

ORDINANCE NO. 4638

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, IMPOSING A MORATORIUM ON APPLICATIONS AND PLANS FOR DEVELOPMENT, PERMITS, PLATS, VERIFICATIONS, REZONINGS, SITE PLANS AND NEW OR REVISED CERTIFICATES OF OCCUPANCY FOR MULTIFAMILY DEVELOPMENTS WITHIN THE CORPORATE CITY LIMITS OF MESQUITE; ADOPTING WRITTEN FINDINGS JUSTIFYING THE MORATORIUM; PROVIDING FOR WAIVERS AND LIMITED EXCEPTIONS TO THE MORATORIUM; AND ESTABLISHING AN EXPIRATION DATE.

WHEREAS, the City Council and citizens of the City have concerns about the impacts of multifamily uses and developments on essential public facilities, resulting in the creation of shortages, unplanned needs and other inadequacies of public infrastructure and facilities, including but not limited to that related to traffic management, street infrastructure, park and open space, police, fire, code enforcement and data systems as well as other operational and oversight systems; and

WHEREAS, the City Council and citizens of the City have concerns about the impacts of multifamily uses and developments creating a significant need for other public facilities, including but not limited to park and open space, police, fire, code enforcement and data systems as well as other operational and oversight systems and that the failure to provide these public facilities would result in an overcapacity of such public facilities or would be detrimental to the health, safety, and welfare of the residents of the City; and

WHEREAS, many intersections throughout the City are overwhelmed with traffic congestion during afternoons and evenings, and new multifamily zoned properties, including planned development zoned properties that include multifamily uses or multifamily components (hereinafter referred to collectively as “Multifamily Developments”), would significantly add to this problem unless a Traffic Impact Analysis requirement is implemented to analyze and mitigate the additional traffic added to these roadways by Multifamily Developments; and

WHEREAS, the Texas Local Government Code (“LGC”), Subchapter E, “Moratorium on Property Development in Certain Circumstances,” of Chapter 212, “Municipal Regulation of Subdivisions and Property Development,” authorizes a municipality to adopt a moratorium on property development after proper notice and two public hearings; and

WHEREAS, at the request of the City Council, City staff is currently reviewing and analyzing all Multifamily Developments to determine whether current classifications and standards are in the best interests of the public health, safety and welfare of the City; with focus upon the shortages and need for public infrastructure and facilities created by Multifamily Developments and those issues identified in LGC Sections 212.135(b) and 212.1351(b); and

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 public hearings to afford 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 applications and plans for development, permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy for Multifamily Developments within the corporate city limits of Mesquite; and

WHEREAS, three public hearings were held on the following dates: City Planning and Zoning Commission on December 10, 2018, and City Council on December 11, 2018, and December 17, 2018; and

WHEREAS, attached Exhibit "A" provides an initial report, working plan and time schedule for the implementation of regulations to address the shortages and needs of public facilities created by Multifamily Developments, including comprehensive plan amendments and zoning or other ordinance changes to effectuate staff's recommendations; and

WHEREAS, based upon the information provided by staff, evidence provided by citizens at the public hearings and otherwise, the summary provided in Exhibit "A" as well as other reasonably available information (the "Evidence"), all of which is incorporated herein by reference, the City Council makes the following findings required by Section 212.135 of the LGC:

- (1) The Evidence demonstrates the extent of need beyond the estimated capacity of existing essential public facilities that is expected to result from new Multifamily Developments, including:
 - (A) the public street facilities currently operating near, at, or beyond capacity;
 - (B) the portion of that capacity committed to Multifamily Developments; and
 - (C) the impact fee revenue allocated to address the traffic management problems; and
- (2) The Evidence demonstrates that the moratorium must be citywide in its reach because the impacts of Multifamily Developments cannot be isolated to specific areas of the City, and is limited to prospective development; and

WHEREAS, the City Council further finds, based upon the Evidence and as required by Section 212.1351 of the LGC, that the City's existing zoning, development and other regulations applicable to Multifamily Developments are inadequate to prevent that development from being detrimental to the public health, safety or welfare of the residents of the municipality, alternative methods of achieving the objectives the moratorium are unsatisfactory and the City Council has approved a working plan and time schedule for achieving the objectives of the moratorium.

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

SECTION 1. That all of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and they are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION 2. That a moratorium is hereby adopted and imposed on applications and plans for development, permits, plats, verifications, rezonings, site plans and new or revised certificates of occupancy for Multifamily Developments within the corporate city limits of Mesquite, 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 Multifamily Developments, and whether to adopt any new ordinances or regulations to regulate such uses. No new, expanded or modified Multifamily Developments 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 Multifamily Developments within the corporate city limits of Mesquite. 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 Multifamily Developments 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 a development of Multifamily Developments 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 LGC. 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 Multifamily Developments that were filed prior to December 13, 2018, 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 the provisions of this ordinance do not apply to applications for roof, electrical, plumbing and mechanical permits for existing Multifamily Developments if the permits are required solely for property maintenance.

SECTION 7. That this ordinance shall expire upon one hundred and twenty (120) days after its adoption unless extended as allowed by applicable law.

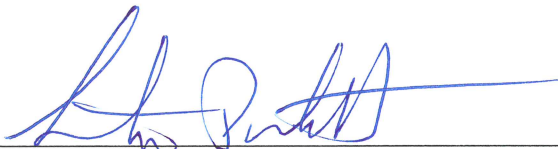
SECTION 8. That for purposes of this moratorium, the terms set forth herein shall have the same meanings assigned by Chapter 212, Subchapter E, of the LGC, the Mesquite Zoning Ordinance and Code of Ordinances of the City, except as otherwise provided herein. "Permit" shall mean a license, certificate, 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 9. 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 Multifamily Developments 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.

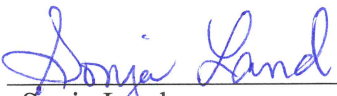
SECTION 10. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

DULY PASSED AND APPROVED on second and final reading by the City Council of the City of Mesquite, Texas, on the 17th day of December 2018.




Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



David L. Paschall
City Attorney

Exhibit A

Summary of Information

Traffic and Streets

Current City ordinances have no requirement for a Traffic Impact Analysis (TIA) for all multifamily development. Therefore, development of high densities of new residents in a given area will impact traffic flows and street operations with no established requirement for studying those impacts and mitigating them through needed modifications to the street system. These modifications improve traffic flow and safety in the immediate area of a development.

Many citizens have expressed concern about the ever increasing traffic congestion throughout the City. Major roadways, where multifamily developments tend to locate, have become increasingly congested. The Institute of Traffic Engineers (ITE) Trip Generation manual indicates that multi-family development generates 7.32 trips per day for low-rise, 5.44 for mid-rise and 4.45 for high-rise structures. Developments that may include several hundred units, could add a few thousand trips to the roadway system. While many streets are designed for and capable of absorbing such increases in vehicular trips, many streets would be adversely affected by such traffic if standards are not in place to require improvements based on a TIA.

Roadway impact fees are charged to new multifamily development at a specified rate per dwelling unit. However, roadway impact fees are to pay for specific road infrastructure identified in the roadway impact fees Capital Improvements Plan. In addition, these funds go toward projects within a service area of approximately 15 square miles. In many cases, the improvements made by these funds, while benefitting the larger street system, will not mitigate the direct impacts to the street system on the periphery of any particular proposed multifamily development.

Open Space, Parks and Recreation

The Zoning Ordinance currently has standards for open space and specific standards for swimming pools and playgrounds in multifamily development. However, these requirements are insufficient for addressing actual number of dwelling units and ultimately people that will occupy a multifamily development. Additionally, citizens desire other types of outdoor amenities not provided for in the current ordinance. Without sufficient outdoor spaces and amenities and when public parks are not in very close proximity, individuals lack the important places needed for exercise and safe places for children to play outdoors.

Quality of Development

It is important to establish minimum standards for development to help maintain quality and property values. Currently, in Mesquite, the average value of each multifamily dwelling unit is \$45,506, compared to single-family, which is \$108,579. While in any community it is expected that per dwelling value of single-family dwellings will be higher than multifamily, it is important for a community to protect and enhance property values to pay for public services. Multifamily development substantially impacts public streets, parks and other public facilities, as well as the need for police, fire, and emergency medical services. Maintaining and enhancing the value of multifamily developments will help assure that adequate public services and facilities are maintained at an adequate level.

Working Plan

- Research existing multifamily zoning regulations including open space requirements and density regulations, traffic management regulations, other city's regulations and any legal parameters
- Prepare options for Council discussion
- Draft ordinance language for Planning and Zoning Commission and City Council consideration

Time Schedule

December 17, 2018 – Brief City Council on research and possible options

January 14, 2019 – Brief Planning and Zoning Commission and receive feedback

January 28, 2019 – Planning and Zoning consideration of ordinance

February 18, 2019 – City Council consideration of ordinance