

ORDINANCE NO. 2020-04-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 110, ENTITLED "UTILITIES," OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY, TEXAS, THROUGH THE AMENDMENT OF SECTION 110-1, "DEFINITIONS," BY ADDING DEFINITIONS THERETO FOR THE PHRASES "EXTRATERRITORIAL JURISDICTION" OR "ETJ," "PLUMBING CODE," "QUALIFIED LICENSED INSPECTOR," "RETAIL UTILITY SERVICE," AND "SERVICE," AND THROUGH THE AMENDMENT OF EXISTING ARTICLE II, ENTITLED "WATER AND SEWER CONNECTIONS," BY AMENDING SECTIONS 110-21 THROUGH 110-23, AND 110-32, AND ADDING NEW SECTIONS 110-47 THROUGH 110-51 AS SET FORTH HEREIN BELOW; REPEALING ALL CONFLICTING ORDINANCES; RESERVING ALL EXISTING RIGHTS AND REMEDIES; PROVIDING FOR IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE

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

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

WHEREAS, the City Council of the City of McKinney, Texas (the "City Council") enacted Chapter 110 of the McKinney Code to provide an equitable charge for water and sanitary sewer connections and a proportionate distribution of the cost of potable water and sanitary sewer facilities to serve customers in the area covered by the City's Certificate of Convenience and Necessity both within the City's corporate limits and its extraterritorial jurisdiction (collectively the "Certificated Area"); and

WHEREAS, Section 552.001(d) of the Texas Local Government Code specifically empowers a city that owns or operates a utility system including a water and/or sewer system to prescribe the kind of water mains and sewer pipes that may be used inside or outside the city; and

WHEREAS, Section 552.001(d) of the Texas Local Government Code also allows a city to inspect those facilities, and require that they be kept in good condition at all times and prescribe the necessary rules, which may include penalties, concerning such water and sewer facilities; and

WHEREAS, the City Council recognizes that additional requirements are necessary for persons desiring to connect to the City's water and sanitary sewer services; and

WHEREAS, the City Council finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of McKinney, Texas, to amend certain provisions of Chapter 110, entitled "Utilities," of the McKinney Code as provided herein below.

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

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

Section 2. From and after the effective date of this Ordinance, Section 110-1, "Definitions," of the McKinney Code, is hereby amended to add the following additional definitions to be inserted in alphabetical order to existing Section 110-1, "Definitions," to hereafter read as follows:

"Extraterritorial jurisdiction or ETJ, as defined by Tex. Loc. Gov't Code § 42.021, means the unincorporated area of land that is contiguous to the corporate boundaries of the City and within five (5) miles of those boundaries.

Plumbing Code means the most recent edition of the *International Plumbing Code* as adopted and amended by the City.

Qualified licensed inspector means a person who is licensed by the State of Texas to perform the type of examination(s) and test(s) called for in this Chapter as determined by the City. Depending on the type of inspection involved, persons with one or more of the following credentials may be considered a *qualified licensed inspector*:

Plumbing Inspectors and Water Supply Protection Specialists licensed by the TSBPE or Customer Service Inspectors who are currently licensed by the TCEQ.

Retail utility service means potable water service or sanitary sewer service or both provided by the City to a Consumer for compensation.

Service means any act performed, anything furnished or supplied, and any facilities or lines committed or used by the City in the performance of its duties under this chapter to its patrons, employees, other retail public utilities, and the public, as well as the interchange of facilities between the City and another retail public utility."

Section 3. From and after the effective date of this Ordinance, Section 110-21, "Purpose," of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 110-21, also entitled "Purpose," to hereafter read as follows:

"Sec. 110-21. - Purpose.

The intention and purpose of this article is to provide an equitable charge for water and sanitary sewer connections and a proportionate distribution of the cost of potable water and sanitary sewer facilities to serve the City's customers within the Certificated Area. This article is also intended to require that all extensions of and connections to the City's water and sewer utilities comply with and conform to the minimum requirements of Texas and federal law in addition to the City's regulations to protect the City's public drinking water supply and drinking water supply system (collectively "Water System") from contamination or pollution including, but not limited to, proper system construction or configuration on the Customer's side of the meter."

Section 4. From and after the effective date of this Ordinance, Section 110-22, "Location of Lines," of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 110-22, entitled "Location of Lines; Access; and System Protection," to hereafter read as follows:

"Sec. 110-22. – Location of Lines; City Access; and System Protection.

(a) No water or sewer service line shall be laid except in a dedicated street, alley or easement in favor of the City. The City shall have the right to approve the location of, and inspect, the water service meter, pipe, and

appurtenant equipment on customer's property necessary to connect customer to the Water and Sewer Systems.

(b) City shall have access to its meter(s) and equipment located upon customer's property at all reasonable and/or necessary times for any purpose connected with or in the furtherance of its business operations, and upon disconnection or discontinuance of services, the City shall have the right to remove any of its equipment from customer's property.

(c) Customer shall install, at customer's own expense, any necessary service lines from the City's facilities and equipment to the point of use, including any customer service isolation valves, backflow prevention devices, clean-outs, and other equipment as may be specified by the City.

(d) City shall also have access to customer's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, illegal lead materials, other unauthorized plumbing practices and any other violations or possible violations of state and federal statutes and regulations relating to the federal Safe Drinking Water Act, Chapter 341 of the Texas Health & Safety Code and/or Title 30, Chapter 290 of the Texas Administrative Code during the City's regular business hours. These inspections shall be conducted by the City or its designated agent prior to initiating service and periodically thereafter; when there is reason to believe that cross-connections or other potential contamination hazards exist; or after any major changes to the private water distribution facilities."

Section 5. From and after the effective date of this Ordinance, Section 110-23, "Permit," of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 110-23, entitled "Permit; Requirements to Connect; Meters," to hereafter read as follows:

"Sec. 110-23. – Permit; Requirements to Connect.

(a) It shall be unlawful for any person to tie onto any water line or sewer line belonging to the City without first complying with the provisions of this chapter, securing a permit from the City, and paying the fees as provided for in this chapter.

(b) All persons desiring retail utility services from the City or desiring to transfer service from a service location to another service location shall file an application with the City at the City's designated location. No connection to the City's utility system shall be made before the person has met the application, fee, and extension requirements of this chapter and, if applicable, the City's subdivision regulations.

(c) The City shall provide utility service to only "qualified service applicants," defined below, and no utility service application shall be accepted by the City unless the application is submitted by a qualified service applicant. The request by a qualified service applicant shall be filled within five (5) working days unless the City and the qualified service applicant have entered into a utility improvement agreement. If the City and the qualified service applicant have entered into a utility improvement agreement, service will be provided in accordance with that utility improvement agreement.

(d) A person is a "qualified service applicant" if the person has met the following conditions:

(1) The person has submitted a completed and signed utility service application and service agreement to the City, has presented

a driver's license or social security card to the City, a copy of which the City shall keep on file, and has provided the City with verifiable proof of the applicant's right to occupy the service address. For retail service to a corporation, organization, government or political subdivision or agency, business trust, partnership, association, or any other legal entity, the person shall also provide verifiable documentation of the person's authority to request service on behalf of the entity.

(2) For developers in the City limits or ETJ of the City desiring retail utility service from the City, the developer has complied with the City's subdivision regulations to obtain retail utility service from the City for the subdivision.

(3) For persons required to obtain a building permit from the City, the person has paid all the required building permitting fees and applicable impact fees.

(4) For persons desiring utility service for property or service connections located outside the City limits of the City, the person has complied with the requirements of subsection (k) of this Section.

(5) The person has paid all applicable charges and fees prescribed by the City's fee schedules, including any tapping and metering charges, all security deposits, construction investigation fees, and utility connection and plumbing code inspection fees.

(6) The person has complied with the City's extension of utility facilities requirements, if necessary, and the facilities have been extended, inspected, and accepted by the City.

(7) The person has paid all the pro rata charges as required by this chapter and the City's subdivision regulations, if applicable.

(8) There is capacity to serve the person or development, or, if the Director of the City's Engineering Department ("Director of Engineering") determines there is not capacity to service the person or development, the person or developer has entered into a development agreement or utility improvement agreement, as applicable, with the City for the expansion of the City's utility facilities, and complied with the terms of that agreement.

(9) The person requesting utility services has provided a service address to which utility service will be provided.

(10) If required, an inspection of the utility connection has been conducted by a Plumbing Inspector or a Water Supply Protection Specialist licensed by the Texas State Board of Plumbing Examiners ("TSBPE") or by a Customer Service Inspector, licensed by the Texas Commission on Environmental Quality ("TCEQ"), and such inspection has been approved by the City.

