

ORDINANCE NO. 2011-08-XXX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS AMENDING CHAPTER 146 OF THE CODE OF
ORDINANCES OF THE CITY OF McKINNEY, TEXAS, RELATIVE TO
THE AMENDMENT OF SECTION 146-46 (DEFINITIONS) OF THE
ZONING REGULATIONS; 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 Zoning Regulations for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, the City Council and the Planning and Zoning Commission have recognized that certain provisions of the Zoning Regulations should be reviewed and updated; and

WHEREAS, amendments to these provisions have been proposed and the City Council and the Planning and Zoning Commission of the City of McKinney are of the opinion that this chapter should be amended.

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

Section 1. That the Code of Ordinances, City of McKinney, Texas, Section 146-46 of the Zoning Regulations, is hereby amended and shall read as follows:

Sec. 146-46. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Accessory building or use* means a building or use which:
 - (a) Is subordinate to and serves a principal building or building use;
 - (b) Is subordinate in area, extent, or purpose to the principal building or principal use served;
 - (c) Contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served;
 - (d) Is located on the same building lot as the principal use served; and
 - (e) Meets all building and fire codes.
- (2) *Accessory dwelling* means a self-contained dwelling unit created either by converting part of or adding on to an existing single family structure, whether attached or detached, or by building a separate apartment onto or along with a home on a single family lot. The use of the accessory dwelling is incidental to the main residence. Both the principal dwelling and the accessory dwelling must contain cooking, eating, sleeping, and sanitary facilities. The accessory dwelling must have a separate outside entrance.

- (3) *Alley* means a public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide secondary access to abutting property, and to provide utility service. An alley is a right-of-way with an ultimate width of 20 feet or less.
- (4) *Amusement, commercial (indoor)*, means an amusement enterprise wholly enclosed in a building that is treated acoustically so that noise generated by the enterprise is not perceptible at the bounding property line and including, but not limited to, an indoor recreational area, bowling alley or billiard parlor.
- (5) *Amusement, commercial (outdoor)*, means any amusement enterprise offering entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open including, but not limited to, a private outdoor recreational area, a golf driving range, archery range, and a miniature golf course.
- (6) *Antique shop* means an establishment offering for sale, within a building, articles such as glass, china, furniture or similar furnishings and decorations, which have value and significance as a result of age, design and sentiment.
- (7) *Apartment* means a dwelling unit in a multi-family residential apartment building.
- (8) *Apartment building* means a building or any portion thereof, which contains three or more dwelling units, located in the same building lot. An apartment building is a multi-family residential use.
- (9) *Area of the lot* means the net area of the lot and shall not include portions of streets and alleys.
- (10) *Awning* means a roof-like cover that can be removed that projects from the wall of a building.
- (11) *Basement* means a building story that is partly underground, but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story in computing building height.
- (12) *Bay* means an opening in a wall or building, whether with or without bay doors, which is designed to allow vehicle access.
- (13) *Bay door* means an oversized door, typically with roll-up or swing-type doors, commonly used in conjunction with docks, bays, and loading spaces.
- (14) *Bed and breakfast facility* means an owner-occupied private home which offers lodging for paying guests, and which serves breakfast to these guests and which contains one or more guest bedrooms.
- (15) *Block* means an area enclosed by streets and occupied by or intended for buildings; or if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street.
- (16) *Boardinghouse or roominghouse* means a building, other than a hotel, where lodging and/or meals for three or more persons are provided for compensation.
- (17) *Build* means to erect, convert, enlarge, reconstruct, or alter a building or structure.

- (18) *Buildable area* means the area of a building site left to be built upon after any floodplain, easements, yards, and other unbuildable areas are deducted.
- (19) *Building* means any structure built for the support, shelter and enclosure of persons, animals, chattel or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
- (20) *Building ends* means those sides of a building having the least dimensions as compared to the front or rear of a building. As used herein for the building spacing regulations for multiple family dwelling, a "building end" shall be interpreted as being the most narrow side of a building regardless of whether it fronts upon a street, faces the rear of the lot or is adjacent to the side lot line or another building.
- (21) *Building site* means a single tract of land located within a single block, which (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. A building site may be subsequently subdivided into two or more building sites, and a number of building sites may be combined into one building site, subject to the provisions of this chapter and chapter 142, pertaining to subdivisions.
- (22) *Car wash* means a building, or portion thereof, containing facilities for washing automobiles using automated or manual methods including chain conveyor, blower, steam cleaning device, or other mechanical device. A car wash may also be referred to as an auto laundry.
- (23) *Certificate of occupancy* means an official certificate issued by the City through the enforcing official, which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued.
- (24) *Church or rectory* means a place of worship and religious training including the on-site housing of ministers, rabbis, priests, nuns, and similar staff personnel. Church or rectory shall also include church-operated preschools (if the church is situated on a legally conforming lot under applicable subdivision or zoning controls) and/or on-site accessory not-for-profit overnight housing shelter sponsored and operated by the religious entity as a part of its goals, mission or ministry providing temporary free overnight lodging for individuals or families having no regular home or residential address ("Guests"). The provision of temporary free overnight lodging allowed hereby shall be limited to a maximum of 30 nights per calendar year, shall provide housing for no more than 14 Guests per night, and shall require an annual permit for such accessory use issued by the Chief Building Official.
- (25) *City* means the municipal corporation of the City of McKinney, Texas.
- (a) *Board* means the Zoning Board of Adjustment as provided for in section 146-165.
- (b) *Chief Building Official* means the City administrative official charged with the responsibility of issuing permits and enforcing the Zoning and Building Code Ordinances.
- (c) *City Council* means the duly elected governing body of the City.

- (d) *City Engineer* means the professional engineer licensed by the State of Texas and employed by the City to supervise and serve as the Director of Engineering Services.
 - (e) *City Manager* means the chief administrative officer of the City.
 - (f) *Commission* means the governmental body designated in this chapter as the Planning and Zoning Commission and appointed by the City Council as an advisory body to it and which is authorized to recommend changes to this zoning chapter.
- (26) *Cleaning shop and pressing (small shop and pickup)* means a custom cleaning shop not exceeding 3,000 square feet in floor area, or a pickup station for laundry or cleaning where the work is performed other than on the premises.
 - (27) *Clinic* means a group of offices for one or more physicians, surgeons, or dentists to treat sick or injured outpatients who do not remain overnight.
 - (28) *Comprehensive Plan* means the Comprehensive Plan of the City, as adopted by the City Council. The Comprehensive Plan shall consist of a land use plan, a thoroughfare plan, a water system plan, a sanitary sewer plan, a storm drainage plan, a park system plan, and such other plans as may be adopted from time to time by the City Council.
 - (29) *Country club* means an area of at least 25 acres containing a golf course and clubhouse, which is available to a specific recorded membership. Such a club may include as adjunct facilities, a dining room, private club, swimming pool, cabanas, tennis courts and similar service and recreational facilities for the members.
 - (30) *Court* means an open, unoccupied space, bounded on more than two sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one side open to a street, alley, yard or other permanent space.
 - (31) *Coverage, lot* means the percent of a lot or tract covered by the roof or first floor of a building. Roof eaves, which extend more than three feet from the walls of a building, shall be excluded from coverage computations.
 - (32) *Day care* means a facility providing care, training, education, custody, treatment or supervision for four or more individuals for all or part of the 24-hour day and licensed by the state department of human services. No portion of the day care center site may be located within 300 feet of gasoline pumps or underground gasoline storage tanks, or any other storage area for explosive materials.
 - (33) *Development or to develop* means and includes the construction of a new building or any structure on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To develop is to create a development.
 - (34) *District* means a zoning district that is a part of the City.
 - (35) *Dock* means a place for the loading or unloading of goods, materials, or merchandise, with or without a platform.
 - (36) *Dwelling* means a building or portion thereof designed and used exclusively for residential occupancy, including one family, two family, or

multiple family dwellings but not including hotels, motels or lodginghouses.

- (37) *Dwelling unit* means any building, structure or mobile home, or part thereof, which is designed, used or intended to be used for human occupancy as the living quarters, of one housekeeping unit or family.
- (38) *Farm, orchard or truck garden* means an area of three acres or more that is used for growing of usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry, and farm animals, such as horses, cattle and sheep and including the necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal and garbage to swine and other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.
- (39) *Farmers market* means an area where space is rented to individual vendors who sell farm products such as agricultural and horticultural goods, or who sell specialty food products such as baked goods, candies, jams, jellies, spices, condiments, cheeses, eggs, milk, honey, meats, fish and pasta. This definition does not include the sale of arts and crafts products or any other item not specifically allowed per this ordinance.
- (40) *Family* means any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage, or adoption.
- (41) *Field office (temporary)* means a structure or shelter used in connection with a development or building project for housing on the site of temporary administrative and supervisory functions and for sheltering employees and equipment and subject to a temporary permit issued by the Chief Building Official and subject to discontinuance at the order of the Chief Building Official.
- (42) *Floodplain* means, geographically, the entire area subject to flooding. In usual practice, it is the area subject to flooding by the 100-year frequency flood.
- (43) *Floor area* means the total square feet of floor space within the outside dimensions of a building including each floor level.
- (44) *Floor area ratio (FAR)* means the ratio between the total square feet of floor area in a structure and the total square feet of land in the lot or tract on which the structure is located (see appendix E, illustration 11).
- (45) *Fraternal organization, lodge or civic club* means a society or association organized for the pursuit of some common objective by working together in a brotherly union.
- (46) *Frontage* means the front or frontage is that side of a lot abutting on a street and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot.
- (47) *Fueling station or gasoline station* means a retail fuel sales facility with no ancillary services such as vehicle service, vehicle repair, or sale of items other than fuel. The fueling or gasoline station may be attended or automated.
- (48) *Garage, auto repair*, means a building or portion thereof whose principal use is for the repair, servicing, equipping, or maintenance of motor vehicles or motor vehicle components, including engines, radiators,

starters, transmissions, brakes, tires and wheels, seats, and similar components.

- (49) *Height* means the vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to:
- (a) The highest point of the roofs surface if a flat surface;
 - (b) The deck line of mansard roof's; or
 - (c) The mean height level between eaves and ridge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevators, bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes and spires, and parapet walls not exceeding ten feet in height.

If the street grade has not been officially established, the average front yard grade shall be used for a base level.

- (50) *Home occupation* means a business, occupation, or profession conducted within a residential dwelling unit by the resident thereof.
- (51) *Hospital* means a legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, X-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.
- (52) *Hotel or motel* means a building or group of buildings designed and occupied as a temporary abiding place of individuals. To be classified as a hotel or motel, an establishment shall contain a minimum of 12 individual guest rooms or units and shall furnish customary hotel services such as linen, maid service, telephone, use and upkeep of furniture.
- (53) *Household appliance sales* means and includes, but not necessarily limited to, the sale and service of radio, television, refrigerators, etc.
- (54) *Junk or salvage yard* means a lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junkyard" includes an automobile wrecking yard and automobile parts yard. A "junkyard" does not include such uses conducted entirely within an enclosed building.
- (55) *Kennel, indoor,* means an establishment with indoor pens in which dogs, cats, or other domesticated animals are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes, but excluding pet stores or municipal animal shelters. Veterinary clinics, animal hospitals, and animal clinics shall not be considered a kennel, unless such uses contain indoor pens or facilities for housing, boarding, breeding, training, harboring, or keeping dogs, cats, or other domesticated animals, swine, equine, or other livestock animals.
- (56) *Kennel, outdoor,* means an establishment with outdoor pens, and meeting the criteria in the definition of "Kennel, indoor."
- (57) *Legal height* means the maximum height of a building permitted by any airport Zoning Ordinance or other ordinance restricting the height of structures.
- (58) *Livestock auction* means barns, pens and sheds for the temporary holding and sale of livestock.

- (59) *Living plant screen* means foliage of an acceptable type and of a density that will not permit through-passage, (and which exhibits the same year-round screening characteristics as a screening device, see "screening device.")
- (60) *Loading space* means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks or other vehicles.
- (61) *Lot* means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this chapter and having its principal frontage upon a public street or officially approved place.
- (a) *Lot area* means the area of a horizontal plane intercepted by the vertical projections of the front, side, and rear lot lines of a building lot.
 - (b) *Lot area per dwelling unit* means the lot area required for each dwelling unit located on a building lot.
 - (c) *Lot, corner,* means a building lot situated at the intersection of two streets, with the interior angle of such intersection not to exceed 135 degrees (see appendix E, illustrations 4 and 5).
 - (d) *Lot coverage* means the percentage of the total area of a lot occupied by the base (first story or floor) of buildings located on the lot or the area determined as the maximum cross sectional area of a building.
 - (e) *Lot depth* means the mean horizontal distance between the front lot line and the rear lot line of a building lot measured at the respective midpoints of the front lot line and rear lot line within the lot boundary (see appendix E, illustration 2).
 - (f) *Lot, interior,* means a building lot other than a corner lot (see appendix E, illustration 5).
 - (g) *Lot line, front,* means the boundary of a building lot that is the line of an existing or dedicated street, or a private street lot within a private street development. Upon corner lots, either street line may be selected as the front lot line, providing a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.
 - (h) *Lot line, rear,* means the boundary of a building lot that is most distant from and is, or is most nearly, parallel to the front lot line.
 - (i) *Lot line, side,* means the boundary of a building lot that is not a front lot line or a rear lot line.
 - (j) *Lot of record* means an area of land designated as a lot on a plat of a subdivision recorded, pursuant to statutes of the state, with the county clerk of the county, or an area of land held in single ownership described by metes and bounds upon a deed recorded or registered with the county clerk.
 - (k) *Lot width* means the width of a lot at the front building line (see appendix E, illustration 1).

- (62) *Main building* means the building or buildings on a lot, which are occupied by the primary use.
- (63) *Mini-warehouse/public storage* means a building containing separate, individual self-storage units of 500 square feet or less for rent or lease. The conduct of sales, business, or any activity other than storage shall be prohibited within any individual storage unit.
- (64) *Mobile home dwelling* means a transient portable dwelling unit, such as a house trailer or mobile home, originally designed to be moved from location to location by automobile, truck or similar prime mover, but which has been made immobile and is used as a temporary or permanent dwelling, or as part of a permanent dwelling. This definition does not include pickup campers or travel trailers used temporarily for camping or outings.
- (65) *Mobile home park* means a tract of land designed, used or intended for the renting or leasing, but not sales, of sites for the location, occupancy, or accommodation of one or more mobile home dwellings. A mobile home park shall have filed with the City a certified land division approved by the commission according to the provisions of this chapter. A mobile home park shall be developed in conformance with the standards set out in chapter 138, article III, division 2.
- (66) *Mobile home subdivision* means a tract of land subdivided into lots, which are designed as permanent sites for mobile home dwellings and which are served by separate utilities, have dedicated street access on a legally filed plat, and are capable of being conveyed as separate lots, and as such shall be considered a subdivision.
- (67) *Multiple family dwelling (apartment)* means any building or portion thereof, which is designed, built, rented, leased or let to contain three or more dwelling units or apartments on a single lot, or which is occupied as a home or place of residence by three or more families living in independent dwelling units on a single lot.
- (68) *Museum, library or art gallery (public)* means an institution for the collection, display and distribution of books, objects of art or science, which is sponsored by a public or quasi-public agency and which facility is open to the general public.
- (69) *Nonconforming use* means a building, structure or use of land lawfully occupied at the time of the effective date of the ordinance from which this section is derived (April 29, 1968), or amendments thereto, or which was subsequently annexed to the City and which does not conform to the use regulations of the district in which it is situated.
- (70) *Occupancy* means the use or intended use of the land or buildings by proprietors or tenants.
- (71) *Off-street parking* means parking spaces provided in accordance with the requirements specified by this chapter and located on the lot or tract occupied by the main use.
- (72) *Open area* means that part of a building lot, including a court or a yard, which:
- (a) Is open and unobstructed from its lowest level to the sky;
 - (b) Is accessible to all residents upon a building lot; and

- (c) Is not part of the roof of that portion of the building containing dwelling units.
- (73) *Open space* means an area or tract of undeveloped land that is intended to remain generally in its natural state, except for those uses allowed under the provisions of this chapter.
- (74) *Open storage* means the storage of any equipment, machinery, commodities, raw, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six feet (6') above ground level.
- (75) *Outdoor display* means the placement of articles for sale in an uncovered area on private property.
- (76) *Park or playground (public)* means an open recreation facility or park owned and operated by a public agency such as the municipal department of parks and recreation or school board and available to the general public.
- (77) *Parking lot or parking garage, commercial*, means an area or structure for the parking of motor vehicles, and which serves as the primary use on the lot.
- (78) *Parking lot, truck*, means any area used for the parking or storage of trucks or trailers larger than three-fourths ton in size.
- (79) *Parking space* means an enclosed or unenclosed all-weather surface meeting the size requirements of this chapter, not on a public street or alley, together with an all-weather surfaced driveway connecting the area to a street or alley permitting free ingress and egress without encroachment on the street or alley. Any parking adjacent to a public street wherein the maneuvering is done on the public street shall not be classified as off-street parking in computing the parking area requirements for any use (see appendix E, illustrations 13, 14, 15, 16, and 17).
- (80) *Performance standards* means those standards or criteria by which qualitative and quantitative measures are derived for the regulation of industrial uses and activities. The following definitions are applicable to performance standards:
 - (a) *Atmosphere* means the air that envelops or surrounds the earth. Where air contaminants are emitted into a building not designed specifically as air pollution control equipment, such emission into the building shall be considered emission into the atmosphere.
 - (b) *Atmospheric pollution* means the discharging from stacks, open storage, chimneys, exhausts, vents, ducts, openings, or open fires of such air contaminants as visible emissions, sulphur dioxide, particulate matter, hydrocarbons, fumes or similar material or gases.
 - (c) *Background noise* means noise from all sources other than that under specific consideration, including traffic operating on public thoroughfares.
 - (d) *Combustion* means the rapid exothermic reaction of any material with oxygen.
 - (e) *Decibel* means a unit of measurement of sound pressure.

- (f) *Emission* means the act of passing into the atmosphere an air contaminant or a gas stream, which contains or may contain an air contaminant or the material so passed into the atmosphere.
- (g) *Emission point* means the location (place in horizontal plane and vertical elevation) at which an emission enters the atmosphere.
- (h) *Exhaust gas volume* means the total volume of gas emitted from an emission point.
- (i) *Frequency* means the number of times per second a vibration or sound wave oscillates.
- (j) *Octave band* means all the frequencies between any given frequency and double that frequency.
- (k) *Octave band filter* means an electrical frequency analyzer designed according to the standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.
- (l) *Odor threshold* means the concentration of odorous matter in the atmosphere necessary to be perceptible to the olfactory nerve of a normal person. Determination of the odor threshold is prescribed by ASTM D1391-57, "Standard Method for Measurement of Odor in Atmospheres."
- (m) *Operation* means any physical action resulting in a change in the location, form or physical properties of a material, or any chemical action resulting in a change in the chemical composition or chemical or physical properties of a material. The following are given as examples, without limitation of the generality of the foregoing: heat transfer, calcination, double decomposition fermentation, pyrolysis, electrolysis, combustion material handling, evaporation mixing, absorption, filtration, fluidization, screening, crushing, grinding, demolishing, shoveling, bagging, etc.
- (n) *Particulate matter* means any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions when released into the atmosphere.
- (o) *Person or operation* means any person, firm, association, organization, partnership, business, trust, corporation, company, contractor, supplier, installer, user, or owner or any state or local governmental agency or public district or any officer or employee thereof. It includes the owner, lessor, lessee, tenant, licensee, manager and operator, or any of such, of any emission point or any source operation, which may constitute a source of atmospheric pollution related thereto, or any interest in such emission point or operation source.
- (p) *Ppm (vol)* means parts per million by volume.
- (q) *Smoke* means the visible discharge of particulate matter from a chimney, vent exhaust or combustion process.

- (r) *Toxic and noxious matter* means any solid, liquid, or gaseous matter, which is present in sufficient quantities to endanger health, safety and comfort of persons in the vicinity or which may cause injury or damage to property.
 - (s) *Vibration* means a periodic displacement of the earth measured in inches.
- (81) *Personal service* means establishments primarily engaged in providing services generally involved in the care of the person or their apparel, including, but not limited to, barbershops, tailors, and salons.
- (82) *Plat* means a plan of a subdivision or land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City and subject to approval by the Planning and Zoning Commission and/or City Council, and filed in the plat records of the county.
- (83) *Playfield or stadium (public)* means an athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course, football field or stadium.
- (84) *Private club* means an establishment providing social and dining facilities, as well as alcoholic beverage service, to an association of persons, and otherwise falling within the definition of, and permitted under the provisions of, that portion of V.T.C.A., Alcoholic Beverage Code § 32.01 et seq., as it pertains to the operation of private clubs.
 - (a) Private clubs shall be restricted to: Planned Center, General Business, Commercial Historic District, Business Commercial, and Planned Development zoning districts.
 - (b) A specific use permit issued for the operation of a private club shall be conditioned that:
 - 1. Thirty-five percent of the gross receipts be derived from the sale of food, subject to an annual audit provided at the expense of the permittee for review by the City Council;
 - 2. The permitted premises contain a minimum of 50 dining seats and a minimum of 600 square feet of dining area;
 - 3. The permittee comply with the provisions of the alcoholic beverage code and receive a private club permit from the state within six months from the date of issuance of the specific use permit by the City Council, each such limitation in time being subject to review and possible extension by the City Council; and
 - 4. Such other conditions and restrictions, which the City Council determines, at the time of granting the specific use permit, are necessary to protect and provide for the health, safety, and general welfare of the community.
 - (c) The City Council may revoke a specific use permit granted hereunder if it finds that any condition imposed at the time of granting the permits is not met, or thereafter ceases to exist. The City Council may deny a specific use permit for the

operation of a private club if it should affirmatively determine that issuance of the same would be detrimental or offensive to the neighborhood or otherwise be contrary to the health, safety, or general welfare of the City and its inhabitants.

- (d) All specific use permits for the operation of private clubs shall be further conditioned that the same may be canceled, suspended, or revoked in accordance with the provisions of chapter 138, article II, which are incorporated herein by reference and made a part hereof for all purposes.
- (85) *Public building, shop or yard of local, state, federal government* means facilities such as office buildings, maintenance yards or shops required by branches of local, state or federal government for service to an area such as a highway department yard or City service center.
- (86) *Recreation area* means a privately owned park, playground, or open space maintained by a community club, property owners' association, or similar organization.
- (87) *Recreation center (public)* means a building or complex of buildings housing community recreation facilities owned, operated or leased for operation by the City and may include swimming pools, tennis and other indoor or outdoor athletic facilities.
- (88) *Rest home or nursing home* means a private facility for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders. Such homes do not contain facilities for surgical care or the treatment of disease or injury.
- (89) *Residence.* See "Dwelling." When called a residence district, it means an area of residential regulations.
- (90) *Restaurant or cafeteria (carry-out only)* means an establishment where food is prepared for the general public but where there are no designated areas for dining on the premises (indoor or outdoor).
- (91) *Restaurant or cafeteria (indoor service)* means an establishment serving food to the general public in specific, designated indoor dining areas and outdoor seating areas and where food is not served to or eaten in automobiles on the premises.
- (92) *Restaurant or cafeteria (including drive-through windows and drive-in service)* means an establishment where prepared food or drink is served to or consumed by customers in motor vehicles, and specified as one of the following categories:
 - (a) *Drive-through window restaurant* means an establishment where customers are served prepared food or drink at a drive-through window for off-premises consumption.
 - (b) *Drive-in service restaurant* means an eating establishment where consumption of food or drink in vehicles on the premises is permitted.
- (93) *Screening device* means a barrier of permanent material of sufficient height and density so that the objects being screened are not visible from any point on the lot line when viewed from any height between ground level and seven feet above ground level.
- (94) *School, business or trade* means a business organized to operate for a profit and offering instruction and training in a service or art such as a

secretarial school, barber college, beauty school or commercial art school.

- (95) *School, public, private, or parochial* means a school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including trade or business schools.
- (96) *Shopping center* means a group of primarily retail and service commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, and the location for delivery of goods is separated from customer access, which features aesthetically appropriate design and protection from the elements.
- (97) *Servant's quarters* means an accessory building or portion of a main residential building located on the same lot as the principal residential building, occupied only by such persons and their families as are employed by the occupants of the principal residence.
- (98) *Service station* means any building or premises used for the dispensing, sale, or offering for retail sale of any automobile fuels or oils. If the dispensing, sale or offering for sale is incidental to a public garage, the premises shall be classified as a public garage, and not as a service station.
- (99) *Single family dwelling (attached)* means a dwelling unit that is joined to another dwelling at one or more sides by a party wall or abutting separate wall, which is designed for occupancy by one family and is located on a separately platted lot, delineated by front, side and rear lot lines and is served by separate utility connections and meters as a single family dwelling. Also known as a "townhome."
- (100) *Single family dwelling (detached)* means a dwelling unit designed and constructed for occupancy by not more than one family, located on a lot or separate building tract and having no physical connection to a building located on any other lot or tract, and occupied by only one family.
- (101) *Stable, commercial,* means a stable and related open pasture where horses are quartered for owners on a fee basis. No horses or other livestock shall be stabled or corralled within 100 feet of any bounding property line.
- (102) *Story* means the height between the succeeding floors of a building or from the top floor to the roof. The standard height of a story is eleven feet six inches (11' 6").
- (103) *Street* means a public or private way set aside as a permanent right-of-way for the movement of vehicular traffic, to provide access to abutting property, and to provide utility service. A street is a right-of-way with an ultimate width of more than 20 feet the actual width of which depends upon the City's Thoroughfare Plan.
- (104) *Street line* means a dividing line between a lot, tract or parcel of land and a contiguous street or the right-of-way line.
- (105) *Structural alterations* means any change in the supporting member of a building, such as a bearing wall, column, beam or girder.
- (106) *Structure* . See "Building."
- (107) *Swim or tennis club* means a private recreational club with restricted membership, usually of less area than a country club but including a

clubhouse and a swimming pool or tennis courts and similar recreational facilities one of which are available to the general public.

- (108) *Swimming pool (private)* means a pool or spa that is located on private property under the control of the property owner and intended for use by not more than two resident families and their guests, and located and fenced in accordance with the regulations of the City.
- (109) *Thoroughfare* means any planned or existing roadway within the City and its ETJ. A major thoroughfare is a planned or existing right-of-way with an ultimate right-of-way width of 60 feet or greater. A minor thoroughfare is a planned or existing roadway with an ultimate right-of-way width of less than 60 feet.
- (110) *Tires, batteries and accessories* means any retail operation wherein the sale and/or installation of tires, batteries, brakes and other related minor parts or accessories not listed as a separate use in this chapter is carried on; specifically intended to exclude heavy automotive repair, upholstery and muffler installation, automotive tune-up, automotive salvage or painting, used part sales or storage, tire retreading or recapping.
- (111) *Tower, radio, television, communications, or microwave*, means structures supporting antennas for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antenna installations for home use of radio or television. In any event, the use as a communications, microwave, radio, or television tower in a given zone is still subject to the height, setback, and other requirements, of section 146-137 and the zoning district requirements in which the tower is located.
- (112) *Two-family dwelling* means a single structure designed and constructed with two dwelling units under a single roof for occupancy by two families. Also known as a “duplex.”
- (113) *Use* means the purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of such activity with respect to the standards of this chapter.
- (114) *Variance* means an adjustment in the application of the specific regulations of this zoning chapter to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to enable the property to enjoy the same or similar enjoyed by other parcels in the same vicinity and zoning district.
- (115) *Yard* means an open space on the same building lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the building site and lot line shall be used. A "yard" extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the zoning district in which such building is located.
 - (a) *Yard, front*, means an open, unoccupied space on a lot facing a street extending across the front of a lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located (see appendix E, illustrations 3, 6, and 7).
 - (b) *Yard, rear*, means an open, unoccupied space, except for accessory buildings as herein permitted, extending across the

rear of a lot from one side lot line to the other side lot line and having a depth between the building and the rear lot line as specified in the district in which the lot is situated (see, appendix E,; illustrations 3 and 6).

- (c) *Yard, side*, means an open, unoccupied space or spaces on one side or two sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line, not the rear line or a front line, shall be deemed a side line (see appendix E, illustrations 3, 4, 5, and 6).

(116) *Zoning district map* means the official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this zoning chapter.

Unless otherwise defined herein, words contained in these regulations shall have the meanings found in chapter 142 and section 146-46, and as such provisions may be hereafter amended.

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 16TH DAY OF AUGUST, 2011.

CITY OF McKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney