

00241

ORDINANCE NO. 1606

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, ENTITLED THE HISTORIC PRESERVATION ORDINANCE; PROVIDING FOR DEFINITION OF HISTORIC LANDMARK; PROVIDING A DECLARATION OF POLICY; PROVIDING FOR DESIGNATION PROCEDURES; PROVIDING FOR PRESERVATION COMMITTEES; PROVIDING FOR CERTIFICATE OF APPROPRIATENESS REVIEW; PROVIDING REVIEW GUIDELINES; PROVIDING FOR DEMOLITION OR REMOVAL OF LANDMARKS; PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00); PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, the Legislature of the State of Texas has recognized the importance of protecting and preserving places and areas of historical and cultural importance and significance by enacting Article 1011a, Vernon's Texas Civil Statutes, empowering cities to adopt regulations and restrictions for the protection of such places and areas; and

WHEREAS, within the City of Mesquite there are areas, places, buildings, structures, works of art and other objects having significant historical, archaeological or cultural interests and value which reflect the heritage of the City; and

WHEREAS, the rapid change in population, economic functions and land use activities in the City has increasingly threatened to uproot or destroy many significant buildings, land, areas or districts having important historical, architectural, archaeological or cultural interest and values which reflect the heritage of the City, and once uprooted or destroyed, their distinctiveness is gone forever; and

WHEREAS, it is desirable to preserve these reminders of Mesquite's culture and heritage for the enlightenment of its citizens; and

WHEREAS, commercial activity and economic prosperity of the City are enhanced by the preservation of the City's character as portrayed by its historic landmarks;

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

00242

SECTION 1. Historic Landmark Defined

As used in this Ordinance, the term "Historic Landmark" shall mean any buildings, land, areas, or districts of historical, architectural, archeological, or cultural importance or value, which the City Council determines shall be protected, enhanced, and preserved in the interest of the culture, prosperity, education and welfare of the people. Such landmark shall have one or more of the following characteristics:

(a) Character, interest or value as part of the development, heritage or cultural characteristics of the City of Mesquite, State of Texas, or the United States;

(b) Location as the site of a significant historic event;

(c) Identification with a person or persons who significantly contributed to the culture and development of the City.

(d) Exemplification of the cultural, economic, social, or historical heritage of the City.

(e) Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

(f) Embodiment of distinguishing characteristics of an architectural type or specimen;

(g) Identification as the work of an architect or master builder whose individual work has influenced the development of the City.

(h) Embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;

(i) Relationship to other distinctive buildings, sites, or areas which are eligible for preservation according to a plan based on historic, cultural, or architectural motif;

(j) Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;

(k) Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or pre-historic interest;

(l) Value as an aspect of community sentiment or public pride.

SECTION 2. Declaration of Policy

00243

The City Council hereby finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the people. The purposes of this Ordinance are (a) to protect, enhance, and perpetuate historic landmarks which represent or reflect distinctive and important elements of the City's cultural, social, economic, political, archaeological and architectural history; (b) to safeguard the City's historic landmarks; (c) to stabilize and improve property values in such locations; (d) to foster civic pride in the beauty and noble accomplishments of the past; (e) to protect and enhance the City's attractions to tourists and visitors and provide incidental support and stimulus to business and industry; (f) to strengthen the economy of the City; and (g) to promote the use of historic landmarks for the culture, prosperity, education, and welfare of the people of the City and visitors to the City.

SECTION 3. Designation Procedures

The designation of historic landmarks constitutes a zoning action as provided for by the Comprehensive Zoning Ordinance of 1973, as amended. Such designation shall be in addition to any other zoning district and all Zoning District Maps shall reflect the designation of an historic landmark subdistrict by the letter "H" as a prefix.

In order to apply an "H - Historic Landmark" designation to certain buildings, land, areas, or districts, the Planning and Zoning Commission shall give notice and hold public hearings as provided by law with reference to the exercise of the zoning power. At the conclusion of such hearing, the Commission shall set forth its recommendation and shall transmit the same to the City Council.

The City Council, after notice and public hearing as required by law with reference to the exercise of the zoning power, may enact the ordinance designating a historic landmark. Such designating ordinance shall also establish a Historic Preservation Committee and set out guidelines to be used in determining whether to grant or deny a Certificate of Appropriateness as provided hereafter in this HISTORIC PRESERVATION ORDINANCE.

SECTION 4. Historic Preservation Committees

Each ordinance designating a historic landmark or district under the procedures and authority of this HISTORIC PRESERVATION ORDINANCE shall either establish a Historic Preservation Committee specifically for the area being designated as a Historic Landmark

or shall delegate responsibility for the landmark being designated to an already existing Historic Preservation Committee. Each ordinance establishing a Historic Preservation Committee shall specify membership, terms, and conditions and shall outline procedures including quorums.

The Historic Preservation Committees shall accomplish the following functions relative to the landmarks which are delegated as their responsibility.

(a) The Committee shall thoroughly familiarize itself with the intent and specifics of the provisions and specifications of this HISTORIC PRESERVATION ORDINANCE and the ordinance designating the landmark.

(b) The Committee shall thoroughly familiarize itself with the landmark buildings, land, areas, and districts which are delegated as their responsibility.

(c) The Committee shall review all proposals for construction or exterior alteration involving a landmark and shall approve or deny the issuance of a Certificate of Appropriateness as set forth in Section 5 below.

(d) The Committee shall act as an Advisory Committee to the City Council in regard to any actions affecting the landmarks under its responsibility. As an advisory body, the Committee may research, formulate and recommend policies and programs, including funding and legal restrictions or incentives, which will encourage preservation.

SECTION 5. Certificate of Appropriateness Review

A Certificate of Appropriateness, approved by the Historic Preservation Committee responsible for the landmark, shall be required before the issuance of a building permit for or accomplishment of any construction, removal, demolition, or exterior alteration or rehabilitation involving a designated landmark. Approval of proposed work shall be made through the following procedures, except that the procedures of Section 7 below shall apply to any application for demolition or removal of a landmark.

(a) To apply for a Certificate of Appropriateness, the applicant shall forward two copies of all plans, elevations, perspectives, specifications or other documents describing the proposed work to the Planning Division. Written descriptions shall be considered satisfactory in so far as they describe the proposed work adequately. Any applicant may request to meet with the Committee prior to the submission of a proposal. Applicants are urged to consult with the Committee during their review.

(b) The Planning Division shall notify the Chairman of the appropriate Historic Preservation Committee within five (5) days that an application has been received.

(c) The Chairman shall call a meeting of the Committee within 30 days of the receipt thereof. After thorough review of the proposal, the Committee shall take one of the following actions:

- (1) Approval
- (2) Approval with stipulations - which will further enhance the design's contribution to preservation.
- (3) Approval with variance - from the strict application of the design guidelines. Prior to approval with variance, the Committee must make a finding that the strict application of the guidelines will create practical "difficulties" or particular hardship and a finding that the proposal, while not in strict adherence to the guidelines, is in the spirit and intent of this ordinance and the ordinances designating the landmark.
- (4) Denial
- (5) Tabled - for further consideration.

(d) The Committee shall notify the Planning Division of its action within 10 days and the Planning Division shall immediately notify the applicant and the Building Inspection Division when a building permit may be issued.

(e) If the Committee has denied the Certificate or has added stipulations to its approval, the applicant may file in writing its notice of appeal to the City Council within ten (10) days after receiving notice from the Planning Division. The Planning Division shall forward the notice of appeal, together with a record of the proceedings, to the City Secretary who shall place it on a City Council Agenda. The applicant shall be notified by the City Secretary of the date.

(f) If the Committee takes no action on the application within forty-five (45) days of the original receipt thereof by the Planning Division, the building permit shall be issued. The tabling of an application shall not be considered to be an action on the application.

(g) No change shall be made in the application for any building permit after issuance of a Certificate of Appropriateness without resubmittal to the Committee and approval thereof in the same manner as provided above.

(h) After a decision is reached denying an application for Certificate of Appropriateness, where no appeal is made to the City Council, a resubmittal of application will not be accepted for additional hearing within a six (6) month period from the date of the final decision except upon written request by the applicant, indicating the incorporation of changes in plans and specifications to the original application as recommended by the Committee.

SECTION 6. Appropriateness Review Guidelines

Upon the review of the application, the Committee shall determine whether the proposed work is of a nature which will adversely affect any historical, architectural, archaeological, or cultural feature of the Historic Landmark, and whether such work is appropriate and consistent with the spirit and intent of this ordinance and the designating Ordinance. In reviewing applications for the erection, construction, reconstruction, remodeling exterior or restoration of a building or structure, the Committee shall not consider interior arrangement, including detailed design features not subject to any public view and shall not make any requirements except for the purpose of preventing developments architecturally incompatible with the historic aspects of the Historic District. In addition to the design guidelines included in the ordinance designating the landmark, the Committee shall consider the following in determining the appropriateness of architectural features.

(a) The exterior architectural features which are subject to public view from a public street, way, or place;

(b) The general design, arrangement, texture, material, color, and fenestration of the proposed building or structure and the relation of such factors to similar features of buildings or structures in the immediate vicinity of the structure in question;

(c) The extent to which the building or structure would be harmonious with or architecturally compatible with other buildings in the historic district;

(d) The extent to which the building or structure will preserve or protect historic places and areas of historic significances;

(e) The extent to which the building or structure will promote the general welfare of the City and all citizens by the preservation and protection of historic places and areas of historic interest.

SECTION 7. Demolition or Removal of Landmarks

A Certificate of Appropriateness shall be required before the issuance of a permit for or the actual demolition or removal of a landmark. Such application shall be made in writing to the Planning Division and shall be processed as set out below.

(a) The appropriate Historic Preservation Committee shall consider the state of repair of the structure, the reasonableness of the cost of restoration or repair, the purpose of preserving the landmark, the character of the neighborhood, and all other factors which it finds appropriate. The Committee shall then either grant or deny the application within forty-five (45) days from the receipt thereof. No permit for demolition or removal shall be issued within ten (10) days of the Committee's action or if an appeal is filed.

(b) A written notice of appeal to the City Council may be filed in the Planning Division within (10) days of the Committee's action by the applicant or any resident of the City of Mesquite who wishes to appeal either the approval or the denial of the application. Such appeal shall be forwarded, together with a record of the proceedings, to the City Secretary who shall place it on a Council Agenda within forty-five (45) days of the date of appeal. The applicant and the person making the appeal shall be notified by the City Secretary of the date.

(c) The City Council shall hold a public hearing in which it shall hear all interested parties. If the City Council, after the public hearing, determines that there is reasonable ground for preservation, the Council may suspend the application for a period of no more than 120 days from the date of the hearing. During the period of suspension, no permit shall be issued for such demolition or removal not shall any person remove or demolish the structure.

(d) At the time an application is suspended, the City Council shall instruct the appropriate Historic Preservation Committee to attempt to negotiate a resolution with the application, to seek private or public preservation funds, or to take any other action which would assist in the landmark's preservation.

(e) The application is reactivated after 120 days from the public hearing and the City Council must take action to deny or approve the removal or demolition. If no action has been taken by the Council within 240 days of the original receipt of the application, a demolition permit shall be issued and the Building Inspection Division shall so advise the applicant.

SECTION 8. Penalty

(a) It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, demolish, raze, or maintain any historic landmark in violation of the provisions of this ordinance. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing, or maintenance, to restrain, correct, or abate such violation.

00248

(b) Any person who violates any provision of this Chapter shall be guilty of a separate offense for each day or portion thereof during which any such violation is committed, continued or permitted, and each offense shall be punishable by a fine not more than Two Hundred Dollars (\$200.00).

SECTION 9. Severability

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 of the provisions herof other than the part so decided to be invalid, illegal or unconstitutional.

SECTION 10. Declaring an Emergency

The fact that the present ordinances of the City of Mesquite fail to adequately provide for the preservation of historic and cultural landmarks within the City creates an urgency and an emergency and requires that this ordinance shall take effect immediately from and after its passage and publication as the law and charger in such cases provides.

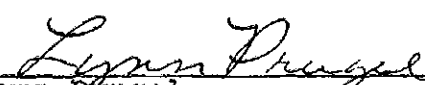
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 21st day of July, A.D., 1980.



B. G. SMITH
MAYOR

ATTEST:

APPROVED AS TO FORM:



Lynn Prugel
Acting City Secretary

Elland Archer
City Attorney