All references in this chapter to "applicant" or "Applicant" means a "Qualified Service Applicant."

(e) The City may refuse service to a person if, at the time of the application, the person is indebted to the City, or if that person is indebted to another retail public utility, for the same kind of service for which the

person has applied from the City. However, if the person is disputing the indebtedness and is otherwise in compliance with the depository requirements, service shall not be refused.

(f) No application shall be approved if the City determines that the requested service is for unreasonable consumer uses that will threaten or endanger the City's utility system or threaten the City's ability to provide continuous and adequate service.

(g) Any person denied service under this ordinance may request review of the City's decision. The request shall be made to the City Manager, who shall place the request before the City Council. The City Manager may request additional information of the person denied service. The City Council may grant or deny service, after review of the request, in accordance with the provisions of this chapter.

(h) It shall be unlawful for any person not employed by the City to uncover and make any connection with the utility systems of the City without first obtaining the consent of the City.

(i) If a utility improvement agreement is required by the City in order to obtain utility services from the City, or the City and a developer desire to enter into a development agreement, the agreement, at a minimum, shall incorporate the requirements outlined in this chapter and shall include the following:

(1) Provide all costs associated with required administration, design, construction, and inspection of facilities for utility service to the applicant's service address and terms by which these costs are to be paid, and specify that the City is under no obligation to provide service to the applicant unless and until all required fees have been paid by the applicant.

(2) Describe all fees and costs to be paid to the City, including construction investigation fees, tapping and metering fees, and pro rata reimbursement charges, if applicable.

(3) Describe the facilities that are required to be constructed and the materials to be used in the construction of the facilities, state the size of each meter to be installed, define who will be responsible for the construction of those projects, and require the facilities to be sized and constructed in accordance with the City's standards and as determined by the City's Director of Engineering.

(4) If the facilities are to be constructed by the City, prescribe the procedures by which the applicant shall accept or deny a contractor's bid for facilities to be constructed by the City, thereby committing to continue or discontinue the project.

(5) Describe the terms and conditions by which the City may terminate its obligations to provide service.

(6) Outline how the City will administer the applicant's project with respect to:

- a. Design of the applicant's onsite utility facilities;
- b. Securing and qualifying bids;

- c. Selection of a qualified bidder for construction for facilities the City intends to construct;
- d. Dispensing advanced funds for construction of facilities required for the applicant's service;
- e. Inspecting construction of facilities; and
- f. Testing facilities and closing the project.

(7) Define the terms by which the applicant shall indemnify the City from all third-party claims or lawsuit in connection with the project contemplated.

(8) Define the terms by which the applicant shall deed all constructed facilities to the City and by which the City shall assume operation and maintenance responsibility, including any enforcement of warranties in connection with construction of the applicant's project.

(9) Define the terms by which the applicant shall grant title or easement for utilities, constructed facilities, and facility sites and terms by which the applicant shall provide for the securing of required utility easements and sites.

(10) Provide termination date.

(11) If applicable, provide for pro rata reimbursement by the owners of all intervening property served by such extension of facilities constructed by or paid for by the applicant. Such pro rata reimbursement provisions shall comply with this chapter.

(j) All customers of the City's utility system, including those customers located in whole or in part outside the corporate limits of the City, shall comply with the cross-contamination and backflow prevention requirements of the City.

(k) In addition to the other provisions of this chapter, this subsection applies to any retail utility service provided and requested to be provided by the City to premises that are located, in whole or in part, outside the corporate limits of the City.

(1) Any customer receiving utility services outside the City limits may not maintain connection to the City's utility system or connect to the City's utility system unless the customer is in compliance with the applicable utility regulations, state law, the Plumbing Code, and other City requirements relating to the provision of utility service. Any customer failing to be in compliance or refusing reasonable requests for inspection of facilities connected or to be connected to the City's utilities may be disconnected or declined services.

(2) No retail utility service shall be provided at premises located in whole or part outside the corporate limits of the City unless the person desiring such service has filed an application with the City, the City has determined the application meets the requirements of this chapter, and if applicable the City's subdivision regulations, and

approved such application, and the person is a Qualified Service Applicant as defined by this Section.

(3) The application for service to property located outside the corporate limits of the City shall include the following statement:

THE APPLICANT UNDERSTANDS AND AGREES THAT ALL ORDINANCES OF THE CITY (AS NOW WRITTEN AND AS HEREINAFTER AMENDED) RELATING TO UTILITY SERVICES OR TO PLUMBING MATTERS, INCLUDING BUT NOT LIMITED TO CROSS-CONNECTION AND BACK-FLOW PROTECTION REQUIREMENTS, AND INCLUDING ORDINANCES THAT IMPOSE CRIMINAL SANCTIONS, APPLY TO UTILITY SERVICES PROVIDED BY THE CITY TO PREMISES OUTSIDE OF THE CITY'S CORPORATE LIMITS. THE APPLICANT ALSO UNDERSTANDS AND AGREES THAT THE CITY MAY SUSPEND OR DISCONNECT SUCH SERVICES IN THE EVENT THAT THE APPLICANT OR ANY OTHER PERSON AT THE PREMISES TO BE SERVED FAILS TO COMPLY WITH SUCH ORDINANCES.

(4) No utility services application shall be accepted by the City unless a completed and signed application is submitted to the City that meets the requirements described in this section, the person is a Qualified Service Applicant, and the person has complied with the following requirements:

a. The person has paid the prescribed utility connection fee, if required, paid the plumbing code or customer service inspection fees and has presented to the City written evidence from a qualified licensed inspector that the plumbing system at the premises to be served has been inspected and is in compliance with the Plumbing Code;

b. The person has complied with the City's utility facilities extension requirements, if necessary."

(l) All customers of the City's utility systems, including those customers located in whole or in part outside the corporate limits of the City, shall have a customer service inspection performed by a Customer Service Inspector approved by the City, and obtain a customer service inspection certificate completed on TCEQ Form 20699 or an equivalent form approved by the TCEQ, prior to the City providing continuous water service to new construction, or to any existing service either when the City has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities serving the customer.

(1) Individuals with the following credentials and who are approved by the City shall be recognized as capable of conducting a customer service inspection certification.

a. Plumbing Inspectors and Water Supply Protection Specialists licensed by the TSBPE.

b. Customer Service Inspectors who are currently licensed by the TCEQ.

(2) As potential contaminant hazards are discovered, they shall be promptly eliminated to prevent possible contamination of the water supplied by the Water System. The existence of a health hazard, as identified in 30 Tex. Admin. Code § 290.47(f), shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the health hazard no longer exists, or until the health hazard has been isolated from the Water System in accordance with 30 Tex. Admin. Code § 290.44(h).

(3) These customer service inspection requirements are not considered acceptable substitutes for and shall not apply to the sanitary control requirements stated in 30 Tex. Admin. Code § 290.102(a)(5).

(4) A customer service inspection is an examination of the private water distribution facilities for the purpose of providing or denying water service. This inspection is limited to the identification and prevention of cross-connections, potential contaminant hazards, and illegal lead materials. If a customer service inspection is performed by a customer service inspector, the customer service inspector shall report any violations immediately to the City's plumbing inspection department.

(5) A customer service inspection is not a plumbing inspection as defined and regulated by the TSBPE. The City's Plumbing Code requires that TSBPE licensed plumbing inspectors perform plumbing inspections of all new plumbing and alterations or additions to existing plumbing within the City's corporate limits. A customer service inspection may be performed by a plumbing inspector licensed by the TSBPE as a part of the more comprehensive plumbing inspection under the Plumbing Code. (As noted above, customer service inspections that are required in the City's ETJ may be performed by a Customer Service Inspector who is currently licensed by the TCEQ.)"

Section 6. From and after the effective date of this Ordinance, Section 110-32, Payment of Pro Rata Charges upon Subdivision or Development," of the McKinney Code, is hereby deleted in its entirety and replaced with a new Section 110-32, also entitled Payment of Pro Rata Charges upon Subdivision or Development," to hereafter read as follows:

"Sec. 110-32. - Payment of Pro Rata Charges upon Subdivision or Development.

Should an owner or developer, whose property fronts on a street, alley and/or easement containing an existing water or sewer main, subdivide or develop such property or connect to the City's water or sewer system, he shall pay the pro rata charges on all property owned by him for the front footage along the street, alley and/or easement where the City's mains are located."

Section 7. From and after the effective date of this Ordinance, Division 1, "Generally," of Article II, "Water and Sewer Connections," of Chapter 110, "Utilities," is hereby amended by adding new Sections 110-47 through 110-51, entitled "Meters," "Restrictions and Certain Corrections," "Backflow, Siphonage," "Rainwater Harvesting System," and "Fire Hydrant Flow Standards," respectively, to read as follows:

“Sec. 110-47. - Meters.

- (a) All water furnished by the City shall be metered by meters that are maintained and owned by the City.
- (b) The meter and connection is for the sole use of customer and will be used to provide service to ONLY one (1) dwelling or one (1) business authorized to receive such service by City.
- (c) Any attempt to tamper with or to by-pass a meter, or to divert water utility service from one property to another, or to share, resell, or submeter water to any other person, dwelling, business, or property is prohibited.
- (d) Unauthorized users of City services shall be prosecuted to the extent allowed by law under Texas Penal Code § 28.03.

Sec. 110-48. – Restrictions and Certain Corrections.

- (a) No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an airgap or an appropriate backflow prevention assembly in accordance with state plumbing regulations. Additionally, all pressure relief valves and thermal expansion devices must be in compliance with state plumbing codes.
- (b) No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an airgap or a reduced pressure-zone backflow prevention assembly and a service agreement must exist for annual inspection and testing by a certified backflow prevention device tester.
- (c) No connection which allows water of any kind or nature (including but not limited to condensing, cooling, or industrial process water) to be returned to the public drinking water supply is permitted.
- (d) No pipe or pipe fitting which contains more than 0.25 % lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
- (e) No solder or flux that contains more than 0.2 % lead may be used for the installation or repair of plumbing at any connection which provides water for human use.
- (f) No installation of any plumbing fixture that is not in compliance with state-approved plumbing regulation is permitted.

Sec. 110-49. – Backflow, Siphonage.

- (a) No water connection from the Water System shall be allowed to any residence or establishment where an actual or potential contamination hazard exists unless the Water System is first protected from contamination.
 - (1) At any residence or establishment where an actual or potential contamination hazard exists, additional protection shall be required at the meter in the form of an air gap or backflow prevention assembly. The type of backflow prevention assembly required shall be determined by the specific potential hazard identified in 30 Tex. Admin. Code § 290.47(f).

(2) At any residence or establishment where an actual or potential contamination hazard exists and an adequate internal cross-connection control program is in effect, backflow protection at the water service entrance or meter is not required.

(i) An adequate internal cross-connection control program shall include an annual inspection and testing by a licensed backflow prevention assembly tester on all backflow prevention assemblies used for health hazard protection.

(ii) Customer shall provide copies of all such inspection and test reports to the City approximately one month prior to the annual anniversary of the customer's connection to the Water System.

(iii) Customer's failure to provide such inspection and test reports to the City may result in penalty, fine or the disconnection of service.

(b) Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against back siphonage and cross-contamination.

(c) All backflow prevention assemblies that are required according to this section and the table located in 30 Tex. Admin. Code § 290.47(f) shall be tested upon installation and immediately after repairs or relocation by a licensed backflow prevention assembly tester and certified to be operating within the required specifications. In addition, all backflow prevention assemblies that are installed to provide protection against health hazards shall be tested and certified to be operating within the required specifications at least annually by a backflow prevention assembly tester licensed by the TCEQ utilizing gauges conforming to the requirements of 30 Tex. Admin. Code § 290.44(h).

(1) The backflow prevention assembly tester shall include the test gauge serial numbers on the Backflow Prevention Assembly Test and Maintenance Report, completed on TCEQ Form 20700 or an equivalent form approved by the TCEQ, to ensure such gauges have been tested for accuracy.

(2) A test report must be completed by the recognized backflow prevention assembly tester for each assembly tested. The signed and dated original must be submitted to the City for recordkeeping purposes.

(d) The use of a backflow prevention assembly at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection on internal hazards as outlined and enforced by the Plumbing Code.

Sec. 110-50. – Rainwater Harvesting System.

(a) If a structure that is connected to the Water System has a rainwater harvesting system, the structure must have appropriate cross-connection safeguards as provided hereinbelow.

(1) A privately-owned rainwater harvesting system that is connected to the Water System for a back-up supply shall have a backflow prevention assembly or an air gap installed at the storage facility for the harvested rainwater to ensure physical separation between the rainwater harvesting system and the Water System.

(2) At each residence or facility where water from a rainwater harvesting system is used for potable purposes and there is a connection to a public water system, the rainwater harvesting system shall be installed and maintained by a master plumber or journeyman plumber licensed by the TSBPE who holds an endorsement issued by the TSBPE as a Water Supply Protection Specialist.

(A) The Water Supply Protection Specialist shall notify City regarding the installation and maintenance of the rainwater harvesting system and confirm to the City that the rainwater harvesting system is operating in conformity to all applicable laws, rules and regulations.

(B) The Water Supply Protection Specialist shall also notify the City at such time as the Water Supply Protection Specialist is no longer maintaining the rainwater harvesting system and upon the occurrence of any event or inspection during which the rainwater harvesting system fails to operate in accordance with all applicable laws, rules and regulations.

(3) A person who intends to connect a rainwater harvesting system to the Water System must give prior written notice of that intention to the City before such rainwater harvesting system is connected directly or indirectly to the Water System and/or any structure that is connected to the Water System to enable the City to inspect or otherwise cause said rainwater harvesting system to be inspected for conformity to the Code of Ordinances, City of McKinney, Texas and all other applicable federal and state laws, statutes, rules and regulations

(4) If the Water System is proposed for use as a back-up supply for the rainwater harvesting system, the Water System may only be connected to the water storage tank and may not be connected to the plumbing of a structure.

(5) Customer's failure to comply with the requirements of this Section may result in penalty, fine or the disconnection of service.

Sec. 110-51. – Fire Hydrant Flow Standards.

(a) This Section is adopted in addition to the ordinances and regulations adopted by the City pursuant to the authority afforded by Chapter 212 of the Texas Local Government Code requiring a developer or owner of property that is being subdivided to provide sufficient water flow and pressure to such property as will satisfy both the domestic uses proposed for the property plus fire flow for purposes of providing emergency fire suppression capabilities. In this Section:

(1) "Residential area" means an area used principally for private residences that is improved with at least 100 single-family homes and has an average density of one home per half acre.

(2) "Utility" includes a "public utility" and "water supply or sewer service corporation" as defined by Texas Water Code § 13.002.

(b) Any Utility within the City's corporate limits and ETJ shall maintain a minimum sufficient water flow and pressure to fire hydrants in a residential area located in the City or the City's ETJ.

(c) In addition to a its maximum daily demand, the Utility must provide and maintain, for purposes of emergency fire suppression:

(1) a minimum sufficient water flow of at least 250 gallons per minute for at least two hours; and

(2) a minimum sufficient water pressure of at least 20 psi.

(d) The City shall have the right to adopt a fire flow standard exceeding the minimum standards set out in subparagraph (c) of this Section based on:

(1) the density of connections;

(2) service demands; and

(3) other relevant factors.

In the event of any conflict between the fire flow standard adopted in this Section and the fire flow standard adopted by the City by and through the City's Subdivision Ordinance and/or the edition of the International Fire Code currently adopted by the City, the more stringent provisions shall apply.

(e) Notwithstanding anything to the contrary provided herein, the City will not require another Utility located in the City's corporate limits or ETJ to provide water flow and pressure in a fire hydrant greater than that provided by the City's Water System.

(f) Nothing contained in this Ordinance is intended to require a Utility to build, retrofit, or improve infrastructure in existence at the time this Ordinance is adopted.

(g) The City will attempt to enter into a written memorandum of understanding with each Utility, other than the City's Utility, which Utility provides water service within the City's corporate limits and/or ETJ that will provide for:

(1) the necessary testing of fire hydrants; and

(2) other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with this subsection.

(h) The City Secretary will submit a signed copy of the respective memorandum of understanding to the executive director of the TCEQ within 60 days of the execution of the memorandum of understanding between the City and each respective Utility.

(i) The City will notify the executive director of the TCEQ of any Utility's failure to comply with a standard adopted under this Section."

Section 8. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

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

portions of the Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

- Section 10. All rights and remedies of the City of McKinney are expressly saved as to any and all violations of the provisions of any ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.
- Section 11. All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.
- Section 12. Any violation of this Ordinance can be enjoined by a suit filed in the name of the City of McKinney in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City of McKinney.
- Section 13. Any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to the penalty provisions set forth in Section 1-18 of the McKinney Code; and each and every day such violation shall continue shall be deemed to constitute a separate offense.
- Section 14. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney following the City Council's adoption hereof as provided by law.
- Section 15. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THE 7TH DAY OF APRIL, 2020.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney