

ORDINANCE NO. 4509

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, EXTENDING THE EXISTING 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; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING AN EXPIRATION DATE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, on July 3, 2017, the City Council of the City of Mesquite, Texas, passed Ordinance No. 4496, adopting and imposing a 90-day 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; and

WHEREAS, the moratorium expires on October 1, 2017; and

WHEREAS, Chapter 212, Subchapter E, Texas Local Government Code, authorizes the City of Mesquite, Texas, to extend an existing moratorium; and

WHEREAS, the City Council finds that since the adoption of the moratorium, the City Council, the City Planning and Zoning Commission, and City staff have gathered input from residents and businesses and have made reasonable progress in studying the current zoning classifications and other regulations to determine how new or amended regulations can fairly and effectively 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, the City Council finds that extending the moratorium for an additional 90 days will provide the City Council, the City Planning and Zoning Commission, and City staff with adequate time to complete their study and devise and enact such new or revised regulations that may be necessary to achieve the goals of the moratorium; and

WHEREAS, the City Council finds that it is in the best interest of the City to extend this moratorium so that the City Council, the City Planning and Zoning Commission, and City staff can complete the comprehensive examination of truck stops and other development that includes the parking of heavy load vehicles as a principal use or as an accessory use, and properly balance the interests of all citizens, the local trucking industry and associated businesses; and

WHEREAS, the City Council finds and determines that based on reasonably available information that an extended moratorium is justified because regulations affecting truck stops and truck-related uses are complex and integrated across multiple codes, and additional time will give City staff the opportunity to complete their analysis and enable the City Council and Planning and

Zoning Commission to engage in thoughtful and careful deliberations to ensure that any new or revised regulations are tailored to address the harmful impacts of such uses and still encourage economic growth; and

WHEREAS, the City Council, in compliance with the laws of the State of Texas and the ordinances of the City of Mesquite, gave requisite notice by publication in one or more newspapers of general circulation in the City, 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 an extended 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 should be continued for an additional 90 days; and

WHEREAS, the City Council finds it necessary to extend the moratorium on development of commercial property to the same extent and under like conditions as prescribed in Ordinance No. 4496.

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 of truck stops and other development that includes the parking of heavy load vehicles as a principal use or as an accessory use, including the identification of the harm to the public health, safety or welfare that will occur if an extended moratorium is not adopted. After conducting the public hearing and having heard evidence and testimony, the City Council has made the following additional findings and determinations:

- (a) The need for the moratorium is ongoing, as the findings and determinations adopted in Ordinance No. 4496, included herein by reference, continue to exist, and the initial moratorium period of 90 days has not provided adequate time to allow the City Council, the City Planning and Zoning Commission, and City staff to complete their review and formulate solutions to control the negative impacts of truck stops and truck-related 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
- (b) The City Council, the City Planning and Zoning Commission, and City staff have made reasonable progress in their efforts to determine the scope and character of appropriate amendments to the existing regulations for property development of all commercial property as truck stops or truck-related uses located within the boundaries of the City, and to that end, City staff has reviewed studies regarding the truck stop industry, and has presented the City Council and Planning and Zoning Commission with tentative recommendations and draft regulations to address the concerns of the public at large; and

- (c) The renewal period for this extended moratorium shall expire at the close of business on December 29, 2017; and
- (d) The evidence demonstrates that all actions taken to date will facilitate and result in the mitigation, amelioration and final resolution of the negative impacts brought about by truck stops and truck-related uses, to wit: City staff has assessed the inadequacy of existing zoning and other regulations pertaining to truck stops and truck-related uses, public input from residents and affected businesses has been received, City staff has nearly completed recommendations and draft regulations to control the problem, and public hearings on zoning text amendments and other regulations have been scheduled for City Council and Planning and Zoning Commission meetings within the next 60 days and have been publicized in accordance with law.

SECTION 2. That the City Council hereby extends the 90-day moratorium that was established by Ordinance No. 4496 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 extended 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 extended moratorium 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 extended moratorium, 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 extended 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 extended 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 extended moratorium by submitting a written request for waiver to the City Council, which shall be voted on by the City Council within 30 days after receipt of the request, or within 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 pursuant to an application or plan for development for which the City Council granted a waiver from this moratorium during the period beginning July 3, 2017, to and including September 5, 2017, 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 the moratorium enacted by Ordinance No. 4496.

SECTION 6. That this ordinance shall expire at the close of business on December 29, 2017.

SECTION 7. That for purposes of this extended 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 extended moratorium on development of commercial property and provides information on the duration and applicability of the extended moratorium, the opportunity and procedures for submitting a request for a waiver, and other pertinent terms of this ordinance.

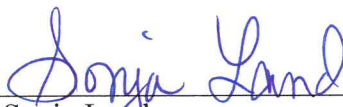
SECTION 9. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

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

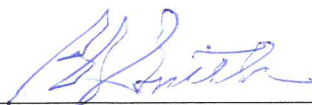
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of September, 2017.

  
\_\_\_\_\_  
Stan Pickett  
Mayor

ATTEST:

  
\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED:

  
\_\_\_\_\_  
B. J. Smith  
City Attorney