

ORDINANCE NO. 2388
File No. 2086-6

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 REVISING ARTICLE 44; PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY:

WHEREAS, the City Planning Commission of the City of Mesquite and the governing body of the City of Mesquite in compliance with the Charter of the City of Mesquite and State laws with reference to granting of zoning change under the Zoning Ordinance Regulations and Zoning Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to the persons interested and situated in area, the City of Mesquite is of the opinion that the change of zoning may be granted herein:

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:

- A. The existing Article 44, Central Business District, is hereby deleted and is replaced by Article 44, Central Business District:

ARTICLE 44. CBD - CENTRAL BUSINESS DISTRICT

Purpose and Scope: The CBD district is intended to accommodate the commercial, business, service and public activities and uses commonly found in a central business district. The community shall have only one contiguous CBD district.

44.00. Principal Permitted Uses.

Any Principal Permitted Use in the C-Commercial District, except those uses requiring a Conditional Use permit listed in the Section 44.01 below and the following:

- 44.001 Transportation: Bus, train, taxi terminals, etc.
- 44.002 Residential: A-3 Multifamily Uses.

44.003 Sale of used merchandise: Retail outlets selling primarily used merchandise, secondhand goods or used furniture.

44.01 Conditional uses.

Any Conditional Use listed in the C-Commercial District except as herein modified and the following:

44.011 Outdoor storage yards: The outdoor storage of articles, goods or materials, not wholly within an enclosed building, except for the incidental display of retail merchandise as otherwise permitted, shall require approval of a Conditional Use permit in the CBD and shall be screened from public view with a permanently maintained solid 6 foot fence constructed with wood or masonry. Metal fences shall not satisfy this screening requirement unless specifically authorized in the Conditional Use approval.

44.012 Automotive collision services: Body, frame or fender repair or straightening and paint shops.

44.013 Outdoor kennels: Kennels with outdoor runs.

44.014 Storage of grain or livestock feed

44.015 Warehousing/Distribution Centers

44.016 Trucking and motor freight terminals

44.02 Accessory uses.

Accessory uses and structures as permitted and regulated in C district, except as hereinafter modified, and customarily accessory and incidental to the permitted use.

44.03 Required conditions.

Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water carried waste, and must comply with the performance standards in Article 60.

44.031 Extension of district: Only one CBD district shall exist and extensions of the district must be bound at least on one side by an existing CBD boundary.

44.032 Business in enclosed buildings: All business, services, or process shall be conducted wholly within completely enclosed buildings except for such outdoor sales, display or storage as herein before specifically authorized or as may be authorized by the council.

44.04 Height regulations.

No building shall exceed six (6) standard stories in height unless all stories above six (6) standard stories are set back from all street lines one foot for each two (2) feet of height above such six-story limit.

44.05 Lot area, frontage, and yard requirements.

The following minimum requirements shall apply:

44.051 Maximum lot coverage: The total area of the main building and all accessory buildings erected on a lot as computed between the outside walls of each structure, shall not exceed fifty (50) percent of the total area of the lot.

44.052 Front and exterior side yards: No front or exterior side yards are required; provided, however, that all structures shall be a minimum of eleven (11) feet behind the proposed curb in any public right of way.

44.053 Interior side and rear yards: No rear or interior side yards are required unless the lot in the Central Business District adjoins a residential district. If the lot in this district adjoins a multifamily residential district, then the minimum rear and interior side yards shall be fifteen (15) feet.

If the lot in this district adjoins a single-family attached or detached district, then the rear and interior side yards shall be twenty-five (25) feet or two (2) times the height of the building above the grade of the nearest single family residential district, whichever is greater.

44.06 Site plan.

A site plan showing the proposed development including all easements, property lines, physical features, fire lanes and fire hydrants, buildings, parking facilities, and location of refuse collection points shall be filed with the City Planner and reviewed by the Development Review Committee.

44.07 Exterior fire resistant construction.

All main buildings shall be of one hundred (100) percent exterior fire resistant construction (i.e. having exterior walls constructed of brick, stone, concrete block or other masonry, or materials of equal fire resistant characteristics). Exterior wood shall be permitted for the purpose of decor. The maximum surface area where wood decor is permissible shall not exceed twenty-five (25) percent of any one wall and shall be limited to thirty-five (35) feet in height. Butler or Delta-type steel buildings with masonry fronts are allowed only after obtaining approval as a conditional use.

44.051 Maximum lot coverage: The total area of the main building and all accessory buildings erected on a lot as computed between the outside walls of each structure, shall not exceed fifty (50) percent of the total area of the lot.

44.052 Front and exterior side yards: No front or exterior side yards are required; provided, however, that all structures shall be a minimum of eleven (11) feet behind the proposed curb in any public right of way.

44.053 Interior side and rear yards: No rear or interior side yards are required unless the lot in the Central Business District adjoins a residential district. If the lot in this district adjoins a multifamily residential district, then the minimum rear and interior side yards shall be fifteen (15) feet.

If the lot in this district adjoins a single-family attached or detached district, then the rear and interior side yards shall be twenty-five (25) feet or two (2) times the height of the building above the grade of the nearest single family residential district, whichever is greater.

44.06 Site plan.

A site plan showing the proposed development including all easements, property lines, physical features, fire lanes and fire hydrants, buildings, parking facilities, and location of refuse collection points shall be filed with the City Planner and reviewed by the Development Review Committee.

44.07 Exterior fire resistant construction.

All main buildings shall be of one hundred (100) percent exterior fire resistant construction (i.e. having exterior walls constructed of brick, stone, concrete block or other masonry, or materials of equal fire resistant characteristics). Exterior wood shall be permitted for the purpose of decor. The maximum surface area where wood decor is permissible shall not exceed twenty-five (25) percent of any one wall and shall be limited to thirty-five (35) feet in height. Butler or Delta-type steel buildings with masonry fronts are allowed only after obtaining approval as a conditional use.

44.071 Commercial occupancy of frame buildings: Existing frame buildings may be occupied by commercial uses under the following conditions:

- (A) Permitted Uses: Principal permitted uses that are permitted in the General Retail district. All other uses are prohibited which are not expressly authorized by this section.

(B) Site Plan: A detailed site plan showing any existing features or any proposed modifications must be approved by the development review committee and the City Council before the issuance of any certificate of occupancy. Site plan approval above shall be based upon the criteria set forth herein and upon the existence, location, proximity and nature of adjoining and surrounding property as well as the enhancement or detriment to the central business area and shall take into consideration the public policy of the City in promoting revitalization of the downtown area and the use to which the property will be subjected.

In considering the same, the City Council may add or waive certain restrictions contained herein and such variation, when embodied in the minutes and attached to the approved site plan shall have the force of ordinance as same shall relate to the subject property.

(C) Accessory buildings: One accessory building (new or existing) is allowed on the same lot as the main building. The accessory building must be behind and unattached to the main building and be distant from the main building at least fifteen (15) feet.

(D) Open Space: The existing front yard setback must be maintained as open space and permanently landscaped.

(E) Parking Lots: A parking lot is required for off-street parking behind the building line and must meet all City of Mesquite parking and paving specifications.

(F) Signs: All signs are restricted to a wall sign not exceeding eighteen (18) square feet of the front of any occupancy, and a four (4) square foot identification sign in the front yard not to exceed thirty-six (36) inches in height. In all other respects, the sign ordinance would apply.

(G) Repairs and maintenance: Repairs and maintenance are required to put all buildings in a structurally sound condition, and meet existing fire and electrical codes before any certificate of occupancy may be issued. All structures and grounds shall be permanently maintained in the same condition as presented on the approved site plan and according to the condition at the date of issuance of the certificate of occupancy. The paint must be in good condition so as to protect the wood from the weather.

- (H) Outside storage and sales display: No outside storage, sales or display are permitted unless specifically authorized.
- (I) Building Additions: Additions to existing primary or accessory buildings, or the construction of new accessory buildings shall meet existing building code requirements pertaining to all masonry construction.
- (J) Certificate of Occupancy: The Certificate of Occupancy for the uses permitted hereunder shall be subject to a review on the anniversary date of issuance of said certificate of occupancy every third year to determine the compliance with the provisions hereto. Where it is determined that the user has failed in any particular to comply with the requirements hereunder or as may be promulgated from time to time, the certificate of occupancy shall not be renewed until the user shall have brought the premises into compliance. Provided, however, that a temporary certificate of occupancy may be issued for not more than ninety (90) days to allow for corrections required to comply. If disagreement results from the building inspector's review, the occupant may appeal to the appropriate board having authority to review such appeal, or if no board exists to review a specific appeal, then such appeal shall be heard by the City Council.

44.08 Parking regulations.

(a) The parking regulations for all (GR) General Retail and (C) Commercial uses within the CBD district are the same as those described in the general retail and commercial districts.

(b) For additional information, refer to Article 61.

44.09 Screening.

Screening shall be provided according to the following:

(a) In the event that a lot proposed for a non-residential use backs or sides upon a lot within the district which is in residential use, a side wood fence not less than six (6) feet in height shall be erected and maintained along the property line dividing the lots.

(b) In the event that a lot in the CBD backs or sides upon a residential district, a solid masonry screening fence not less than six (6) feet in height shall be erected and maintained along the property line dividing the two districts. The masonry screening fence shall consist of materials of equal composition and characteristics as the main buildings in the district.

(c) No such screening fence shall be erected so as to obstruct the vision of motorists at alley, street, or drive intersection.

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 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 4. 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 of 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 5. 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 (\$200.00) Dollars for each offense.

SECTION 6. Whereas, the fact that the present ordinances of the City of Mesquite are not adequate to permit 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 provided.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 2nd day of February A.D., 1987.

Mrs. Brunhilde Dystrom
Mrs. Brunhilde Dystrom
Mayor

ATTEST:

APPROVED AS TO FORM:

Lynd Prugel
Lynd Prugel
City Secretary

Elizabeth A. Lunday
Elizabeth A. Lunday
Assistant City Attorney

00294