

ORDINANCE NO. 4496

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, IMPOSING A MORATORIUM ON APPLICATIONS AND PLANS FOR DEVELOPMENT FOR PERMITS, PLATS, VERIFICATIONS, REZONINGS, SITE PLANS AND NEW OR REVISED CERTIFICATES OF OCCUPANCY FOR TRUCK STOPS AND OTHER DEVELOPMENT THAT INCLUDES THE PARKING OF HEAVY LOAD VEHICLES AS A PRINCIPAL USE OR AS AN ACCESSORY USE WITHIN THE CORPORATE CITY LIMITS OF MESQUITE; ADOPTING WRITTEN FINDINGS JUSTIFYING THE MORATORIUM; PROVIDING FOR WAIVERS AND LIMITED EXCEPTIONS TO THE MORATORIUM; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING AN EXPIRATION DATE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the Mesquite, Texas, seeks to provide for the orderly and safe development and redevelopment of land and use of property within its city limits to protect the health, safety and welfare of its residents, businesses and the general public; and

WHEREAS, the City of Mesquite's (the "City") proximity to an extensive interstate highway system and the presence of a large industrial sector makes the City attractive to businesses that utilize, serve and accommodate heavy load commercial vehicles; and

WHEREAS, the City Council has found that recent applications for new or expanded businesses, which attract or accommodate a large volume of interstate-class trucks, have demonstrated that current regulations are inadequate to control the negative impacts of such businesses on the surrounding street network, on the ability of the City to attract more diverse employment centers in the same geographic sector of the community, and on the quality of life in nearby residential areas; and

WHEREAS, Chapter 212, Subchapter E, Texas Local Government Code, authorizes the City of Mesquite to adopt and impose a moratorium on the property development of commercial property when applying the existing commercial development ordinances and regulations and other applicable laws is inadequate to prevent the new development from being detrimental to the public health, safety or welfare of the residents of the City; and

WHEREAS, the City Council finds that it is in the best interest of the City to impose this moratorium so that the Planning and Zoning Commission and the City Council can study the current zoning classifications and other regulations including but not limited to the Comprehensive Plan, the Mesquite Zoning Ordinance and the Code of Ordinances, to determine if there are adequate land use and other regulations with respect to the development and use of commercial property within the corporate limits of the City for truck stops and other uses that include the parking of heavy load vehicles as a principal use or as an accessory use; and

WHEREAS, the Planning and Zoning Commission and City Council review of the current City regulations relating to commercial development, commercial property and businesses

involving truck stops and truck-related uses is necessary to determine if such regulations meet the needs of the City; and

WHEREAS, there is considerable undeveloped and underdeveloped property within the City where new or expanded property development may occur and that may be appropriate locations for truck stops or other development that includes the parking of heavy load vehicles as a primary use or as an accessory use, and it is prudent to review, adopt or amend new or existing ordinances and regulations to control the negative impacts of such property development before owners and developers apply for permits and other approvals with the intent to develop, redevelop, expand or intensify new or existing businesses on the undeveloped or underdeveloped property; and

WHEREAS, the City Council finds that the concentration, location, parking, screening and circulation of heavy load vehicles that create negative impacts on residential areas and that cause damage to the City's street and road network have historically occurred at businesses that attract or rely upon a large volume of trucks for shipping and delivery and retail sales of fuel and other goods directly to the operators of such trucks; and

WHEREAS, the City Council finds that the current conditions, land use and development of truck-related uses within the Industrial zoning classifications result in incompatible land uses within close proximity to each other and discourage development and investment of new, profitable businesses that would better serve nearby residential neighborhoods; and

WHEREAS, the City Council finds that unless a moratorium is imposed and new zoning and development regulations are reviewed, adopted or amended, the following conditions will continue to exist to the detriment of and harm to the public health, safety and welfare:

(i) The existing regulations that allow for the over-concentration of businesses with large volumes of trucks will significantly affect the capacity and pavement conditions of the adjacent road and street network and levels of service, causing pavement damage, increased cycle lengths at intersections and excessive delay;

(ii) The existing regulations that allow for the location of truck stops and other truck-related development near residential areas will discourage new residents from purchasing homes in such areas, repress property values and lead to home vacancies within those areas;

(iii) The existing regulations that provide truck-centric uses with lower standards for aesthetics and environmental control will make the Skyline Logistics Hub and the City's western gateway a less desirable location for highly beneficial and desirable retail, office and light-commercial establishments;

(iv) The existing regulations that over-prioritize truck-related development will discourage new investment in quality projects from investors that seek assurance that adjacent properties will be redeveloped in a coordinated manner; and

(v) The existing regulations that allow for trucks to park and idle overnight or for long periods of time will cause unnecessary air pollution and work against the region's goals for improving air quality.

WHEREAS, the City Council has determined that the property development of commercial property that should be subject to the moratorium shall include all new, expanded or modified property development for truck stops and other development that includes the parking of heavy

load vehicles as a principal use or as an accessory use within the corporate limits of the City of Mesquite; and

WHEREAS, that during the period of the moratorium, the City Council intends to achieve the following objectives and goals by adopting new or amended ordinances and regulations:

- (i) Change the market perception of property within certain industrial areas to encourage and attract new investment in a more diversified retail and employment base;
- (ii) Protect homeowner investment in nearby residential neighborhoods by mitigating or eliminating the negative impacts of a large volume of trucks on adjacent streets;
- (iii) Improve the image, functionality and safety of truck stops and other truck-refueling stations that will serve the needs of the industrial sector without sacrificing the larger economic, social and environmental goals of the City as a whole; and
- (iv) Reset and adjust the location and intensity of industrial zoning within the City to minimize the intrusion of incompatible truck-related uses into retail sectors that are designed and intended for, or that are striving to transform into highly attractive retail areas.

WHEREAS, the Planning and Zoning Commission and the City Council, in compliance with Chapter 212, Subchapter E, of the Texas Local Government Code, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons, and in the exercise of its legislative discretion have concluded that a moratorium should be imposed on property development of any commercial property within the corporate limits of the City on truck stops and other development that includes the parking of heavy load vehicles as a primary use or as an accessory use.

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

SECTION 1. That the City Council, after conducting a public hearing and having heard evidence and testimony, has determined that the facts and recitations contained in the preamble of this ordinance are hereby found to be true and correct and are incorporated herein by reference and serve as the written findings of the City Council demonstrating the need to adopt new ordinances or regulations or to amend existing ordinances of the City relating to commercial property development, including the identification of the harm to the public health, safety or welfare that will occur if a moratorium is not adopted.

SECTION 2. That a moratorium is hereby adopted and imposed on property development, expansion, modification or improvement for any commercial property for truck stops and other development that includes the parking of heavy load vehicles as a principal use or as an accessory use within the corporate city limits of Mesquite, except for heavy industrial uses and quarries, and such property development or expansion or improvement shall include but not be limited to the submittal, review, consideration and approval of applications and plans for development for permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy, said moratorium to allow the Planning and Zoning Commission and the City Council to review the Comprehensive Plan, the Zoning Ordinance, the Code of Ordinances and other ordinances and regulations of the City to consider appropriate amendments, if any, to the existing regulations for commercial property development, which pertain to truck stops and other development that includes the parking of heavy load vehicles as a principal use or as an accessory use, and whether to adopt any new ordinances or regulations to regulate such uses. No new,

expanded or modified commercial business as a truck stop, or use, expansion or modification of a use that includes the parking of heavy load vehicles as a principal use or as an accessory use, are to be allowed within the corporate city limits of Mesquite until said review is completed and the ordinances of the City are amended as necessary, or until this moratorium, including extensions, if any, shall have expired, whichever occurs first.

SECTION 3. That except as otherwise provided herein, after the effective date of, and extending for the duration of this moratorium (including any extensions hereto), no City employee, officer, official, agency, department, board or commission of the City shall accept for filing any application or plan for development for permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy for new, expanded or modified commercial development of truck stops and other development that includes the parking of heavy load vehicles as a principal use or as an accessory use within the corporate city limits of Mesquite, except for heavy industrial uses or quarries. Any City employee, officer, official, agency, department, board or commission of the City in receipt of any such application or plan for development shall forward the same to the Director of Planning and Development Services (the "Director"), who shall review the application or plan for development to determine whether the application or plan for development is subject to this moratorium. Receipt of an application or plan for development for the limited purpose of such review shall not constitute filing or acceptance of the application or plan for development. In the event the Director determines that an application or plan for development is subject to the moratorium, the Director shall take no further action on the application or plan for development and shall reject the same, and shall return the application or plan for development to the person or entity attempting to file the same. Further, due to the inherent limitations for monitoring and oversight of applications submitted through EnerGov, the City's electronic development submittal and review software system, all applications or plans for development for new, expanded or modified commercial development of truck stops and other development that includes the parking of heavy load vehicles as a principal use or as an accessory use shall be submitted exclusively in hardcopy paper format and not through EnerGov for the duration of this moratorium (including any extensions hereto). Any submittal or attempted submittal of any such application or plan for development through EnerGov is hereby rejected, regardless of whether the applicant receives subsequent acknowledgement or notice that such application or plan for development has been rejected, and neither the Director nor any other employee or official of the City shall be obligated to provide acknowledgement or notice of rejection to the electronic applicant.

SECTION 4. That an applicant for development of commercial property for any truck stop or truck-related use as described herein may apply for a waiver to this moratorium by submitting a written request for waiver to the City Council, which shall be voted on by the City Council within twenty-one (21) days after receipt of the request, or within ten (10) days after receipt if the request for waiver is based on reasons provided in Section 212.137 of the Texas Local Government Code. The request shall be in writing and submitted to the City Secretary, who shall forward the request to the Director for processing and recommendation to the City Council. The City Council may authorize or deny the requested waiver, and if authorized, direct the applicable City official to accept a completed application and process the application subject to conditions necessary to ensure that the proposed development would not cause adverse effects to the surrounding property or the City's infrastructure and to carry out the spirit and purpose of this ordinance. The City Council should not release the applicant from the requirements of this ordinance unless the applicant first presents credible evidence from which the City Council can reasonably conclude that (1) the application of this ordinance to the applicant would be likely to

deprive the applicant of rights protected by law; or (2) the proposed development is compatible with the land use in proximity to the proposed development and permitting the development to proceed would not cause adverse effects to surrounding property or the City infrastructure or be contrary to the spirit and purpose of this ordinance.

SECTION 5. That the provisions of this ordinance do not apply to any new, expanded or modified development or use that is being constructed or is to be constructed pursuant to an Economic Development 380 Agreement with the City of Mesquite or any completed application or plan for development for a permit, plat, verification, rezoning, site plan or new or revised certificate of occupancy for any new, expanded or modified commercial development or use that was filed prior to June 22, 2017, such date being the fifth business day after the date on which the City published notice of public hearings to consider this ordinance.

SECTION 6. That this ordinance shall expire upon ninety (90) days after its adoption unless extended as allowed by applicable law.

SECTION 7. That for purposes of this moratorium, the terms set forth herein shall have the same meanings assigned by Chapter 212, Subchapter E, of the Texas Local Government Code, the Mesquite Zoning Ordinance and Code of Ordinances of the City, except as otherwise provided herein. "Permit" shall mean a license, certificate, approval, registration, consent, permit or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue or complete a project for which the permit is sought, including a verification, contract or agreement for construction related to, or provision of, service from a water or wastewater utility owned, operated or controlled by a regulatory agency.


SECTION 8. That as soon as practical after the adoption of this ordinance, the Director shall publish on the City of Mesquite website an advisory for the convenience of the public, which announces the moratorium on development of commercial property and provides information on the duration and applicability of the moratorium, the opportunity and procedures for submitting a request for a waiver, and other pertinent terms of this ordinance.

SECTION 9. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 10. That this ordinance shall take effect immediately on and after the date of passage.

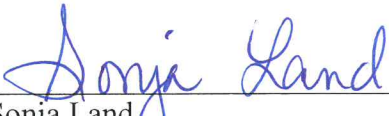
DULY PASSED AND APPROVED on first reading by the City Council of the City of Mesquite, Texas, on the 29th day of June, 2017.

DULY PASSED AND APPROVED on second and final ready by the City Council of the City of Mesquite, Texas, on the 3rd day of July, 2017.



Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney