

ORDINANCE NO. 2726

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DESIGNATING THE CITY OF MESQUITE AS A BIRD SANCTUARY; SPECIFYING UNLAWFUL ACTS; AMENDING CHAPTER 11 OF THE CODE OF THE CITY OF MESQUITE, TEXAS; BY DEFINING AND PROVIDING FOR PRESERVATION OF WETLANDS AND 100 YEAR FLOODPLAIN WITHIN THE CITY; ESTABLISHING RESPONSIBILITIES OF CERTAIN CITY DEPARTMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Mesquite is an environmentally concerned city, sensitive and dedicated to the preservation of birds and wildlife; and

WHEREAS, habitat destruction is the greatest threat to birds and wildlife, and the City of Mesquite is dedicated and committed to the protection of such habitat wherever reasonably possible; and

WHEREAS, Keep Mesquite Beautiful, Inc., has committed to (a) encourage broad based community support; (b) develop adult education programs; and (c) attempt to elevate the environmental consciousness within the City; and

WHEREAS, the Dallas County Audubon Society recognizes and accredits the City of Mesquite's efforts to preserve and enhance bird and wildlife sanctuary programs, and the Society is prepared to assist in making the program successful; and

WHEREAS, the Mesquite Independent School District believes that the key to understanding environmental concerns is education. The District commits to providing learning experiences for students to enhance their awareness of the environment and the role played by birds and wildlife in that environment.

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

SECTION 1. That the entire area embraced within the corporate limits of the City of Mesquite be, and is hereby designated as a "Bird Sanctuary".

SECTION 2. That all City owned property shall be managed in such a manner as to promote both human enjoyment and the development of bird and wildlife habitat.

SECTION 3. That, wherever possible, the City will leave the environment in its natural state. The City, through its Parks and Recreation Department, will attempt to mitigate the affect of development of roads, parking facilities, utilities and other necessary improvements through seasonal plantings and feeding stations. Enhancement programs, such as bird houses for birds such as Bluebirds, Purple Martins and Woodducks, and private preserves will be encouraged. The City will also provide relief from drought and winter stress.

SECTION 4. That it shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl, or to rob bird nests or wild fowl nests within the City. Provided; however, if starlings, pigeons or other birds are found congregating in such numbers in a particular locality that, in the opinion of the Environmental Health Official of the City of Mesquite, they constitute a nuisance or menace to health or property, then the Environmental Health Official shall make arrangements to abate the nuisance in as humane a manner as practicable. The Environmental Health Official may contact the Humane Society or other similar organizations for assistance in abatement. Destruction of the birds shall be permitted only if no other practical alternative for abating the nuisance can be found. The Environmental Health Official shall consult with the Director of Parks and Recreation prior to making any decision to destroy the birds. The Environmental Health Official shall receive assistance from the Police or other City departments, as needed, in any abatement procedure.

SECTION 5. That Chapter 11 of the Code of the City of Mesquite is hereby amended as follows, in all other respects to remain in full force and effect:

1. Section 11-27 is hereby amended by adding the following definitions:

Floodplain means the 100-year flood boundary as designated and mapped on the City's most current flood insurance rate map (FIRM) as published by the Federal Emergency Management agency.

Wetlands means areas identified and designated by the U.S. Army Corps of Engineers as wetlands.

2. Section 11-29(4) is hereby deleted and a new section 11-29(4) is adopted to read as follows:

Notwithstanding the provisions of subsections (3)a and 3(b) of this section the City will seek to preserve the 100 year flood plain for the following stream and creek segments:

1. Stream 2B7 south of Town East Boulevard to its confluence with South Mesquite Creek.
2. The West Fork of South Mesquite Creek south of U.S. 80 to its confluence with South Mesquite Creek.
3. South Mesquite Creek from North Mesquite Drive to the East Fork of the Trinity River.
4. North Mesquite Creek from U.S. 80 to its confluence with the East Fork of the Trinity River.
5. The East Fork of the Trinity River within the City of Mesquite.

Plans for encroachment and/or improvement of the flood plain in the five stream and creek segments identified above shall be submitted for review to the City Engineer, the City Planner, and the Director of Parks and Recreation. The Engineer will comment on the effects of the proposed encroachments and/or improvements on flood water elevations and on the hydraulic adequacy of the channel. The City Planner may comment on the advisability of the zoning and land use. The Director of Parks and Recreation will comment on the use of the land for parks, and open space, as well as bird and wildlife habitat. The 100 year flood plain may not be developed in the stream and creek segments identified above without staff and City Council review of the ramifications of such development.

In addition, the City may protect the "wetlands" as they exist in the City. Wetlands which are the prime habitat of birds and other wildlife, may not be drained, filled, or destroyed in such a manner as to render them unacceptable to birds and wildlife as temporary or permanent habitat.


The City may require that all or part of any floodplains/wetlands within the City be dedicated and/or modified for such purpose in lieu of some or all channel improvement required in subsection (3) of this section.

SECTION 6. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.


SECTION 7. 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 upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars for each offense.

SECTION 8. That the present ordinances of the City of Mesquite are inadequate to properly protect birds, wildlife and their habitat within 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 18th day of February, 1991 .


George A. Verner, Sr.
Mayor

ATTEST:


Lynn Prugel
City Secretary

APPROVED:


B.J. Smith
City Attorney

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