

ORDINANCE NO. 3846
Zoning Text Amendment No. 2006-2

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY ADDING A NEW SECTION 4-900 THEREBY CREATING THE MILITARY PARKWAY-SCYENE CORRIDOR OVERLAY DISTRICT; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, in order that the intended purposes of the Mesquite Zoning Ordinance are best served, it has been determined necessary to amend certain language of said ordinance; and

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

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendment.

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

SECTION 1. That the Mesquite Zoning Ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by adding a new Section 4-900 to read as follows, said Ordinance in all other respects to remain in full force and effect:

4-900 MILITARY PARKWAY-SCYENE CORRIDOR OVERLAY DISTRICT

4-901 PURPOSE AND SCOPE

The Military Parkway–Scyene Corridor is positioned centrally between the Mesquite Arena and Rodeo Entertainment District, the downtown and historic Square area, and IH-635 and the rail line north of Scyene. The purpose of the MP-SC Overlay District is to create an attractive and effective gateway into downtown and link these important assets and land uses. To this end, the MP-SC Overlay District is intended to:

- Provide for a selective palette of retail/entertainment uses while accommodating a limited mix of residential and service uses that compliment the retail development or that support pedestrian- and transit-oriented design.
- Avoid familiar “strip” patterns of development by encouraging multi-use development on large or unified parcels that minimize access points, allow for 360° design and reduce auto-dominated frontage.

- Establish non-traditional setback, parking standards, lighting, signage and other site planning features that create a distinct and cognizable “sense of place” on Military Parkway and Scyene Road.
- Encourage pedestrian activity on the street frontage, between major uses and with links to the Parks and Recreation trail system.
- Preserve long-term opportunities for incorporating transit-oriented development.

4-902 MILITARY PARKWAY-SCYENE CORRIDOR OVERLAY DISTRICT PREFIX

The MP-SC prefix designation is a zoning overlay district. After the effective date of this ordinance, the addition or removal of the MP-SC prefix constitutes zoning action requiring due process required under State law. No land within the City except the following described area shall be designated MP-SC without the requisite notice and public hearing provided by State law. The City shall have only one contiguous Military Parkway–Scyene Corridor District.

Land Zoned MP-SC Military Parkway–Scyene Corridor

All land, regardless of zoning on the effective date of this ordinance, which is located between IH-635 and Carmack Street, and which is situated:

- A. Between Military Parkway and Scyene Road; or
- B. With frontage on the south right-of-way line of Military Parkway or surrounded by land with such frontage.

4-903 PERMITTED USES

In this district no land shall be used except for one or more of the following uses to the extent that they are not prohibited by other regulations or ordinances.

A. Standard District

All land in the overlay district shall retain its existing zoning designation and all characteristics of such zoning, except as modified herein.

B. Private Club

As hereinafter regulated.

C. Restricted Uses

1. Except for the uses listed in paragraphs 3 and 4 of this subsection, all uses within the MP-SC Overlay District shall require approval of a Conditional Use Permit in accordance with §5-300 and the supplemental criteria established herein. When a use is allowed in the underlying existing zoning district by the Schedule of

Permitted Uses (§3-203) as a Permitted Use or Conditional Use Permit, application may be made in the MP-SC Overlay District for approval as a Conditional Use Permit.

2. In addition to the review criteria for a Conditional Use Permit enumerated in §5-303, the Planning Commission and City Council shall consider the following:

- (a) ***Conformance to Planning Principles***

- That the proposed use conforms to the Comprehensive Plan and the purposes of the MP-SC Overlay District.

- (b) ***Support for Residents or Customers***

- That the proposed use will support the retail and service needs of the residents of the overlay district or the customers of the uses that are permitted-by-right within the overlay district. Support may be evidenced, among other ways, by a public pedestrian connection to the residents or the customer-based uses that will benefit from the proposed use.

3. The uses permitted-by-right in the MP-SC Overlay District include, and are expressly limited to, the following:

Residential Uses

- (a) Multi-family dwellings not exceeding 75 percent of the floor-area of a building in a vertical mixed-use development. No multi-family use is permitted at ground level. Multi-family use exceeding the vertical development ratio shall require a Conditional Use Permit.

Retail Trade

- (b) SIC 525 Hardware Stores
 - (c) SIC 53 General Merchandise Stores
 - (d) SIC 54 Food Stores, except SIC 549 Miscellaneous Food Stores
 - (e) SIC 56 Apparel, Accessory Stores
 - (f) SIC 57 Furniture, Home Furnishings
 - (g) SIC 5812 Eating Places, except Drive-In Restaurants or Restaurants with Drive-Through Facilities
 - (h) SIC 591 Drug, Proprietary Stores
 - (i) SIC 594 Miscellaneous Shopping Goods Stores
 - (j) SIC 599 Retail Stores NEC, except SIC 5999 Miscellaneous Retail NEC

Services

- (k) SIC 701a General Service Hotel/Motel
 - (l) SIC 7011 Bed and Breakfast Inns
 - (m) SIC 7219 Laundry, Garment Services NEC
 - (n) SIC 724 Barber Shops
 - (o) SIC 725 Beauty Shops
 - (p) SIC 725 Shoe Shine and Repair

- (q) SIC 7334 Photocopying, Duplicating Services
- (r) SIC 7336 Commercial Art, Graphics Design
- (s) SIC 763 Watch, Clock, Jewelry Repair
- (t) SIC 7991 Physical Fitness Facilities
- (u) SIC 7999c Commercial Art Galleries, Museums
- (v) SIC 81 Legal Services
- (w) SIC 835 Child Day Care Services
- (x) SIC 84 Museums, Art Galleries, Arboreta, Zoos
- (y) SIC 87 Engineering, Accounting, Research, Management Services

Accessory Uses and Structures

- (z) Parking

4. The following uses are expressly prohibited within the MP-SC Overly District, provided that any such use that exists as of December 18, 2006, and which is lawfully operating as of said date, shall not be classified as nonconforming under Section 1-301 A. The right to operate any such use shall terminate if the use is discontinued for one year or more.

Construction

- (a) SIC 15 Building Contractors
- (b) SIC 16 Heavy Construction Contractors
- (c) SIC 17 Special Trade Contractors

Manufacturing

- (d) SIC 20-39 (All manufacturing uses)

Transportation and Utilities

- (e) SIC 42 Motor Freight Transportation and Warehousing
- (f) SIC 44 Water Transportation
- (g) SIC 45 Air Transportation
- (h) SIC 46 Pipelines
- (i) SIC 49 Electric, Gas, Sanitary Sewer, except SIC 49b Business Office

Wholesale Trade

- (j) SIC 50-51 (All wholesale trade use, durable and non-durable)

Retail Trade

- (k) SIC 55 Automobile Dealers, Service Stations

Services

- (l) SIC 735 Miscellaneous Equipment Rental, Leasing
- (m) SIC 75 Automotive Repair and Services
- (n) SIC 836c Residential Care Institutions
- (o) SIC 86 Membership Organizations as the primary use of tracts greater than one acre

All establishments in the MP-SC Overlay District shall meet the following conditions, in addition to any stipulations or conditions of approval under the Conditional Use Permit provisions of this ordinance.

A. Site/Floor Plan

A site/floor plan of any proposed establishment shall be submitted and approved by the Development Review Committee prior to the issuance of a building permit or certificate-of-occupancy. The site plan approval shall identify (a) the specific activities approved and (b) any added stipulations or conditions for development or operation.

B. Private Clubs (in conjunction with Restaurant or Full-Service Hotel only)

A private club may be housed within a restaurant or full-service hotel on land zoned either LC or C and shall comply with the following:

1. **Location:** The premises shall not be located less than 300 feet from any school. Other separation requirements of City Code §8-840 shall not apply.
2. **Minimum capacity:** The restaurant shall contain a minimum seating capacity of 125 persons. A hotel shall contain a minimum of 100 rooms, all with access from internal hallways, and shall contain an internal restaurant.
3. **Primary use:** The restaurant or hotel shall constitute not less than 60 percent of the gross floor area of the structure. Any restaurant containing a private club shall hold a TABC food and beverage certificate.
4. **Access:** The bar area shall have no exterior entrance.
5. **Signs:** No signs advertising the sale of alcoholic beverages shall be permitted; however, this shall not prohibit use of established trade names of establishments.
6. **Drink promotions:** Drinks shall not be offered for sale at a price reduced from the customary price during a specific period for promotional purposes (sometimes called "Happy Hour" or similar promotional activities designed to stimulate the sale of alcohol).

C. Site Design and Maintenance

The site of any proposed establishment within the MP-SC Overlay District shall be designed and developed in accordance with this Section in addition to all other requirements of the City's ordinances and in accordance with any and all Design Standards adopted by the City Council specifically for the MP-SC Overlay District and on file in the Planning office when application is made for any proposed establishment. In the event of a conflict between this Section and other provisions of the City's ordinances, this Section shall prevail. In the event of a conflict between this Section and the Design Standards adopted for the MP-SC Overlay District, the Design Standards shall prevail. The Board of Adjustment is not authorized to grant relief from the provisions of this subsection.

1. In the front and exterior side yards, not less than 75 percent of the building profile shall be built to the right-of-way line. For eating establishments other than drive-in restaurants or restaurants with drive-through facilities, the amount of the building profile built to the right-of-way line may be reduced below 75 percent when:
 - (a) The area between the building façade and the right-of-way line is used for seating for the eating establishment;
 - (b) Ingress and egress are provided from the area to the interior of the eating establishment; and
 - (c) Not less than 25 percent of the building profile is built to the right-of-way line.
2. Any area between the building façade and the right-of-way line shall be landscaped. Such landscaping shall be in addition to and not included in meeting normal landscaping requirements for the site.
3. The height of the building should be designed to not exceed the maximum building enclosure ratio as specified in the table below. The design shall be presumed to meet this design standard when the height is greater than the percentage of the optimum width of the adjacent street right-of-way in Column C.
 - (a) Where the building enclosure ratio exceeds the maximum ratio, the applicant shall, in addition to all other required public improvements, either:
 - i. Install an enhanced landscape and pedestrian walkway package according to the City's plans and specifications, and dedicate that portion on public right-of-way to the City; or
 - ii. Pay a fee in lieu of the landscape and pedestrian walkway package.
 - (b) Where the building enclosure ratio is less than or equal to 75 percent of the maximum ratio, the applicant shall be eligible for an approved design incentive.
 - (c) The Planning Commission may approve heights in excess of 75 feet, in which case §3-305B shall not apply.
4. No building permit shall be approved for a development on any tract of land with a width on any street frontage of less than 200 feet. The required width may be reduced for any parcel with approval of a zone change to Planned Development where it is demonstrated that the development will conform to the Comprehensive Plan and the purposes of the MP-SC Overlay District.
5. A one-story building that is constructed for, or intended to accommodate, multiple tenants shall not present a building profile to a public street that is greater than five times the height of the building.
6. Spaces separating buildings on the same tract along the same street frontage shall be designed to provide a pedestrian access way from the public right-of-way to the rear of the buildings. A sidewalk shall be installed in the access way connecting to the public sidewalk.

7. All parking shall be designed within the parking footprint. The parking footprint shall have a minimum 25-foot setback from the adjacent right-of-way. The parking profile shall not exceed 10 percent of the property frontage on Military Parkway, Scyene Road or Gateway Boulevard. A development that achieves a building enclosure ratio that is less than or equal to 75 percent of the maximum ratio may expand its parking profile to 20 percent. A vertical mixed-use development that does not exceed the maximum building enclosure ratio is eligible for a shared parking benefit.
8. The same masonry materials that are used on the building façade of a public street shall “wrap” around the building and be used on all elevations. Metal exterior siding is prohibited on buildings in the overlay. For building façades on a public street at least 50 percent of the area between two feet and 10 feet above sidewalk level shall be transparent.
9. Pole signs and portable signs are prohibited. The City, working in concert with property owners, may erect one or more landmark or wayfinding signs identifying the Military Parkway–Scyene Corridor area.
10. Outdoor sales, display or storage is prohibited, §3-600 et seq. notwithstanding.
11. Any premises that abut the City’s pedestrian and bicycle trail system shall, if the City deems it necessary to secure public access, dedicate an access point of sufficient width from the premises to the City system as a condition of site plan approval.

Maximum Building Enclosure Ratios		
A	B	C
On the following streets:	The maximum building enclosure ratio is:	Presumed met when building height equals or exceeds: (percentage of optimum width of adjacent street right-of-way)
Military Parkway	4:1	25%
Scyene Road	2:1	50%
Gateway Blvd.	2:1	50%
Gross Road	3:1	33%
Lindsey Street	3:1	33%
Carmack Street	3.5:1	28%
New streets	3:1	33%

4-905 DEFINITIONS

For purposes of this ordinance, the following terms shall have the meanings ascribed to them in this Section. The diagrams (Diagram 1, etc.) that illustrate various terms are considered part of the definition to which they refer.

Building profile means the apparent width of a building when viewed from the street. A development with multiple street frontages will have one building profile for each frontage. (Diagram 1)

Building enclosure ratio refers to the proportionate relationship between the total distance between buildings on both sides of the adjacent street and the height of a building. (Diagram 2)

Parking footprint means the area defined by the rear building façade(s) and the rear setback lines. (Diagram 3)

Parking profile means the apparent width of the parking area and access drives when viewed from the street. (Diagram 3)

Optimum width of street right-of-way refers to the planned or future right-of-way width as approved on the City's Thoroughfare Plan.

Shared parking benefit refers to a concession made for parking in a mixed-use development that has the effect of lowering the minimum parking requirement based upon variations in parking demand by time of day and land use relationships that induce single auto trips. The shared parking benefit is determined separately for each mixed-use development according to standards recommended by the Urban Land Institute.

Vertical mixed-use refers to stacking different uses on different floors of a multi-story building.

Diagram 1
Building Profile

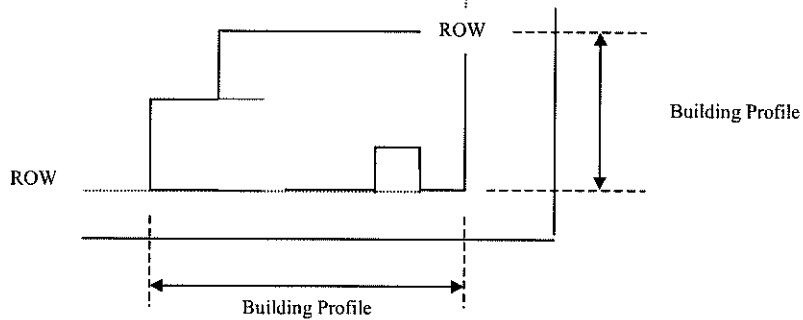


Diagram 2
Building Enclosure Ratio

Building A = $w / h1$
Building B = $w / h2$

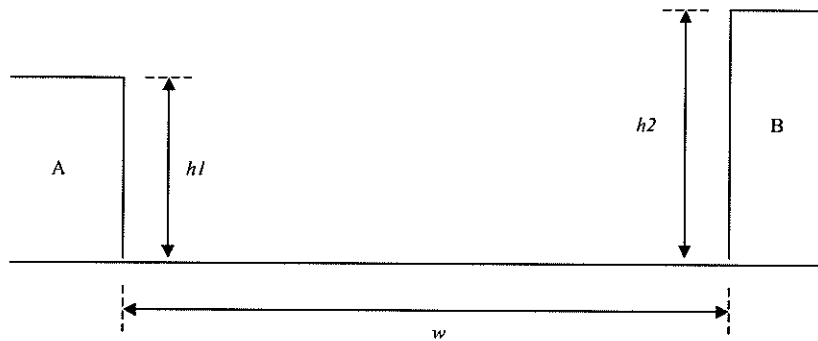
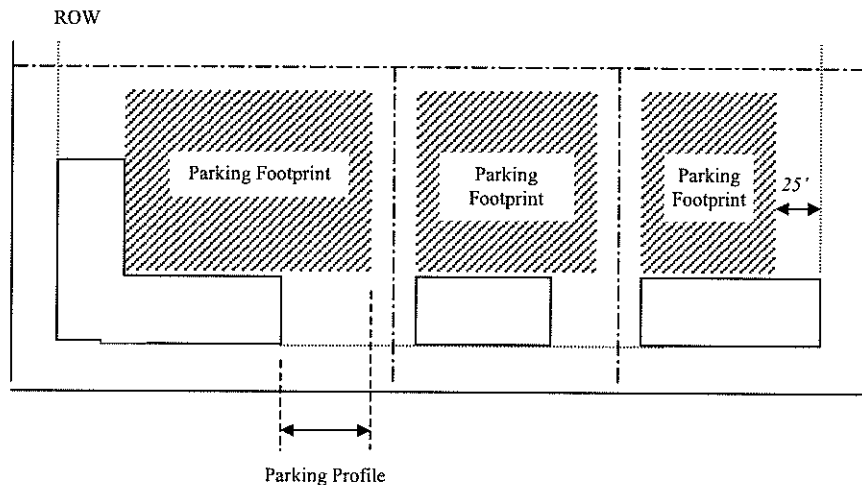


Diagram 3
Parking Footprint
and Parking Profile



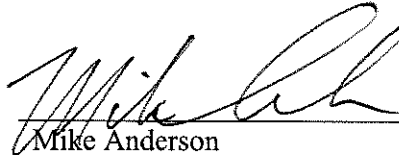
SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph, phrase or section of this ordinance be 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 Mesquite Zoning Ordinance as a whole.

SECTION 4. 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 Mesquite Zoning Ordinance, as amended, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

SECTION 5. That the need to regulate proper development of the City of Mesquite and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and 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 December, 2006.



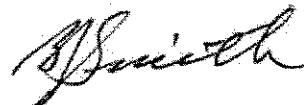
Mike Anderson
Mayor

ATTEST:

APPROVED:



Judy Womaek
City Secretary



B. J. Smith
City Attorney