

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 DEFINING THE PARTIES AND PROCEDURES UNDER WHICH PARTIES MAY MAKE ZONING APPLICATIONS; BY REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE AND RETAINING IN FULL FORCE AND EFFECT ALL REGULATIONS OF THE 1973 ZONING ORDINANCE; BY PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That the Comprehensive Zoning Ordinance of the City of Mesquite is hereby amended by adding the following to Article 83.041, in all other respects to remain in full force and effect:

Parties that may initiate zoning action. The following parties may institute zoning in the following manner and no other:

1. City. The City Council and City Staff or Planning and Zoning Commission with approval of the City Council may institute zoning action on any property in the city. No fee is required for City action.
2. Owner of property to be zoned. The owner of property sought to be zoned may institute zoning action as provided above and payment of the fee provided in Article 83.042. The term "owner" shall include parties having an ownership interest in the property or such party's agent or attorney, including purchasers under contract of sale, holders of option to purchase and tenants in common and members of joint ventures where the instrument relied upon permits same or the owner of superior title does not object. In a proper case the Planning Department may require proof of title or lack of objection.
3. Other persons affected by zoning. Parties having no ownership interest in land (other than City) and not having the consent of the owner may institute zoning action on such land only through the following procedure:

A. Request. Upon request by non-owner applicants to seek zoning changes, the staff shall first review the facts and present such facts as exist to the Planning and Zoning Commission. A proponent, but not a group shall be allowed to present reasons why the application should be considered and a representative of the owner may present reasons why it should not be considered.

B. Criteria. The Planning and Zoning Commission shall consider the request and owner opposition in light of the following criteria:

- (1) Time elapsed since last zoning action. If a minimum of seven (7) years shall not have elapsed since

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- the last zoning action on the land no further consideration shall be given.
- (2) Substantial change in conditions. Unless substantial change in conditions have occurred since the last previous zoning action the request should be denied.
 - (3) Serious harm from use allowed under current zoning. The request shall not be allowed unless the harm from use allowed seriously affect other property owners and inhabitants.
 - (4) Balancing of detriment. The Commission shall give consideration to the detriment to surrounding property owners if not rezoned and the owner of the subject property if rezoned and determine which appears to be the greater.

Upon consideration of the above criteria if the Planning and Zoning Commission is of the opinion that the request merits a full hearing the staff shall give notices and set hearings as in other cases. If the Commission does not find that the request merits a full hearing no further action shall be taken on such request.

If a request shall be either granted or denied no further request shall be considered on the same land by a non-owner for one year from such request.

No fee shall be charged for hearings permitted by Planning and Zoning under this section.

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 the property described in Section 1 of this ordinance, shall be used only in the manner and for the purposes provided for by the Comprehensive Zoning Ordinance of 1973.

SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 1249 of the Mesquite City Code.

SECTION 5. 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.

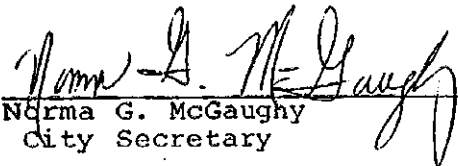
SECTION 7. Whereas, the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort, and general welfare of the City of Mesquite creates an urgency and an emergency 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 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 21st day of March, A.D., 1983.


LEN GIBBENS
MAYOR

ATTEST:

APPROVED AS TO FORM:


Norma G. McGaughy
City Secretary

Elland Archer
City Attorney

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