employment Center Overlay District must be segmented into smaller, more distinct neighborhoods and villages through the use of common areas, active and passive open spaces, residential screening and buffering improvements, street layout, and/or lot orientation. These neighborhoods shall be no larger than 50 acres or 175 lots in size, whichever measure is smaller. An increase in the maximum area (50 acres) or maximum number of lots (175) by up to and including 20 percent may be permitted by the Planning and Zoning Commission provided the intent of this section is satisfied and the desired character is preserved.
  - 2. For neighborhoods outside of the “REC” – Regional Employment Center Overlay District that exceed 50 lots, at least one of the entrances to the neighborhood shall feature a divided entrance containing a landscaped median separating the traffic entering the neighborhood from the traffic exiting the neighborhood. The required median shall be provided within



a common area that is owned and maintained by the homeowners' association and shall feature all of the following:

- i. The dividing median shall be at least 8 feet wide and at least 50 feet long (measured from back of curb to back of curb). The median and its plantings shall not be permitted to interfere with necessary sight visibility lines;
  - ii. At least one canopy tree for every 50 linear feet that the median extends (in length);
  - iii. At least two ornamental trees for every 50 linear feet that the median extends (in length); and
  - iv. The required median shall be completely covered with living plant materials and shall be provided with an automatic underground irrigation system as specified in Section 146-135(e)(2) of the Zoning Ordinance. Non-living materials including, but not limited to concrete, pavers, stone, decomposed granite, or similar materials may be utilized for secondary design elements, sidewalks, and/or crosswalks.
  - v. The City Engineer and/or Fire Marshal shall be permitted to allow deviations to these standards as needed on a case by case basis to facilitate proper vehicular access, emergency access, sight visibility, and other related engineering design or life safety principles.
3. A minimum of 60 percent of a property's frontage on a natural area such as a creek and/or lake that includes public participation of any kind (e.g.: NRCS lakes) shall feature single loaded streets adjacent to them. A single loaded street shall mean a street that only features houses with related driveways on a single side.
  4. Lots that are less than 50 feet in width shall not provide any front-entry off-street parking (including drives, garages, and carports).

*(d) Meritorious Exception.*

1. If unique circumstances that exist on the property or an innovative design prevents strict adherence with this Section 146-141, the Planning and Zoning Commission shall consider, upon the request of the applicant and following a properly noticed public hearing, the approval or disapproval of a meritorious exception from identified portions of this Section 146-141 in conjunction with the platting of such property in accordance with Chapter 142 (Subdivision Regulations) of the Code of Ordinances.
2. Prior to considering a meritorious exception from the requirements of this section or an appeal of the Planning and Zoning Commission's action regarding a meritorious exception, written notice of a required public hearing shall be sent to all property owners according to the procedures 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.
3. The applicant for a meritorious exception shall prove that the meritorious exception from these requirements is warranted under the circumstances presented. A meritorious exception may be granted if the Planning and Zoning Commission finds that:

- i. Unique circumstances exist on the property or an innovative design is proposed that make the application of this section unduly burdensome on the applicant;
  - ii. The meritorious exception will have no adverse impact on current or future development;
  - iii. The meritorious exception is in keeping with the spirit of the zoning regulations, and will have a minimal impact, if any, on the surrounding land uses;
  - iv. The meritorious exception shall not reduce the quality of the development; and
  - v. The meritorious exception will have no adverse impact on the public health, safety and general welfare.
  - vi. A financial hardship shall not be considered a basis for the granting of a meritorious exception.
4. Action by the Planning and Zoning Commission regarding a requested meritorious exception may be appealed to the City Council. Within 14 calendar days of the action by the Commission, the appellant shall notify the Director of Planning in writing of the desire to appeal the decision of the Commission to the City Council. The Director of Planning shall prepare a report and place the appeal on the agenda for consideration by the Council."

Section 41. That the Code of Ordinances, City of McKinney, Texas, Section 146-162 of the Zoning Ordinance, is hereby amended and shall read as follows:

**"Sec. 146-162. - Administrative official.**

- (a) The provisions of this chapter shall be administered and enforced by the Director of Planning, unless otherwise specified herein.
- (b) The Director of Planning, Chief Building Official, or their designee shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter.
- (c) Whenever any construction work is being done contrary to the provisions of this chapter, the Director of Planning, Chief Building Official, or their designee may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Director of Planning, Chief Building Official, or their designee to proceed with the work."

Section 42. That the Code of Ordinances, City of McKinney, Texas, Section 146-164(6) of the Zoning Ordinance, is hereby amended and shall read as follows:

- "(6) *Limitation on resubmission of petition.* No rezoning, amendment, supplement, change, or repeal of any section of this chapter, which has been legally rejected by the city council shall be again considered either by the planning and zoning commission or the city council before the expiration of one year from the date of the original action. If a denied rezoning, amendment, supplement, change or repeal of any section of this chapter is substantially changed from its original form, it may be reconsidered immediately. The director of planning shall determine if a rezoning, amendment, supplement, change or repeal of any section of this chapter is substantially changed on a case by case basis. If the director of planning

determines that a request is not substantially different, the requestor may appeal the director of planning's determination to the city council."

Section 43. That the Code of Ordinances, City of McKinney, Texas, Section 146-165(3) of the Zoning Ordinance, is hereby amended and shall read as follows:

"(3) Powers and duties of board.

- a. Subpoena witnesses, etc. The board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.
- b. Appeals based on error. The board shall have the power to hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by the chief building official and/or director of planning in the enforcement of this chapter.
- c. Special exceptions. The board shall have the power to hear and decide special exceptions to the terms of this chapter upon which the board is required to pass as follows or elsewhere in this chapter:
  1. To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the master plan and present no conflict or nuisance to adjacent properties;
  2. To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare;
  3. To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of the ordinance from which this section is derived; and
  4. Permit the reconstruction of a nonconforming building, which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than 50 percent of its total appraised value as determined by the Collin Central Appraisal District, where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
- d. Variances. The board shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.
- e. Changes. The board shall have no authority to change any provisions of this chapter and its jurisdiction is limited to hardship and borderline cases, which may arise from time to time. The board may not change the district designation of any land either to a more restrictive or less restrictive zone."

Section 44. That the Code of Ordinances, City of McKinney, Texas, the Title of Appendix C of the Zoning Ordinance, is hereby amended and shall read as follows:

**“APPENDIX C. - HISTORIC DISTRICT AND CORRIDOR COMMERCIAL MAPS”**

Section 45. That the Code of Ordinances, City of McKinney, Texas, Appendix F, Section F-1 of the Zoning Ordinance, is hereby amended and shall read as indicated in Exhibit A, attached hereto.

Section 46. That the Code of Ordinances, City of McKinney, Texas, Appendix F, Section F-2 of the Zoning Ordinance, is hereby amended and shall read as follows:

**“Sec. F-2. - Reserved.”**


Section 47. 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 48. 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 49. 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 5<sup>TH</sup> DAY OF NOVEMBER, 2012.**

CITY OF MCKINNEY, TEXAS


  
BRIAN LOUGHMILLER  
Mayor

CORRECTLY ENROLLED:

  
SANDY HART, TRMC, MMC  
City Secretary  
BLANCA I. GARCIA  
Assistant City Secretary

DATE: November 5, 2012

APPROVED AS TO FORM:

  
MARK S. HOUSER  
City Attorney

Sec. F-1. Schedule of areas, densities, heights, lot coverages, setbacks, and yards.

Zoning Districts	Areas, Densities, Heights, Lot Coverages, Setbacks, and Yards										
	Minimum lot area	Minimum lot width	Minimum lot depth	Minimum front yard or building line	Minimum rear yard setback or primary structure	Minimum side yard of interior lots	Minimum side yard of corner lots	Maximum height of structure	Maximum lot coverage	Maximum density (dwelling units per acre)	
AG	10 acre	150'	n/a	35'	35'	20'	25'	35'	n/a	n/a	
RED-1	1 acre	150'	150'	25' (3)	25'	20'	25'	35'	n/a	1.0	
RED-2	2 acre	200'	200'	25' (3)	25'	20'	25'	35'	n/a	0.5	
RS SM	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	
RS 120	12,000 sq. ft.	80'	120'	20' (3)	15'	10'	15'	35'	n/a	3.5	
RS 84	8,400 sq. ft.	70'	110'	20' (3)	15'	10'	15'	35'	n/a	5.0	
RS 72	7,200 sq. ft.	60'	100'	20' (3)	15'	6'	15'	35'	n/a	6.0	
RS 60	6,000 sq. ft.	50'	100'	20' (3)	15'	5'	15'	35'	n/a	7.0	
RS 45	4,500 sq. ft.	40'	100'	20' (3)	15'	10' building separation	15'	35'	n/a	8.0	
RD 30	6,000 sq. ft.	50'	100'	20'	20'	7'	15'	35'	n/a	14.5	
RG 27	2,700 sq. ft.	25'	100'	20'	20'	14' between building ends	15'	35'	n/a	14.5	
RG 25	2,500 sq. ft. per unit	50'	100'	20'	20'	7'	25'	35'	n/a	17.0	
RG 15 (18)	3,600 sq. ft. per unit	60'	100'	35'	45'	45'	35'	35' (2 stories)	50%	24.0	
MF-1	3,600 sq. ft. per unit	60'	100'	35'	45'	45'	35'	35' (2 stories)	50%	12.0	
MF-2	2,700 sq. ft. per unit	60'	100'	35'	45'	45'	35'	35' (2 stories)	50%	16.0	
MF-3	2,100 sq. ft. per unit	60'	100'	35'	45'	45'	35'	35' (2 stories)	50%	20.0	
MP	(1)	(1)	(1)	(1)	(1)	(1)	(1)	35'	n/a	8.0	
NC	7,500 sq. ft.	50'	n/a	15'	0'	0'	n/a	35'	40%	n/a	
BN	7,500 sq. ft.	50'	n/a	15'	0'	0'	n/a	35'	70%	n/a	
BG	10,000 sq. ft.	50'	n/a	25'	0'	0'	n/a	45'	95%	n/a	
C	10,000 sq. ft.	100'	n/a	25'	0'	0'	n/a	55' (4)	50%	n/a	
O-1	7,500 sq. ft.	50'	n/a	15'	0'	0'	n/a	35'	50%	n/a	
O	10,000 sq. ft.	100'	100'	25'	0'	0'	n/a	55' (4)	50%	n/a	
BC	10,000 sq. ft.	100'	100'	25'	0'	0'	n/a	45'	70%	n/a	
ML	10,000 sq. ft.	100'	100'	25'	0'	0'	n/a	n/a	75%	n/a	
MH	10,000 sq. ft.	100'	100'	25'	0'	0'	n/a	n/a	50%	n/a	
AP	n/a	n/a	n/a	25'	(1)	(1)	n/a	n/a	n/a	n/a	
GC (1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	
PD	(2)	(2)	(2)	0'	(2)	(2)	(2)	(2)	(2)	(2)	
MTC (1)	n/a	n/a	n/a	0'	0'	0'	0'	55'	(1)	n/a	
CHD (1)	n/a	n/a	n/a	0'	0'	0'	0'	55'	100%	n/a	

- Notes:
- (1) See district regulations.
  - (2) Established by ordinance.
  - (3) A 10 foot encroachment zone shall be permitted between the building setback and the property line in which porches, patios, and similar structures may be constructed.
  - (4) The maximum building height may be increased to a maximum height of 75 feet if each building setback is increased by two feet for every foot of increased building height.

EXHIBIT A