

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 98 OF THE CITY OF MCKINNEY CODE OF ORDINANCES BY AMENDING SECTION 98-83 RELATING TO THE HISTORIC NEIGHBORHOOD IMPROVEMENT ZONE AND AMENDING 98-84 RELATING TO THE HISTORIC NEIGHBORHOOD IMPROVEMENT ZONE PROGRAM; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY PROVISION; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, In 2007 the City Council of the City of McKinney appointed a committee to study and initiate programs to benefit property owners who desire to invest in the diverse housing mix in historic, central McKinney; and

WHEREAS, the committee adopted a philosophy whereby its proposed programs are tailored to preserve the City's unique and historic neighborhoods while encouraging property owners to maintain and/or rehabilitate their residences; and

WHEREAS, the committee desires to initiate its first program (Phase I) to raise awareness to the larger, integrated set of economic initiatives for the affected areas; and

WHEREAS, the committee sought and received City Council approval of a program wherein owners in a defined geographic Historic Neighborhood Improvement Zone ("HNIZ") may receive tax exemptions based on verified investment meeting specified criteria; and

WHEREAS, the HNIZ program currently allows property owners to receive an exemption of up to 100% of their City of McKinney ad valorem taxes for up to seven (7) years based upon specified historic designations and either 30% or 50% for fifteen Years (15) for residential improvement expenditures; and

WHEREAS, the creation of a Neighborhood Empowerment Zone overlay of the area comprising the HNIZ program will help promote rehabilitation of affordable housing in the zone; and

WHEREAS, the City Council of the City of McKinney is of the opinion that the HNIZ program should be implemented allowing for an exemption of ad valorem taxes for residential property owners within the HNIZ area who qualify for and meet the requirements of the program; and

WHEREAS, the City Council of the City of McKinney desires that the creation of a Neighborhood Empowerment Zone will benefit the citizens of the City, by increasing the public health, safety, and welfare of the citizens and that this area meets the requirements of Section 312.202, Tax Code as a reinvestment zone.

WHEREAS, the City Council on February 6, 2007 passed ordinance 2007-02-014 in accordance with the foregoing premises and now desires to make certain amendments thereto to promote the purposes described hereinabove.

WHEREAS, the City Council on February 6, 2007 passed ordinance 2013-11-110 in accordance with the foregoing premises and now desires to make certain amendments thereto to promote the purposes described hereinabove.

**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 and are incorporated into the body of the Ordinance as if copied in their entirety.

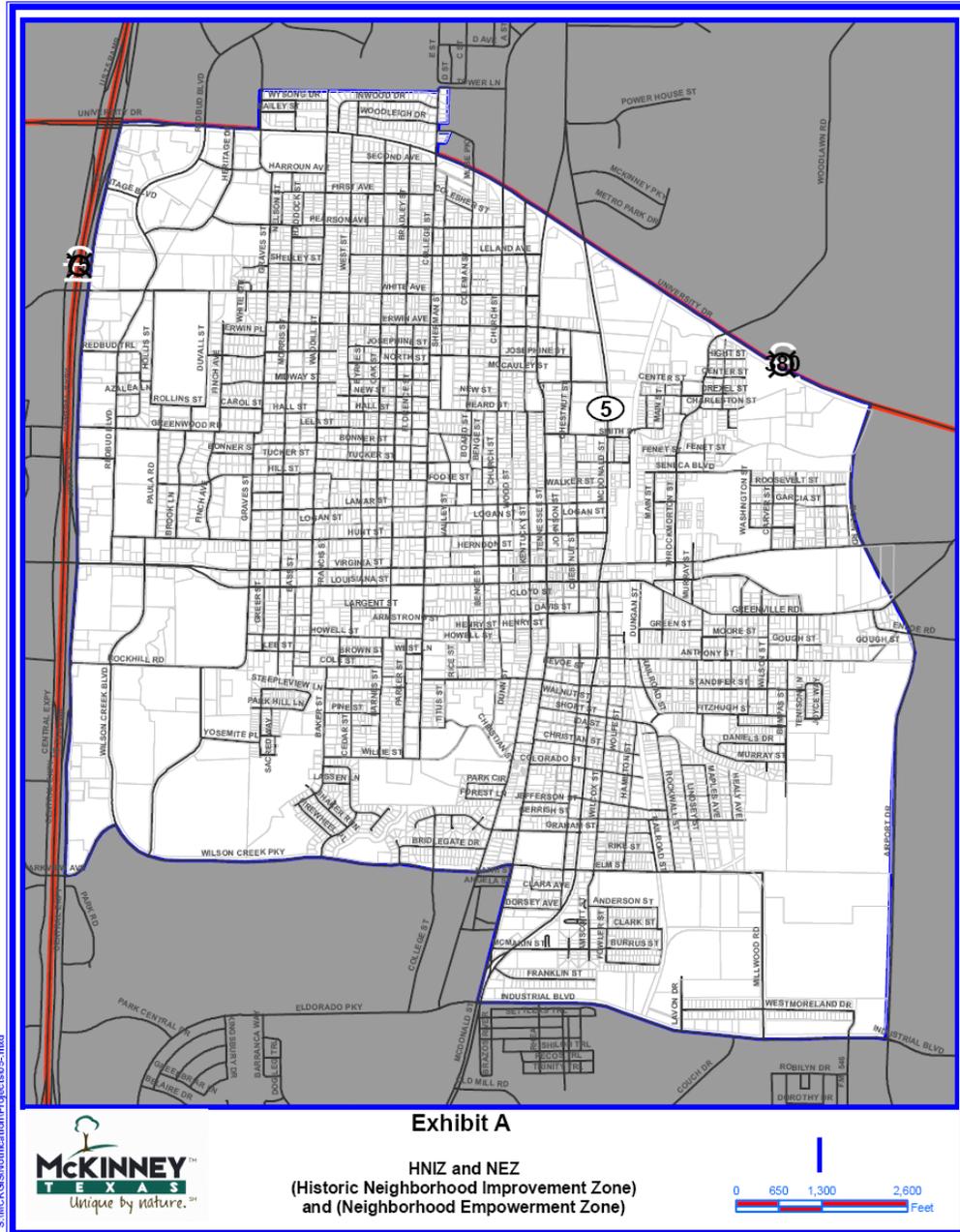
**Section 2.** The Code of Ordinances of the City of McKinney, Texas, Chapter 98 is hereby amended by amending Section 98-84 which shall read as follows:

### ARTICLE III. - HISTORIC NEIGHBORHOOD IMPROVEMENT ZONE

Sec. 98-83. - Created.

A Historic Neighborhood Improvement Zone ("HNIZ") is hereby created for the purpose of preserving the city's unique and historic neighborhoods while encouraging property owners to maintain and/or rehabilitate their residences. The HNIZ shall be as shown on the graphic labeled Exhibit A attached hereto.

## Exhibit A Historic Neighborhood Investment Zone Graphic



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DISCLAIMER: This map and information contained in it were developed exclusively for use by the City of McKinney. Any use or reliance on this map by anyone else is at that party's risk and without liability to the City of McKinney, its officials or employees for any discrepancies, errors, or variances which may exist.

(Ord. No. 2007-02-014, § 2, 2-6-2007; Ord. No. 2008-04-030, § 2, 4-1-2008)

Sec. 98-84. - Historic Neighborhood Improvement Zone Program.

A Historic Neighborhood Improvement Zone Program ("program") is created wherein owners in the defined geographic HNIZ may receive ad valorem tax exemptions inclusive of land and building improvements based

on verified investment meeting specified criteria. This program consists of three levels of participation and corresponding tax exemptions.

(1) Level 1: Residential properties which have received the designation of the Historic Marker Program by the HPAB prior to November 19, 2013 are eligible to receive a one-time, 100 percent exemption of the city's ad valorem taxes for a period of 15 years. Residential properties which receive the designation of the historic marker program by the HPAB on or after November 19, 2013 are eligible to receive a one-time, 100 percent exemption of the city's ad valorem taxes for a period of seven years. The process and criteria for receiving the historic marker designation are as follows:

Purpose: The purpose of the marker program is to encourage owners of historic properties to become actively involved in the preservation of McKinney's historic past through the recognition of historic events, people, and architecture.

- a. The marker, if awarded, would allow the owner of the building to apply for an ad valorem tax incentive provided the building has been rehabilitated or restored according to the secretary of the interior's standards.
- b. In order to obtain a marker, the following requirements must be met:
  1. Written documented history.
  2. The building must be a minimum of 50 years of age.
  3. The house must be located within the HNIZ.
  4. Photo documentation of all four elevations using black and white photos with negatives, color slides, and copies of any available historic photographs.
  5. Legal description of the property with a location map.
  6. Site plan of the property.
- c. The application shall be reviewed by the historic preservation officer (HPO). The HPO may ask for additions or revisions to the documentation if necessary. Once the application is completed, the HPO will send a staff report to the historic preservation advisory board (HPAB) for approval or denial of the historic marker application, with appropriate appeals to the city council.
- d. If awarded, the owner may purchase and display the marker.
- e. If the HPAB approves the marker, the applicant may make application to the HPO for a Level 1 tax incentive for consideration by the HPAB, with appropriate appeals to city council, provided the building has architectural integrity and has been properly rehabilitated or restored

and maintained. The marker and tax incentive may be sought simultaneously or separately.

- (2) Level 2: Owners shall submit plans for exterior improvements to residential properties to the HPO. The owner may then receive a letter of eligibility if the improvements qualify for the program. Thereafter, owners who make verified exterior improvements (however limited to comprehensive maintenance and rehabilitation painting, roof, windows, foundation, and siding) consistent with applicable codes, both historic district and building codes, as applicable, in any 12-month period beginning with receipt of a letter of eligibility and having a combined cost in excess of \$10,000.00, during that 12-month period, may receive an exemption of 50 percent of the city's ad valorem taxes for a period of 15 years, as finally determined by applications submitted to the building and standards commission. Owners may submit additional applications under level 2 during any period of exemption. If such applications are approved, the exemption period shall be extended from the date of the last approval. In such event, the exemption periods run concurrently until the earliest approval expires and continues until the latter approval expires.
- (3) Level 3: Owners shall submit plans for improvements to residential properties to the HPO and to the building permits department. The owner may receive a letter of eligibility, if the improvements qualify for the program. Owners who make verified exterior improvements (however limited to comprehensive maintenance and rehabilitation painting, roof, windows, foundation, and siding) consistent with applicable codes, both historic district and building codes, as applicable, or who make verified interior improvements to upgrade interior systems to current building codes (however limited to sanitary sewer lines, fire, HVAC, insulation, electrical, plumbing, or a combination of interior or exterior improvements) in any 12-month period beginning with receipt of a letter of eligibility and having a combined cost in excess of \$5,000.00, during that 12-month period may receive an exemption of 30 percent of the city's ad valorem taxes for a period of 15 years, as finally determined by applications submitted to the building and standards commission. If an owner submits plans for additional improvements under level 2 or level 3 during any period of exemption previously granted under level 3, such owner, upon approval of the building and standards commission, shall receive an exemption of 50 percent of the ad valorem taxes for a period of 15 years from the date of such approval.
- (4) Aggregate cap (per year): The city council may impose an aggregate cap on the total amount of ad valorem taxes which would be exempted in any budget year under any or all of the levels set forth in subsections (a)—(c) of this section. The annual cap shall be exhausted on a "first come, first served" basis, as determined by the actual date the city receives a completed application. The cap shall be a tool to limit any budgetary concerns based on yearly fluctuations in tax revenues, and as such, the annual cap may be raised or lowered each year by the city council. For

calendar year 2016 and continuing annually thereafter until otherwise adjusted by the city council, the aggregate cap on exempted ad valorem taxes shall be \$150,000 per year.

- (5) Program suspension: The city council may suspend the program at any time.
- (6) Implementation: The city shall set up an application process providing for the review of applications based upon administrative guidelines promulgated by the HPO, verification of improvements and certification of the exemptions. The administrative guidelines shall be consistent with this ordinance yet provide flexibility in reviewing, granting and processing exemptions. The exemption may continue and be transferable upon sale of the property. Code inspection and periodic checks on annual owner certifications for previously-constructed exterior improvements shall be a key element to verification of new construction, maintenance of improvements and overall maintenance of the property.
- (7) Suspension of tax exemption: The city may suspend a level 1, level 2, or level 3 tax exemption of any property at any time should the overall maintenance of the property, including but not limited to eligible exterior improvements, fall into a state of disrepair and no longer promote the intent and philosophy of the program. Should the HPO find that a property is in a state of disrepair and does not meet the intent and philosophy of the program, the owner shall be notified of the specific deficiencies in writing and shall have one year to cure the deficiencies from the date of such written notification. If the deficiencies are not remedied within one year, the city council may suspend the tax exemption.
- (8) Neighborhood empowerment zone (NEZ) overlay under Local Government Code Chapter 378: The neighborhood empowerment zone overlay (NEZ) shall be geographically coexistent with the HNIZ. The NEZ is created wherein development projects in the defined geographic area may receive impact fee waivers based on specified criteria.
  - a. Single family: Within the NEZ, new single family residential construction commencing on a lot of record is eligible to receive residential roadway, water, and wastewater impact fee waivers, provided that the design and completion of the new construction is generally compatible with the massing, size, scale, and architectural features of the surrounding neighborhood. Prior to construction, an application shall be made to the HPO, who shall determine whether the proposed construction is eligible for the waiver of impact fees. Impact fees shall be collected at the time of building permit issuance and remitted to the owner upon completion and final inspection of compliant construction. The HPO shall make a determination of eligibility for impact fee waivers based, in part, on the "Guidelines for New Construction in the NEZ" attached hereto as exhibit B and made a part hereof for all purposes. Appeals of the HPO's

determination of eligibility for impact fee waivers shall be made to the city council.

- b. Multi-family: Within the NEZ, new multi-family construction, being three or more dwelling units on a single lot and commencing on a lot of record, is eligible to receive roadway impact fee waivers only, provided that the design and completion of the new construction is generally compatible with the massing, size, scale, and architectural features of the surrounding neighborhood. Prior to construction, an application shall be made to the HPO, who will present an eligibility determination for roadway impact fee waivers to the city council for approval or denial based on the proposed construction. The city council shall determine eligibility for impact fee waivers based, in part, on the "Guidelines for New Construction in the NEZ" attached hereto as exhibit B and made a part hereof for all purposes. All impact fees shall be collected at the time of building permit issuance and remitted to the owner upon completion and final inspection of compliant construction.
- c. Non-residential: Within the NEZ, new non-residential or vertically-integrated mixed-use (non-residential and residential uses in a single structure) construction commencing on a lot of record, is eligible to receive roadway impact fee waivers only provided that the completion of the construction and development project meets at least three of the following criteria:
  - 1. Compatibility. Construction is generally compatible with the massing, size, scale, and architectural features of the surrounding buildings and environment;
  - 2. Amenities. Construction includes enhanced pedestrian and/or streetscape amenities;
  - 3. Town Center Master Plan. Development project is consistent with, and promotes the Town Center Master Plan;
  - 4. Investment. New construction on a vacant site includes a minimum capital investment of \$75,000.00. Rehabilitation of an existing building in accordance with the secretary of the interior standards includes a minimum capital investment of \$75,000.00 or 30 percent of the present building value as appraised by the Collin Central Appraisal District, whichever is greater;
  - 5. Mixed-use. Construction includes vertical integration of residential and non-residential uses in the same structure with non-residential uses on the entire ground floor;
  - 6. Job creation. Development project creates one new, full-time job (or correlative FTE) per 200 square feet of gross floor area; or

7. Vacant/underutilized site/building. Construction occurs within the vacant/underutilized sites/buildings improvement area as designated in the Tax Increment Reinvestment Zone Number 1 Project Plan.

Prior to construction, an application shall be made to the HPO that includes supporting documentation of the project's ability to meet the eligibility criteria established for the waiver of roadway impact fees. For projects where roadway impact fees exceed \$50,000.00, the HPO shall make a determination of eligibility for roadway impact fee waivers and present a recommendation to the city council for approval or denial. The HPO determination of eligibility shall be based on the merits of the owner's application and documentation received read in conjunction with the criteria above. For projects with roadway impact fees that are equal to or less than \$50,000.00, the HPO shall have the authority to determine whether the proposed project is eligible for the waiver of roadway impact fees, with appropriate appeals to the city council. All roadway impact fees shall be collected at the time of building permit issuance and remitted to the owner upon completion and final inspection of the compliant construction. Upon completion and final inspection, the HPO shall have the authority to waive 100 percent of roadway impact fees up to and including \$50,000.00 or in accordance with the eligibility determination made by the city council after its consideration of an owner's eligibility.

## **EXHIBIT B**

### **GUIDELINES FOR NEW CONSTRUCTION IN THE NEIGHBORHOOD EMPOWERMENT ZONE**

New construction in the Neighborhood Empowerment Zone (NEZ) should be compatible with the massing, size, scale, and architectural features of the surrounding homes. New construction in the NEZ should not attempt to recreate or replicate a past architectural style in its entirety but should take cues from the architectural and design elements of surrounding historic structures. No specific architectural style shall be required for new construction in the NEZ.

The following aspects of new construction in the NEZ should be visually compatible with the buildings and environment with which the new construction is related. These include but are not limited to: height, proportion between width and height of façade, proportion and relationship between doors and windows, rhythm of solids and voids created by openings in the façade, materials, textures, colors, patterns, trims, and design of the roof. New construction in the NEZ should also preserve the existing rhythm created by existing building masses in the neighborhood.

Height: All new construction in the NEZ should take into consideration the general height of the buildings in the neighborhood and shall also comply with the regulating zoning district.

Proportion of the buildings front façade: The relationship of the width to height of a building creates a proportion that should be taken into consideration (such as tall and narrow, low and squat, or square). This proportional relationship should reflect the dominant character of the neighborhood.

Proportion of openings within the façade: This is a relationship of the width to height of windows and doors. For example, a window may be one unit wide and three units high, thus creating a proportional relationship of 1:3. If the majority of the buildings within a neighborhood have this 1:3 relationship, then new design should reflect this proportion as well. Large picture windows or horizontal bands of windows should be avoided. Modern interpretations of historic windows are acceptable if they retain the historic size ratios and pattern of placement on the façade. Doors should also be compatible in proportion. (See Illustration 1)

**Illustration 1**

Window Proportion:  
The proportional relationship of the width to the height of the windows combined with the high pitch of the roof creates a tall elevated feeling.



Rhythm of solids to voids: Rhythm is an ordered recurrent alternation of wall to openings as well as spacing between buildings. This rhythm creates a feel as one moves past a building or group of buildings. The design of a new structure in the NEZ should respect the rhythm of the surrounding neighborhood in terms of its size, distance between buildings on either side, and the spacing of windows and doors. (See Illustration 2)

## Illustration 2

Rhythms:  
The grouping of windows creates a rhythm.



Relationship of materials: New designs in the NEZ should use materials that are compatible with the neighborhood and should seek to reflect the predominant materials found in the neighborhood. If the majority of existing buildings are brick, then the proposed building should be brick. If the predominant material is lap siding, then the proposed material should be lap siding. The texture and color of the materials should be considered as well and be compatible with the surrounding buildings.

Relationship to roof shapes: Roof shape includes the type and pitch of the roof (such as hip, gable, mansard, or shed). The treatment of the eaves, rafter tails, soffits, bargeboards, and fascia are important considerations when designing any new construction in the NEZ. For example, if the majority of the existing houses in a neighborhood have a gabled roof, then the proposed new construction should have a gabled roof. Additionally, if the existing buildings in a neighborhood have boxed eaves, then the new construction should seek to either incorporate the same or similar design element.

Relationships to architectural details: Architectural details include features such as cornices, brackets, columns, lintels, arches, roof crests, quoins, balustrades, doors, windows, and chimneys. New construction in the NEZ should be compatible with the predominant architectural details on surrounding buildings. These details do not need to be copied in the new construction, but they should be reflected in some manner. For example, if the majority of houses in the neighborhood have pediments above the windows, then the new construction should reflect pediment-like features above the windows as well. Additionally, chimneys that are not constructed of historical materials (brick or stone) should be located to the rear of the building in order to reduce the visibility of the modern chimney covering from the public right-of-way.

Scale: Scale is created by the architectural detailing that relates to the size of a human and by the building mass as it relates to open space. A large building on a small lot has a different appearance when compared to a large building on a large lot. This relationship should be considered when designing

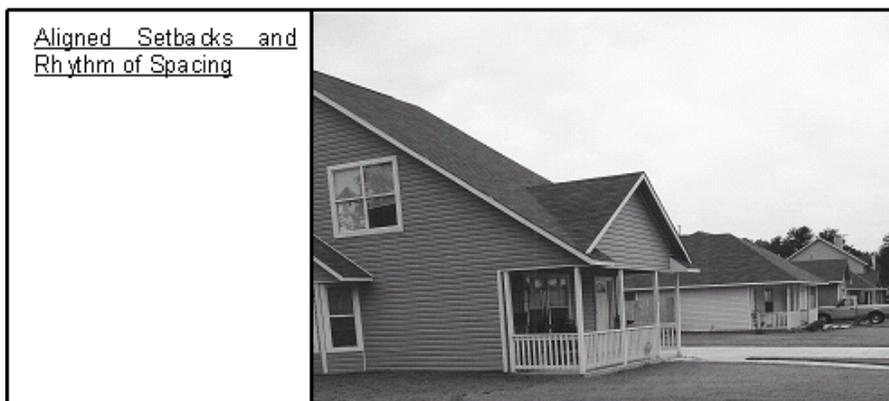
for a particular neighborhood. New construction in the NEZ should observe the scale of surrounding and nearby structures. The window and door lines should be similar to neighboring structures. The detailing should be consistent with the size of the building. For example, a small house should not have massive or oversized details and decorations.

**Massing:** The term massing refers to how the basic shapes of the building are fit together. Massing can be very simple, such as a single rectangular shape, be more complex with an L-shape, or have a combination of shapes. Additional massing elements are also found among the different architectural styles. For example, in Victorian architecture, elements such as bays, towers, and turrets add to the basic massing of the house. Massing patterns of the neighborhood structures should be considered and reflected in the design of new construction in the NEZ. New construction in the NEZ shall also comply with the floor-area- ratios dictated by the regulating zoning district.

**Directional expression of the front elevation:** The use of architectural details and the proportion of the width to height ratio create structural shape. The structural shape will be expressed either vertically or horizontally. A building with a ratio of 1:5 will have a vertical appearance while a ratio of 5:1 would have a horizontal appearance. Tall narrow windows give a vertical appearance while wide windows tend to create a horizontal feel. New construction in the NEZ should observe the predominant feel of the surrounding area.

**Rhythm of spacing and setbacks:** It is important that new construction in the NEZ be consistent with adjacent structures in spacing and setback, which sets a rhythm for the block and neighborhood and is a part of the historic character. The setback of new construction in the NEZ should generally be within 10 percent of the setback lines of the adjacent structures. Setbacks for new construction in the NEZ should maintain the existing pattern of setbacks in the block if at all possible. New construction in the NEZ shall also comply with the setbacks dictated by the regulating zoning district. (See Illustration 3)

**Illustration 3**



Variation of styles: If groupings of two or more new homes are being built in the same area, then the new construction should reflect a variation in the styles of homes. It is not appropriate to build the same home or simply change the position of the front porch or the type of window or front door to comply with these criteria.

(Ord. No. 2007-02-014, § 2, 2-6-2007; Ord. No. 2008-04-030, § 2, 4-1-2008; Ord. No. 2013-11-110, § 2, 11-19-2013)

Sec. 98-85. - Neighborhood empowerment zone.

A neighborhood empowerment zone (NEZ) as set forth in V.T.C.A., Local Government Code ch. 378, as amended, is hereby created to promote the rehabilitation of affordable housing in the NEZ. The NEZ shall be geographically coexistent with the HNIZ.

(Ord. No. 2007-02-014, § 2, 2-6-2007)

Secs. 98-86—98-113. - Reserved.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THIS THE 1<sup>st</sup> DAY OF December 2015.**

\_\_\_\_\_  
BRIAN LOUGHMILLER, MAYOR

CORRECTLY ENROLLED:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
MARK S. HOUSER  
City Attorney