

ORDINANCE NO. 2668

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE ZONING ORDINANCE DULY ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY DELETING SECTION 1-100 GENERAL REGULATIONS, SECTION 1-200 DISTRICTS AND BOUNDARIES, AND SECTION 1-300 NONCONFORMING SITUATIONS AND BY ADOPTING REVISED SECTIONS OF THE SAME NUMBER AND TITLE; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, through administration and experience, the Planning and Zoning Commission has determined that it is necessary to revise certain regulations so that the intended purposes of the Zoning Ordinance are best served; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold public hearings regarding revisions and has recommended amendment of the ordinance; and

WHEREAS, the City Council did give public notice and did hold public hearings regarding the proposed amendments;

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

SECTION 1. That the Mesquite Zoning Ordinance, duly adopted on September 4, 1973, and recodified on November 21, 1988, be amended by deleting existing Section 1-100 General Regulations, Section 1-200 Districts and Boundaries, and Section 1-300 Nonconforming Situations, in their entirety and adopting a revised Section 1-100, Section 1-200 and Section 1-300 as set out in the attached Exhibit "A".

SECTION 2. 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 3. 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 as amended, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2000.00) Dollars for each offense.

SECTION 4. The fact that the present ordinances of the City of Mesquite are inadequate 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 2nd day of April, 1990.

George A. Venner, Sr.
George A. Venner, Sr.
Mayor

ATTEST:
Lynn Prugel
Lynn Prugel
City Secretary

APPROVED:
B.J. Smith
B.J. Smith
City Attorney

00100
00132

1-100 GENERAL REGULATIONS

1-101 PURPOSE AND SCOPE

An ordinance of the City of Mesquite, Texas, enacted in accordance with a comprehensive plan and for the purpose of promoting the public health, safety, morals, and general welfare, and preserving places and areas of historical, cultural, or architectural importance and significance: Establishing land use classification, dividing the city into districts, imposing regulations, restrictions and prohibitions upon the use and occupancy of real property; limiting the height, area, and bulk of buildings and other structures and providing for yards and other open spaces about them; establishing standards of performance and design; and providing for the administration and enforcement thereof.

1-102 TITLE

This ordinance shall be known and may be cited as the Mesquite Zoning Ordinance.

1-103 APPLICATION OF REGULATIONS

A. CONFORMANCE REQUIRED

All land, buildings, structures, or appurtenances thereon located within the City of Mesquite, Texas, which are hereafter occupied, used, erected, altered, or converted shall be used, placed and erected in conformance with the regulations for the zoning district in which such land or building is located.

B. REQUIREMENTS AS MINIMUM

The provisions of this ordinance shall be held to be minimum requirements. No required open space for one building or use shall be computed as being the open space, yard, or area requirement for any other building or use. When this ordinance imposes a greater restriction than imposed by other ordinances or laws, the provisions of this ordinance shall govern.

C. INTERPRETATION

Questions of interpretation of this ordinance shall be referred to the City Planner, who shall have the authority to determine the meaning, intent, and interpretation of any provision of this ordinance. Any person aggrieved, or any officer, department, or board of the City affected by any interpretation of the City Planner may appeal such interpretation to the Board of Adjustment, whose determination in the matter shall be final.

D. REQUIRED REVIEWS AND APPROVALS

Site plan approval, issuance of building permits, and certificates of occupancy shall be required for all uses and construction to determine that the proposed uses and structures comply with the requirements and provisions of this ordinance and to require compliance therewith. Appeals, Special

00134

00135
1-100

**PART 1: GENERAL PROVISIONS
1-100 GENERAL REGULATIONS**

Exceptions, variances, and Conditional Use permits require additional approvals in accordance with specified hearing and notification procedures. See Part 5: Administration for specific processing requirements which apply to particular types of uses, applications, and approvals by the Development Review Committee, Board, Commission and/or City Council.

E. PENDING APPLICATIONS

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure, or part thereof, for which

official approvals and required building permits have been granted before the enactment of this ordinance, provided substantial construction shall have been accomplished prior to the effective date of this ordinance.

F. STREET USE RESTRICTIONS

A street adjacent to a district in which restrictions as to the use of the street would be applicable shall be considered to be a part of such district. Where a street is adjacent to more than one district, the street shall be considered part of the most restrictive district.

1-104 GENERAL STANDARDS

A. ESTABLISHMENT OF A BUILDING SITE

No permit for the construction or expansion of a building shall be issued unless the tract or plot is part of a plat of record, filed in the plat records of the county, thereby establishing a building site. Platting shall be in conformance with the Mesquite Subdivision Ordinance.

B. TRAFFIC VISIBILITY

No fence, structure, or planting shall be erected or maintained which interferes with traffic visibility across a corner. Where no other standard applies, no fence, structure or planting shall be erected or maintained within 25 feet of the corner (i.e. the intersection of the right-of-way lines) unless approved by the Traffic Engineer.

C. PERFORMANCE STANDARDS

Even though compliance may not be expressly required, initial and

continued compliance with performance standards is required of every use in accordance with the 1-400.

D. OFF-STREET PARKING AND LOADING

In every district and for every use, off-street parking and off-street loading and unloading shall be provided in accordance with the provisions of 2-400 and 3-400.

E. ENCROACHING DOORS AND GATES

No gate, garage door, or other opening mechanism for vehicular entry shall be placed so that it would project beyond any lot line when open or being opened.

F. ACCESSORY USES

Accessory uses shall be permitted only when incidental and secondary to a lawful principal use on the premises. An accessory building shall be used for permitted accessory uses only, and not for the conduct of or as an integral part of the principal use.

PART 1: GENERAL PROVISIONS
1-100 GENERAL REGULATIONS

Exceptions, variances, and Conditional Use permits require additional approvals in accordance with specified hearing and notification procedures. See Part 5: Administration for specific processing requirements which apply to particular types of uses, applications, and approvals by the Development Review Committee, Board, Commission and/or City Council.

E. PENDING APPLICATIONS

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure, or part thereof, for which

official approvals and required building permits have been granted before the enactment of this ordinance, provided substantial construction shall have been accomplished prior to the effective date of this ordinance.

F. STREET USE RESTRICTIONS

A street adjacent to a district in which restrictions as to the use of the street would be applicable shall be considered to be a part of such district. Where a street is adjacent to more than one district, the street shall be considered part of the most restrictive district.

1-104 GENERAL STANDARDS

A. ESTABLISHMENT OF A BUILDING SITE

No permit for the construction or expansion of a building shall be issued unless the tract or plot is part of a plat of record, filed in the plat records of the county, thereby establishing a building site. Platting shall be in conformance with the Mesquite Subdivision Ordinance.

B. TRAFFIC VISIBILITY

No fence, structure, or planting shall be erected or maintained which interferes with traffic visibility across a corner. Where no other standard applies, no fence, structure or planting shall be erected or maintained within 25 feet of the corner (i.e. the intersection of the right-of-way lines) unless approved by the Traffic Engineer.

C. PERFORMANCE STANDARDS

Even though compliance may not be expressly required, initial and

continued compliance with performance standards is required of every use in accordance with the 1-400.

D. OFF-STREET PARKING AND LOADING

In every district and for every use, off-street parking and off-street loading and unloading shall be provided in accordance with the provisions of 2-400 and 3-400.

E. ENCROACHING DOORS AND GATES

No gate, garage door, or other opening mechanism for vehicular entry shall be placed so that it would project beyond any lot line when open or being opened.

F. ACCESSORY USES

Accessory uses shall be permitted only when incidental and secondary to a lawful principal use on the premises. An accessory building shall be used for permitted accessory uses only, and not for the conduct of or as an integral part of the principal use.

PART 1: GENERAL PROVISIONS
1-100 GENERAL REGULATIONS

G. AIRPORT HAZARD ZONING

Compliance with the height limits set out in the Mesquite Airport Zoning Ordinance shall be required whenever they are more restrictive than the provisions of this ordinance.

H. HIGH RISK USES

Any use determined by the Health, Fire, or Building Official to be of special health or safety hazard due to

excessive or toxic fumes, smoke, gas, or dust; vibration; odor; noise; or danger from fire, explosion or radiation, but which could be operated without hazard under specific standards, shall require approval of a Conditional Use permit in accordance with 5-404, whether or not such approval is otherwise indicated as required. High risk uses shall include, but not be limited to, those listed in National Fire Protection Association Pamphlets 49 and 49M.

1-200 DISTRICTS AND BOUNDARIES

1-201 DIVISION INTO DISTRICTS

For the purpose of this ordinance, the City of Mesquite is divided into zoning districts as set out in Articles 2-100, 3-100, and 4-100.

1-202 DISTRICTS ESTABLISHED

The boundaries of the zoning districts are indicated upon the Zoning Map of the City of Mesquite, adopted August 17, 1964. The map, including all notations, references and other information shown upon said map are hereby made a part of this ordinance and shall be considered the same as if they were fully contained and described herein. The map shall bear the title "Zoning Map of the City of Mesquite, Texas"; and shall be attested by the signatures of the Mayor and City Secretary. The original of said map shall be kept in the office of the City Secretary. The official Zoning Map of the City of Mesquite indicating all approved changes and amendments shall be kept in the office of the City Planner.

1-203 BOUNDARIES OF DISTRICTS

The district boundaries shown on the Zoning Map are generally along streets, alleys, creeks, property lines or extensions thereof. The following rules shall apply when determining the location of such boundaries. Other questions concerning the exact location of boundaries shall be determined by the Board of Adjustment.

A. APPROXIMATE LINES

Boundaries indicated as approximately following centerlines, creek lines, right-of-way lines, property lines, platted lot lines, or the extension of such lines shall be construed to follow the same, unless otherwise noted.

platted lot or a tract under single ownership, the entire lot shall be construed to be within the least restrictive district, provided that such lot does not extend more than 50 feet beyond such district line.

B. SCALED DISTANCE

Distances not specifically indicated shall be determined by using the scale of the map.

D. VACATION

Whenever any street or alley or other public way is vacated by official action, the zoning districts adjoining the side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall be subject to all regulations of the extended districts.

C. DIVIDED LOTS

Where a district boundary divides a

001383

PART 1: GENERAL PROVISIONS
1-200 DISTRICTS AND BOUNDARIES

1-204 NEWLY ANNEXED TERRITORY

All territory hereafter annexed to the City of Mesquite shall be classified as AG-Agricultural until other zoning, where appropriate, is approved in accordance with required procedures. No permit for use of property or erection of structures shall be issued unless such use and structure is permitted in the AG district. Furthermore, erection of any structure other than a single family dwelling or an accessory structure related thereto, shall require approval of a site plan by the City Council, with recommendation from the the Planning and Zoning Commission, in compliance with 2-202A.

1-300 NONCONFORMING SITUATIONS

1-301 GENERAL PROVISIONS

A nonconforming situation shall be a legal use under these provisions, provided that it is conducted in accordance with the regulations prescribed below.

A. NONCONFORMING STATUS

A situation shall be classified as nonconforming and shall be a legal use under these provisions when such situation was in existence and lawfully operating at the time of adoption of the zoning provisions or amendments thereto which created the nonconforming condition, or at the time of annexation to the City, and when such situation has since been in regular and continuous existence. A situation that did not constitute a conforming or a legal nonconforming situation under previous regulations shall not achieve legal nonconforming status due to the adoption of this or subsequent amendments, unless such amendment shall make the situation conforming.

B. TYPES OF NONCONFORMING SITUATIONS

A property may be nonconforming due to the failure of the use, the structure, and/or the premises to conform to the requirements of the district in which it is located.

1. Nonconforming Use: A use that is not a permitted use in the district in which it is located.

2. Nonconforming Structure: A structure that does not conform to the lot, setback, height or other dimensional regulations of the district in which it is located.

3. Nonconforming Premises: A premises that does not conform to the

building or development standards (other than dimensional standards) required for the use in the district in which it is located, such as paving, parking, screening, exterior fire resistant construction and similar requirements.

C. EXCEPTIONS

1. Single Family Homes: Single family residences lawfully constructed under previous regulations shall be considered conforming if they continue to comply with the regulations in effect at the time of construction, and shall not be required to comply with subsequent requirements. Additions thereto shall not be required to contain any greater percentage of exterior masonry than the structure in its present existence. Damaged residences may be reconstructed as originally constructed in regard to exterior masonry, unit size, and similar requirements.

2. Metal Buildings: Buildings with metal exteriors which were lawfully constructed without masonry fronts may be enlarged without the construction of masonry fronts, provided none of the enlarged portion faces, side, or backs to the street, but is entirely shielded from all streets by the existing building.

3. Heritage Square: Buildings fronting the north, south, or west side of Heritage Square, which are nonconforming due to lot coverage

and/or lack of required parking, may be reconstructed, provided that the building size is not increased and no greater nonconformity is created.

4. Fraternal Organizations/Bingo: Fraternal organizations organized for charitable purposes and operating Bingo games at a location prior to January 1, 1980, may continue to operate in the same location without approval of a Conditional Use permit.

D. DEFINITIONS

1. Major Repair, Alteration, Renovation: Major repair, alteration, or renovation shall mean work estimated to cost in excess of 50% of the appraised value of the nonconforming property.

2. Enlargement, Extension: Enlargement or extension shall mean an increase in the building and/or land area occupied by the nonconforming situation, or an increase in the capacity of processing and operating equipment, machines, or vehicles used, but shall not mean a general increase in business or production resulting from general growth.

3. Major Reconstruction: Major reconstruction, when damage due to fire, wind, or other cause has occurred, shall mean work estimated to cost in excess of 50% of the appraised value of the nonconforming property.

E. REQUIRED COMPLIANCE

1. Performance Standards: All uses which become nonconforming by reason of noncompliance with the provisions of 1-400 regarding performance standards shall adopt necessary measures to conform therewith within 3 years of the adoption or annexation which creates the noncompliance. Appeal of this requirement may be made to the Board of Adjustment and the Board may approve such extension of time as it determines is reasonable due to hardship and/or special circumstances, but which will not jeopardize health or safety.

2. Screening of Outdoor Storage: All outdoor storage areas which are nonconforming due to the lack of the required screening shall provide conforming screening within 3 years of the adoption of this section or of annexation. Provided, however, no property shall be in violation of this section until written notification is sent by registered mail to the owner of record providing a minimum one year period from the date of notification within which to install the required screening. Appeal of this requirement may be made to the Board of Adjustment and the Board may approve such extension of time as it determines is reasonable due to hardship and/or special circumstances, but which will not jeopardize health or safety.

1-302 NONCONFORMING USES

This section shall apply to any situation where the use is nonconforming, regardless of other nonconformity in the structure and/or premises.

A. CONTINUATION

A nonconforming use may be continued as it exists, unless it is terminated

under the provisions of 1-304, but shall not be changed or improved unless otherwise authorized herein, provided however that minor repairs, alteration,

PART 1: GENERAL PROVISIONS
 1-300 NONCONFORMING SITUATIONS

renovation, or reconstruction shall be permitted to keep the property in sound condition. No enlargement, extension or major reconstruction shall be permitted.

B. SPECIAL EXCEPTIONS

The Board of Adjustment may authorize the following special exceptions regarding nonconforming uses.

1. Substitution of Use: To allow the substitution of a less objectionable use for the existing nonconforming use where the Board determines that the substitute use will have less adverse impacts on the adjacent properties and will be more compatible with the surrounding neighborhood. When a substitution has been authorized, only the substituted use retains nonconforming status.

1-303 NONCONFORMING STRUCTURES AND PREMISES

This section shall apply to those situations where nonconformity exists in the structures and/or premises, but where the use is conforming. If the use is also nonconforming, then 1-302 shall apply.

A. CONTINUATION

A nonconforming structure and/or premises may be continued as it exists, unless it is terminated under the provisions of 1-304. The following changes and improvements shall be permitted.

1. Major Improvements and Enlargement of a Nonconforming Structure on Conforming Premises: Major repair, alteration, renovation, enlargement, or extension of a nonconforming structure shall be permitted, provided that no greater or additional nonconformity is created and that all nonconformity of the premises is eliminated.

2. Change of Use: The use of a nonconforming structure and/or premises may be changed to any conforming use, provided that special conditions for that use do not create greater or additional nonconformity. This provision shall not authorize the conversion of a residence located in a nonresidential district to a nonresidential use, unless the structure and premises are made to

conform to all requirements of the nonresidential district.

B. SPECIAL EXCEPTIONS

The Board of Adjustment may authorize the following special exceptions regarding nonconforming structures and/or premises.

1. Major Improvements and Enlargement of a Nonconforming Structure on Nonconforming Premises: To allow major repair, alteration, renovation, enlargement, or extension of a nonconforming structure in situations when all nonconformity in the premises will not be eliminated where the Board determines that the elimination of the nonconformity is not reasonably possible because it cannot be accommodated without adding additional land; without moving a substantial structure on a permanent foundation; without creating an unacceptable situation regarding practical and reasonable utilization of the property, particularly in regard to access and circulation; or without creating a health or safety hazard.

82100
00142

PART 1: GENERAL PROVISIONS
1-300 NONCONFORMING SITUATIONS

2. Major Reconstruction: To allow the major reconstruction of a structure with dimensional nonconformity on the existing foundation where the Board

determines that the structure previously existed without substantial impact on the adjacent properties and that the reconstruction will not create more adverse impacts.

1-304 TERMINATION OF NONCONFORMING SITUATIONS

A. CHANGE TO CONFORMING

Whenever a nonconforming situation has been changed to a conforming situation, such situation shall be deemed to be permanently abandoned and shall not be reinstated on the property.

B. DISCONTINUANCE

The right to operate a nonconforming use or premises, or a portion thereof, shall terminate if the nonconforming use or premises is abandoned or if it is discontinued for six months or more.

The Board may determine that a use or premises which remains vacant or unused for six months or more has not been discontinued under the intent of this section if the owner can state unusual circumstances which prevented or precluded use of the property during that period, in which case the property may be reoccupied and the nonconforming

use reinstated in compliance with the other provisions of this section.

C. AMORTIZATION

The Board, in accordance with its procedures, may require the total discontinuance of a nonconforming situation under any plan whereby the full value of the structures can be amortized within a definite period of time, taking into consideration the general character of the neighborhood, the necessity for all property to conform to the regulations of this ordinance, and having due regard for the property rights of the persons affected when considered in light of the public welfare and the conservation and preservation of property. The Board may from time to time, upon its own motion or upon cause presented by others, inquire into the existence and continuation of any nonconforming situation and may call hearings to consider the amortization of such situations.