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ORDINANCE NO. 1248

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF 1973, DULY PASSED BY THE CITY COUNCIL ON SEPTEMBER 4, 1973, BY ADDING A "FP" FLOOD PLAIN DISTRICT AND ESTABLISHING PERMITTED USES AND PROHIBITED USES AND CERTAIN RESTRICTIONS AND ESTABLISHING THE STANDARDS AND CRITERIA FOR ADDING AND REMOVING THE "FP" FLOOD PLAIN DESIGNATION AND CONFORMING THE SCHEDULE OF USES TO THE RESTRICTIONS OF THIS DISTRICT WHERE APPLICABLE; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00); AND DECLARING AN EMERGENCY.

WHEREAS, the City Planning and Zoning Commission and the City Council of the City of Mesquite, in compliance with the Charter of the City of Mesquite and the laws of the State of Texas, have given the required notices by publication and otherwise, and after holding public hearings as required by law and all interested persons a full and fair hearing, the governing body of the City of Mesquite has determined that the zoning change provided herein should be effected:

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

SECTION 1. That the Comprehensive Zoning Ordinance of 1973, duly passed by the City Council of the City of Mesquite, Texas, on the 4th day of September, 1973, be, and the same is, hereby amended as follows, in all other respects to remain in full force and effect:

- I. Article 05 is amended by adding a new Section 05.07 to read as follows:

Notwithstanding the foregoing, there shall be a district known as a "FP" Flood Plain District which may be coextensive with or overlap any or all of the foregoing districts or portions thereof and any tract of land or portion thereof

may, at the same time, be zoned for the uses in one of the foregoing districts and be zoned "FP" Flood Plain.

Where a tract of land or portion thereof is zoned for the uses of one of the foregoing districts and is also zoned "FP" Flood Plain, the restrictions contained in the "FP" Flood Plain District shall be applicable to said tract or portion thereof and shall take precedence over the other zoning district.

II. There is hereby established a new Article 46 to read as follows:

46.00 FLOOD PLAIN PREFIX TO DISTRICT DESIGNATION

The "FP" prefix designation constitutes a zoning overlay district, and the addition or removal of the "FP" prefix constitutes zoning action requiring due process provided under State law. Further public notice to all downstream property owners within the City of Mesquite with like "FP" zoning is required prior to any such zoning action.

To provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard and to promote the health, safety and general welfare of the community, portions of certain districts are designated with a Flood Plain prefix "FP" and shall be subject to the following provisions.

46.01 PERMITTED USES

In this district no land shall be used except for one or more of the following permitted uses to the extent that they are not prohibited by other regulations or ordinances and provided that such uses do not require above ground structures, filling or storage of material or equipment except as herein specifically authorized.

- A. Agricultural activities including the ordinary cultivation of land or legal forms of animal husbandry.
- B. Electrical substation
- C. All types of local utilities, including but not limited to water distribution and waste water

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collection systems, water and waste water treatment facilities and water quality/monitoring stations or other structures required to provide water and sewerage, telephone, gas and electrical services.

- D. Parks, community centers, playgrounds, public golf courses.
- E. Private commercial open area amusements such as golf courses, driving ranges, archery courses and similar uses when approved by conditional use zoning action.
- F. Facilities that would warrant no flood protection, such as accessory private open space in conjunction with commercial or residential development, community unit recreational areas or recreation developments.
- G. Parking areas associated with a part of contiguous land-use.

No building or structure shall be erected in that portion of a district designated with a flood plain "FP" prefix other than those listed in this section.

There shall be no dumping, excavation, storage or filling operations within that portion of a district having a flood plain "FP" prefix designation except under conditions of this ordinance and the City of Mesquite Comprehensive Drainage Ordinance which applicable sections are hereby made a part of this ordinance.

46.02 CONDITIONS FOR ADDING A FLOOD PLAIN "FP" PREFIX DESIGNATION

The City Council may, after a public hearing, amend the zoning classification of any property by adding the flood plain "FP" prefix designation, upon recommendation of the City Manager's office based upon hydraulic engineering studies indicating new boundaries of the area that is subject to inundation by flood waters. The City Council shall provide for the addition of such flood plain "FP" prefix designation to the zoning district maps.

46.03 CONDITIONS FOR REMOVAL OF A FLOOD PLAIN "FP"
PREFIX DESIGNATION

The City Council, in considering and determining its recommendation relative to any application for the removal of the flood plain "FP" prefix designation, shall require the applicant to furnish to the Department of Community Development, as provided in the City of Mesquite Comprehensive Drainage Ordinance, fill and development plans, (hydraulic calculations concerning maximum high water and flow rates and their effect on abutting, lateral, and downstream properties) and data concerning the operation, location, function and characteristics of any use of land or building proposed. The application will not be scheduled for public hearing until the City Engineer certifies information furnished is adequate for review and comment as required in this section.

Each request for the removal of the flood plain "FP" prefix designation shall be evaluated as to its probable effect on the adjacent property upstream and downstream and the community welfare and may be approved or denied as the findings indicate appropriate.

The City Council may, after a public hearing and upon recommendation of the City Manager's office after a written report has been submitted by the Director of Parks and Recreation, and Director of Community Development, authorize the removal of the flood plain "FP" prefix designation from an area on a preliminary basis. Upon such authorization by the City Council, the Director of Community Development will issue a "flood plain modification permit" to said applicant. The Director of Community Development shall report to the City Council after the necessary site work including excavation, filling and grading according to approved plans has been completed to the required elevation in keeping with all of the requirements of the City of Mesquite Comprehensive Drainage Ordinance, and the requirements as may have been outlined by the City Council, at which time the City Council may then finalize ordinance action to remove the flood plain "FP" prefix designation from the zoning districts maps.

Any dumping, excavation, storage or filling operations within that portion of a district having a flood plain "FP" prefix prior to the issuance of a "flood plain modification

permit" as specified above is illegal, and such operation shall cease until such time the flood plain "FP" designation is removed in accordance with the above section and the City of Mesquite Comprehensive Drainage Ordinance, which applicable sections are hereby made a part of this ordinance.

46.04 RESPONSIBILITY FOR FLOODING

The fact that land or property is or is not within a district having a flood plain prefix shall not constitute assurance that such land or property is not subject to local flooding and the designation of the flood plain prefix in this ordinance shall not be so interpreted.

46.05 SPECIAL PROVISIONS

The Director of Community Development may authorize filling operations to be conducted in any existing excavation, depression, or hole within that portion of a district having a flood plain "FP" prefix designation, provided the elevation of the proposed fill does not exceed the average of the contiguous flood plain elevations.

Existing structures located in the "FP" Flood Plain District not provided for herein shall be non-conforming and any improvements thereto shall be in conformance with Article 07 of the Comprehensive Zoning Ordinance.

The Director of Community Development, by written permit, may authorize limited channel and site improvements in an "FP" district if it is determined by the City Engineer that the channel and terrain flow characteristics are not significantly changed. In which case the area of "FP" prefix designation may be modified to the extent indicated by the improvements authorized by the Director of Community Development as in other cases. This area should generally not exceed 10% of the "FP" portion on the lot.

III. Article 50, USE REGULATION SCHEDULES, is amended to read as follows:

Land and buildings in each of the classified districts may be used for any of the listed uses, but no land shall hereafter be used and no building shall hereafter be

erected, altered, or converted, which is arranged, designed or used for other uses than those specified for the district in which it is located as set forth by the schedule of uses or as may be modified by the restrictions contained in "FP" Flood Plain zoning where applicable.

- IV. Article 04.76, definition of "OPEN SPACE" is deleted and the following definition is substituted therefor:

OPEN SPACE. That part of any lot or tract that is used for recreational purposes, both passive and active, but not including areas used for parking or maneuvering of automobiles, or drives or approaches to and from parking areas. Flood plains, or 50% of any standing surface water, may be considered as open space, provided such open space is contiguous and part of the platted lot and is maintained and utilized in the same manner and to the same degree as all other open space areas as designated on the site plan as filed with the building permit application.

SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

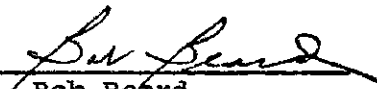
SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal, or unconstitutional and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of 1973, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00) for each offense.

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SECTION 5. Whereas, the changes as indicated in Section 1 of this ordinance are required in order to protect the public interest, comfort, and general welfare of the City of Mesquite, creates an urgency and an emergency for the preservation of the public health, safety and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of the caption of said ordinance, as the law in such cases provides.

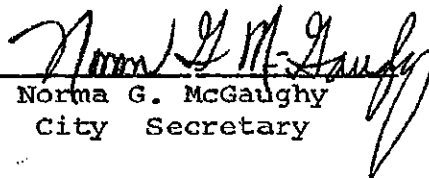
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of June , A.D., 1975.



Bob Beard
Mayor

ATTEST:

APPROVED AS TO FORM:



Norma G. McGaughey
City Secretary

Elland Archer
City Attorney

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March 11 1961