

ORDINANCE NO. 2018-12-077

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTERS 42 AND 122 OF THE CODE OF ORDINANCES, CITY OF MCKINNEY, TEXAS, PERTAINING TO PLATTING AND PERMITTING IN THE CITY'S EXTRATERRITORIAL JURISDICTION (ETJ); 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, in some cases, its extraterritorial jurisdiction (ETJ); and

WHEREAS, the Fifth District Court of Appeals for the State of Texas recently ruled that home-rule cities may not require building permits and corresponding inspections for vertical construction in their ETJ;

WHEREAS, the City Council has recognized that certain provisions of the Code of Ordinances should be reviewed and updated as a result of this opinion; 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 42-24 of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

“Sec. 42-24. - Enforcement.

The fire chief, or his designee, is hereby authorized and directed to enforce all provisions of the Fire Code within the city's corporate limits and in accordance with Section 122-4 of the Code of Ordinances of the City of McKinney, Texas..

Section 2. Section 122-4 of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

“Sec. 122-4. - Permits within city limits and extraterritorial jurisdiction.

- (a) It shall be unlawful for any person to erect, move, add to, or structurally alter, or to cause to be erected, moved, added to, or structurally altered, or to permit any person to erect, move, add to, or structurally alter, any building or other structure within the city limits without first having procured a permit to do so from the city.
- (b) Development permits and all other applicable construction-related permits required by this chapter are required within the city limits. All development and construction permits for the construction of the types of improvements described in Sections 142-4, 142-5, and 142-6 are required within the extraterritorial jurisdiction (ETJ). Building permits required by this chapter or any adopted model codes including, but not limited to the international building code, the national electric code, and the international fire code shall only be required within the city limits..
- (c) No building permit, development permit or other applicable construction-related permit shall be issued except in conformity with the provisions of this chapter and all applicable construction codes of the city.”

Section 3. 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 4. 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 5. 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 4TH DAY OF DECEMBER, 2018.

CITY OF MCKINNEY, TEXAS

TRACY RATH
Mayor Pro Tem

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
MELISSA LEE
Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney