

ORDINANCE NO. 2015-03-015

AN ORDINANCE OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 122 OF THE CODE OF ORDINANCES OF THE CITY OF MCKINNEY BY ADOPTING NEW SECTION 122-4, ENTITLED "PERMITS WITHIN CITY LIMITS AND EXTRATERRITORIAL JURISDICTION"; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING 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 the Texas Local Government Code, and the City's Home Rule Charter; and

WHEREAS, the City Council of the City of McKinney, Texas ("City Council"), on July 16, 2013, adopted the following codes: the 2012 edition of the International Building Code and amendments thereto; the 2012 edition of the International Residential Code and amendments thereto; the 2012 edition of the International Mechanical Code and amendments thereto; the 2012 edition of the International Plumbing Code and amendments thereto; the 2012 edition of the International Fuel Gas Code and amendments thereto; the 2012 edition of the International Energy Conservation Code and amendments thereto; the 2011 edition of the National Electrical Code and amendments thereto; and the 2012 edition of the International Fire Code and amendments thereto, all of which codes are set forth and codified in the Code of Ordinances of the City of McKinney ("City Code"); and

WHEREAS, the City Council adopted Ordinance No. 2015-001-003 on January 6, 2015, which adopted the 2012 edition of the International Property Maintenance Code and amendments thereto, which is set forth in Chapters 122 and 126 of the City Code; and

WHEREAS, Chapters 212 and 230 of the Texas Local Government Code authorize municipalities to exercise regulations affecting the development and construction of subdivisions in the municipality's city limits and extraterritorial jurisdiction; and

WHEREAS, Chapter 142 of the City Code, entitled "Subdivision Regulations," provides that the City's regulations set forth in that chapter extend to and apply to all of the areas within the City and within the area outside the corporate limits of the City within the City's extraterritorial jurisdiction, pursuant to Chapters 42, 43 and 212 of the Texas Local Government Code; and

WHEREAS, certain decisions by Texas appellate courts, specifically *City of Lucas v. North Texas Municipal Water District*, 724 S.W.2d 811 (Tex.App.-Dallas 1986, writ ref'd. n.r.e.), and *Hartsell v. Town of Talty*, 130 S.W.3d 325 (Tex.App.-Dallas 2004, pet. denied), recognize that a municipality may enforce its construction-related codes in its corporate limits and extraterritorial jurisdiction; and

WHEREAS, the City and Collin County, Texas, have entered into an interlocal agreement pursuant to House Bill 1445, which statute became effective September 1, 2001, and is now codified as Section 242.001 of the Texas Local Government Code, which agreement is entitled "City-County Plat Approval Agreement," effective March 19, 2002 ("Agreement"); and

WHEREAS, pursuant to said Agreement, the City is granted exclusive jurisdiction to regulate all subdivision plats and approve all related permits in the City's extraterritorial jurisdiction in accordance with Chapter 212 of the Texas

Local Government Code, the City's adopted Subdivision Regulations, or other applicable codes or ordinances; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interest of the City and of the public health, safety and welfare.

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 hereby incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. The Code of Ordinances of the City of McKinney, Chapter 122, Article I, is hereby amended by adding new Section 122-4, entitled "Permits," which 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 or within the city's extraterritorial jurisdiction without first having procured a permit to do so from the city.
- (b) Building permits, development permits and all other construction-related permits required by this chapter are required within the city limits and on all property within the city's extraterritorial jurisdiction.
- (c) No building permit, development permit or other 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. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

Section 4. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

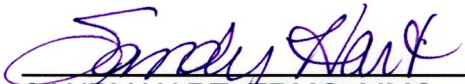
Section 5. This Ordinance shall take effect immediately from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THE 17TH DAY OF MARCH, 2015.

CITY OF MCKINNEY, TEXAS


BRIAN LOUGHMILLER
Mayor

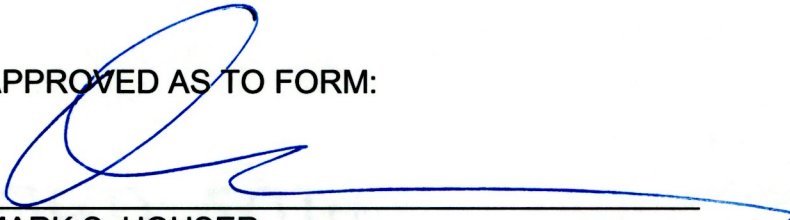
CORRECTLY ENROLLED:



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

DATE: March 17, 2015

APPROVED AS TO FORM:



MARK S. HOUSER
City Attorney