

**ORDINANCE NO. 2017-07-\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, CREATING SECTION 122-178(d) OF THE CODE OF ORDINANCES ESTABLISHING A SPECIAL EXCEPTION FOR INCREASED FENCE HEIGHTS IN THE HISTORIC OVERLAY DISTRICT; ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF**

**WHEREAS**, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

**WHEREAS**, the City Council has recognized that certain provisions of the Code of Ordinances should be reviewed and updated; and

**WHEREAS**, amendments to these provisions have been proposed and the City Council of the City of McKinney is of the opinion that these sections should be amended.

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

Section 1. Section 122-178(d) of the Code of Ordinances, City of McKinney, Texas, is hereby established and shall read as follows:

“(d) The board of adjustment may grant a special exception allowing side and/or rear yard fences in the historic overlay district up to a maximum height of eight feet six inches (8½ feet), provided that the board finds that:

- (1) The lot has unusual topographical conditions that distinguish it from other similarly sized and shaped lots, and where such conditions create a hardship that renders privacy and security inadequate without such relief; or
- (2) All of the following provisions have been met:
  - a. The lot shall have an existing residential structure on it or a building permit to construct a residential structure has been issued;
  - b. The proposed fence does not negatively impact the health, safety and welfare of the public;
  - c. The proposed fence’s design is complimentary to other existing fences in the area; and
  - d. The proposed fence’s design, location and height is appropriate for the context of the area.”

Section 2. 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 3. 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 4. 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 18<sup>TH</sup> DAY OF JULY, 2017.**

CITY OF MCKINNEY, TEXAS

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GEORGE C. FULLER  
Mayor

CORRECTLY ENROLLED:

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

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

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney