

MESQUITE ZONING ORDINANCE

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4-401 – In General.

A. Purpose.

To assist with establishing and promoting a unique identity that reflects the City of Mesquite's character, enhances its aesthetics, and celebrates its business community and neighborhoods through historic preservation, adaptive reuse, and revitalization.

B. Authority.

This section, and related sections, with regard to designation and regulation of individual Mesquite Landmarks and historic districts is enabled by the Texas Local Government Code, Title 7, Subtitle A, [Chapter 211](#) and the Mesquite City Charter [Article III, Sec. 27 – Zoning](#).

State Law reference – General Zoning Regulations, V.T.C.A. Local Govt. Code, §§ [211.001](#); [211.003](#); and [211.0165](#).

City Charter reference – Zoning, [Article III, Section 27](#).

C. Abbreviations, Acronyms and Definitions.

Abbreviations, acronyms and definitions which may be used within this Zoning Ordinance or other City resource materials in association with Mesquite Landmarks and historic preservation may be found in Section 6-200.

D. Standards Incorporated by Reference as Guidelines.

The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, as may be amended, are hereby adopted by reference and are only to be used as a guideline unless otherwise required by State or federal law.

4-402 – Historic Resource Surveys.**A. Purpose.**

The purpose of completing historic resource surveys is to identify and gather historic information on buildings, structures, objects, sites, property or land in the City that are at least fifty (50) years or older that may qualify for designation as a historic resource. The Landmark Commission, or its designees, or the Historic Preservation Officer, or his/her designees, may conduct surveys for existing and potential historic resources as needed.

B. Adopted Surveys.

1. *2010 Historic Resources Survey.*

The following Historic Resource Survey titled “*2010 Historic Resources Survey*” is hereby adopted by reference and shall be kept on file with the City Secretary.

2. Reserved.

C. Survey Data.

Historic resource surveys may vary in scope and detail however all surveys should include, at a minimum, the following information for all properties within the survey:

1. Location of the property.
2. Photographs of the property.
3. Date of construction or approximate date of construction.
4. Architectural style of the structure.
5. Defining architectural details, including their materials, color, and condition.
6. Accessory structures and landscape features.

D. Building Category and Integrity Evaluation.

After information for the historic resource survey is compiled, the Landmark Commission shall review the properties surveyed to determine:

1. Whether the buildings, structures, objects, sites, or properties are historic or non-historic, if based upon the age of the subject property and its historical, architectural, or cultural significance.
2. Whether the properties would be classified as contributing, compatible, or non-contributing to the surveyed area or the overall history and character of the City or other jurisdiction should the area be designated as a H-POD – Historic Preservation Overlay District.
3. To what extent each building, structure, object, site, property or land retains its key, character-defining features.

E. Map.

A historic resource survey map should be included with the survey showing the location of all potential or existing contributing properties, compatible properties, and non-contributing properties.

F. Approval.

The Landmark Commission shall approve the results of any historic resource survey. Approval of a survey shall not establish any additional restrictions upon the properties within the survey, nor shall the building or structure categorization make any property within the survey subject to the historic preservation regulations of this Zoning Ordinance unless or until a property or group of properties are officially designated as a Mesquite Landmark (ML) or an H-POD – Historic Preservation Overlay District through the official designation process in this Zoning Ordinance.

Section 4-400 – Mesquite Landmarks (ML) and Historic Preservation Overlay Districts (H-POD) Designations & Regulations

P&Z Meeting Date: October 28, 2019 | City Council Meeting Date: November 4, 2019

Cross reference – Mesquite Landmark (ML) Individual Designations, Section 4-403.

Cross reference – Historic Preservation Overlay District (H-POD) Designations, Section 4-404.

G. Requests for Determination of Contributing, Compatible, and Non-Contributing Status.

Requests for determination of whether a building, structure, object, site, property or land are considered contributing, compatible or non-contributing to a Mesquite Landmark (ML) or to any H-POD – Historic Preservation Overlay District shall be made on an application obtained from the Historic Preservation Officer. The Historic Preservation Officer shall review the application for completeness and shall make a determination whether the subject of the application is contributing, compatible or non-contributing within thirty (30) days of deeming the application complete. The Historic Preservation Officer shall retain, for such period as required under applicable record retention law, a written statement summarizing the reasons for the determination. The Historic Preservation Officer may, at his or her discretion, present the application to the Landmark Commission for their recommendation.

4-403 – Mesquite Landmark (ML) Individual Designations.**A. Purpose.**

The purpose of designating local individual Mesquite Landmarks (ML) is to bring the historic designation to the attention of the general public, officially recognize its unique qualities that add to the character of the City, and assist in protecting it from improper exterior changes or an improper hasty demolition, removal, or relocation.

B. Criteria for Designation of a Mesquite Landmark (ML).

The designation of “Mesquite Landmark” and/or “ML” may be applied to:

1. any building, structure, object, site, property, or land, including a protected tree;
2. at least fifty (50) years old;
3. deemed to have Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined in Section 6-200, to the City, State or nation;
4. receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission;
5. receives a review and recommendation, either for approval or denial, from the Planning & Zoning Commission; and
6. City Council approves the designation by ordinance with:
 - a. *Simple Majority Vote.* A simple majority vote of all members the City Council (i.e., 4 favorable votes) if the Owner of record consents to the designation (State law reference – Tex. Loc. Gov’t Code Ann. [§ 211.0165](#); and City Charter reference – [Art. IV, Sec. 17](#)); or
 - b. *Three-Fourths Vote.* A three-fourths ($\frac{3}{4}$) vote of all members of the City Council is required for approval (i.e., 6 favorable votes) if the Owner of record does not consent to the designation along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval by either the Landmark Commission or the Planning & Zoning Commission (State law reference – Tex. Loc. Gov’t Code Ann. [§ 211.0165](#)).

C. Application.**1. Property Owner-Initiated Designation.**

Any person or business entity having a proprietary interest in a property may submit an application to designate the property as a Mesquite Landmark (ML). Applications shall be made in writing on a form suitable to the Director of Planning and Development Services, or his/her designees, and accompanied by payment of the appropriate fee to be charged by the City for administering the application. See Appendix D of Mesquite City Code for applicable fees. A complete *Historic Designation Application* for designation of an individually designated local Mesquite Landmark (ML) shall require the signatures of all owners of record of the property, or their authorized agents.

2. **City-Initiated Designation.**

The Landmark Commission or Planning & Zoning Commission may recommend to the City Council an application be submitted to designate any building, structure, object, site, property, or land, including a protected tree within the incorporated limits of the City as a Mesquite Landmark (ML). The City Council may, on its own motion, direct City staff to initiate designation proceedings. Upon approval of such motion, the Historic Preservation Officer, or his/her designees, shall prepare a *Historic Designation Application* including a request for a zoning map amendment and a zoning text amendment to the Zoning Ordinance on behalf of the City of Mesquite. Property owner signatures are not required.

D. Review and Recommendation by the Landmark Commission.

1. *Schedule Public Hearing.* Upon staff's acceptance and determination of a complete application, the Historic Preservation Officer, or his/her designees, shall schedule a public hearing at the next practicable Landmark Commission meeting.
2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.
3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the Planning & Zoning Commission as to whether or not the building, structure, object, site, property, or land is eligible for a Mesquite Landmark (ML) designation according to the criteria for designation in and the merits of the application.
 - a. *Recommendation for Approval.*
 - (1) *Owner Consent – Simple Majority Vote.* If the Owner of record consents to the designation a simple majority vote, of the Landmark Commission, is required to recommend designation.
 - (2) *No Owner Consent – Three-fourths Vote.* If the Owner of record does not consent to the designation a three-fourths ($\frac{3}{4}$) vote, of all members of the Landmark Commission or of all members of the Planning & Zoning Commission, is required to recommend designation. If three-fourths ($\frac{3}{4}$) of the Landmark Commission members do not recommend approval, the application continues to the Planning & Zoning Commission.
 - b. *Recommendation for Denial.*
 - (1) *Owner Consent.* When the owner consents to the designation, but the Landmark Commission recommends denial of the application, the application continues to the Planning & Zoning Commission.
 - (2) *No Owner Consent.* When the Owner of record does not consent to the designation, and the Landmark Commission recommends denial of the application, the application continues to the Planning & Zoning Commission.

E. Review and Recommendation by the Planning & Zoning Commission.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark Commission, the matter shall be scheduled by staff for the next practicable Planning & Zoning Commission meeting for a public hearing.
2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.

3. *Recommendation.* The Planning & Zoning Commission shall consider the criteria for designation specified in the Zoning Ordinance.
 - a. *Recommendation for Approval.*
 - (1) *Owner Consent – Simple Majority Vote.* If the Owner of record consents to the designation a simple majority vote, of the Planning & Zoning Commission, is required to recommend designation.
 - (2) *No Owner Consent – Three-Fourths Vote.* If the Owner of record does not consent to the designation a three-fourths ($\frac{3}{4}$) vote, of all members of either the Landmark Commission or a three-fourths ($\frac{3}{4}$) vote of all members of the Planning & Zoning Commission, is required to recommend designation and the application continues to the City Council. If a three-fourths ($\frac{3}{4}$) vote of approval is not received from either the Landmark Commission or the Planning & Zoning Commission, the application is deemed denied and shall not be forwarded to the City Council for consideration. (State law reference: Tex. Loc. Gov't Code Ann. [§ 211.0165](#)).
 - b. *Recommendation for Denial.*
 - (1) *Owner Consent.* When the Owner of record consents to the designation, and the Planning & Zoning Commission recommends denial of the application, the application continues to the City Council.
 - (2) *No Owner Consent.* When the Owner of record does not consent to the designation, and the Planning & Zoning Commission recommends denial of the application, the application continues to the City Council only if the Landmark Commission recommended approval of the designation with a three-fourths ($\frac{3}{4}$) vote.

F. Decision by the City Council.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Planning & Zoning Commission, the matter shall be scheduled by staff for the next practicable City Council meeting for a public hearing.
2. *Notice.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.
3. *Decision.*
 - a. *Vote requirement to approve the designation of a local Mesquite Landmark (ML).*
 - (1) *Owner Consent – Simple Majority Vote.* A simple majority vote of all members of the City Council (i.e., 4 favorable votes) if the Owner of record consents to the designation (State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#); and City Charter reference – [Art. IV, Sec. 17](#)); or
 - (2) *No Owner Consent – Three-Fourths Vote.* If the Owner of record does not consent to the designation a three-fourths ($\frac{3}{4}$) vote, of all members of the City Council, (i.e., 6 favorable votes), is required to approve the designation, along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval by either the Landmark Commission or the Planning & Zoning Commission (State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#)).

b. In the event the City Council approves the designation of the local Mesquite Landmark (ML) the following shall occur concurrently.

- (1) *Map Amendment to the Zoning Ordinance.* A map amendment shall be made to the official Zoning Map of the City of Mesquite, Texas, as periodically amended, depicting the property being designated "ML" for an individually designated local Mesquite Landmark.
- (2) *Text Amendment to the Zoning Ordinance.* The *City of Mesquite, Texas, Landmark Register of Historic Places* shall be updated to add the designated local Mesquite Landmark (ML).

4. *Resubmission of application.*

If the City Council does not approve the designation, a resubmittal of an application on the same request shall not be permitted within one (1) year of the City Council hearing, unless the Landmark Commission determines that unique and compelling circumstances exist and approves the resubmission of the application by a majority vote of all members of the Landmark Commission. If the Landmark Commission approves the resubmission of an application, the resubmittal is deemed a new application for purposes of process, procedures, and applicable fees. See Appendix D of Mesquite City Code for applicable fees.

G. Decision Recordation.

Upon passage by the City Council of an ordinance designating property as "ML," the City Secretary shall file a copy of the ordinance with the appropriate county clerk, in accordance with State law, and the appropriate county tax assessor, together with a written notice briefly stating the fact of the designation and shall send a copy of such notice by certified mail to the owner and/or owner of record of the affected property. Designated individual local Mesquite Landmarks (ML) shall be governed by the Zoning Ordinance of the City and the ordinance establishing the Mesquite Landmark (ML) and any other applicable City Code, regulation or law.

State Law reference – General Zoning Regulations, V.T.C.A. Local Govt. Code, § [211.001](#) et. seq.

4-404 – Historic Preservation Overlay District (H-POD) Designations.**A. Purpose.**

The purpose of designating a geographically and locally defined area, or multiple areas, that possess a significant concentration, linkage, or continuity of properties as an H-POD – Historic Preservation Overlay District is to bring the historic designation to the attention of the general public, officially recognize its unique qualities that add to the character of the City, and assist in protecting individual properties within the H-POD from improper exterior changes or improper hasty demolitions, removals, or relocations.

B. Criteria for Designation of an H-POD – Historic Preservation Overlay District.

The designation of “Historic Preservation Overlay District” and/or “H-POD” may be applied to a geographically and locally defined area (or multiple areas) that possess a significant concentration, linkage, or continuity of properties, including buildings, structures, sites, objects or landscapes that:

1. at least seventy-five (75) percent of the properties are at least fifty (50) years old;
2. are deemed to have Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined in Section 6-200; and
3. in the case of:
 - a. Property owner-initiated designations the receipt of the written support and consent of at least sixty (60) percent of the property owners of record within the proposed area; or
 - b. City-initiated designations property owner signatures are not required.

Historic buildings, structures, sites, objects or landscapes need not be contiguous for an area to constitute an H-POD.

C. Application.**1. Property Owner-Initiated Designation.**

- a. *Applicant.* Any person or business entity having a proprietary interest in a property, within the subject area, may submit an application to designate any locally defined area (or multiple areas) as a H-POD – Historic Preservation Overlay District.
- b. *Application and fees.* Applications shall be made in writing on a form suitable to the Director of Planning and Development Services, or his/her designees, and accompanied by payment of the appropriate fee to be charged by the City for administering the application. See Appendix D of Mesquite City Code for applicable fees.
- c. *Sixty (60) Percent Owner Consent.* A *Historic Designation Application* for designation of any H-POD – Historic Preservation Overlay District must contain the signatures of property owners of record, or authorized agents, of at least sixty (60) percent of the total number of lots or parcels of land in the proposed district boundaries, as determined by the most recently approved municipal tax roll in which the district is located.

(1) Calculation of the Sixty (60) Percent.

- (a) For purposes of calculating the support of sixty (60) percent of the property owners of record, each property as listed on the tax rolls shall be counted individually, regardless of whether an individual or group owns multiple properties within the proposed area.

- (b) Additionally, for properties owned by more than one party, only one (1) property owner of record need submit written support in order for the Historic Preservation Officer to count the property in the calculation.

2. City-Initiated Designation.

The Landmark Commission or Planning & Zoning Commission may recommend to the City Council an application be submitted to designate any locally defined area (or multiple areas) within the incorporated limits of the City as an H-POD – Historic Preservation Overlay District. The City Council may, on its own motion, direct City staff to initiate designation proceedings. Upon approval of such motion, the Historic Preservation Officer, or his/her designees, shall prepare a *Historic Designation Application* including a request for a zoning map amendment and a zoning text amendment to the Zoning Ordinance on behalf of the City of Mesquite. Property owner signatures are not required.

D. Review and Recommendation by the Landmark Commission.

1. *Schedule Public Hearing.* Upon staff's acceptance and determination of a complete application, the Historic Preservation Officer, or his/her designees, shall schedule a public hearing at the next practicable Landmark Commission meeting.
2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.
3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the Planning & Zoning Commission as to whether or not the locally defined area (or multiple areas) within the incorporated limits of the City is eligible for designation as an H-POD – Historic Preservation Overlay District according to the criteria for designation in and the merits of the application.
 - a. *Recommendation for Approval.* A simple majority vote of the Landmark Commission is required to recommend designation. If the Landmark Commission recommends approval of the application, the application continues to the Planning & Zoning Commission.
 - b. *Recommendation for Denial.* A simple majority vote of the Landmark Commission is required to recommend denial of designation. If the Landmark Commission recommends denial of the application, the application continues to the Planning & Zoning Commission.

E. Review and Recommendation by the Planning & Zoning Commission.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark Commission, the matter shall be scheduled by staff for the next practicable Planning & Zoning Commission meeting for a public hearing.
2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.
3. *Recommendation.* The Planning & Zoning Commission shall consider the criteria for designation specified in the Zoning Ordinance.
 - a. *Recommendation for Approval.* A simple majority vote of the Planning & Zoning Commission is required to recommend designation. If the Planning & Zoning Commission recommends approval of the application, the application continues to the City Council.
 - b. *Recommendation for Denial.* A simple majority vote of the Planning & Zoning Commission is required to recommend denial of designation. If the Planning and Zoning Commission recommends denial of the application, the application continues to the City Council.

F. Decision by the City Council.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Planning & Zoning Commission, the matter shall be scheduled by staff for the next practicable City Council meeting for a public hearing.
2. *Notice.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.
3. *Decision.*
 - a. *Vote requirement to approve the designation of a H-POD – Historic Preservation Overlay District.*
 - (1) *Simple Majority Vote.* If the Planning & Zoning Commission recommended approval of the application; the City Council may approve the designation with a simple majority of all members (i.e., 4 favorable votes). (City Charter reference – [Art. IV, Sec. 17](#))
 - (2) *Three-Fourths Vote.* If the proposed designation of an H-POD – Historic Preservation Overlay District is protested by the owners of at least twenty (20) percent of either the area covered by the proposed change or of the area immediately adjoining the area covered by the proposed change and extending two hundred (200) feet from the subject area, then a three-fourths (¾) vote of all members of the City Council for approval (i.e., 6 favorable votes) shall be required to approve the designation. (State law reference – Tex. Loc. Gov't Code Ann. [§ 211.006](#))
 - b. In the event the City Council approves the designation of the H-POD – Historic Preservation Overlay District, the following shall occur concurrently.
 - (1) *Map Amendment to the Zoning Ordinance.* A map amendment shall be made to the official Zoning Map of the City of Mesquite, Texas, as periodically amended, depicting the area designated as "H-POD."
 - (2) *Text Amendment to the Zoning Ordinance.*
 - (a) If applicable, the Zoning Ordinance shall be updated to include any specific design standards for individual H-PODs to provide for enhanced protection of the area's specific development patterns.
 - (b) The *City of Mesquite, Texas, Landmark Register of Historic Places* shall be updated to add the designated H-POD – Historic Preservation Overlay District.
4. *Resubmission of Application.*

If the City Council does not approve the designation, a resubmittal of an application on the same request shall not be permitted within one (1) year of the City Council hearing, unless the Landmark Commission determines that unique and compelling circumstances exist and approves the resubmission of the application by a majority vote of all members of the Landmark Commission. If the Landmark Commission approves the resubmission of an application, the resubmittal is deemed a new application for purposes of process, procedures, and applicable fees. See Appendix D of Mesquite City Code for applicable fees.

Section 4-400 – Mesquite Landmarks (ML) and Historic Preservation Overlay Districts (H-POD) Designations & Regulations

P&Z Meeting Date: October 28, 2019 | City Council Meeting Date: November 4, 2019

G. Decision Recordation.

Upon passage by the City Council of an ordinance designating an area as an "H-POD," the City Secretary shall file a copy of the ordinance with the appropriate county clerk, in accordance with State law, and the appropriate county tax assessor, together with a written notice briefly stating the fact of the designation. Designated H-POD – Historic Preservation Overlay District shall be governed by the Zoning Ordinance of the City and the ordinance establishing the H-POD – Historic Preservation Overlay District and any other applicable City Code, regulation or law.

State Law reference – General Zoning Regulations, V.T.C.A. Local Govt. Code, § [211.001](#) et. seq.

4-405 – Amendments to Existing Designations or Removal of the Designation.

The same application and procedure that is followed for the designation of Mesquite Landmarks (ML) or H-PODs – Historic Preservation Overlay Districts shall apply for amending existing designations or removing the designation, except:

1. An owner of any individual property within any H-POD – Historic Preservation Overlay District may submit an application to remove only their property from the district without requiring the signatures of at least sixty (60) percent of the total number of lots or parcels of land within the district boundaries.
2. An owner of any individual property within any H-POD – Historic Preservation Overlay District may submit an application to amend the categorization of their property on any Historic Resource Survey as a contributing property, compatible property, or non-contributing property without requiring the signatures of at least sixty (60) percent of the total number of lots or parcels of land within the district boundaries.

Cross reference – Historic Resource Surveys, Section 4-402.

3. The Landmark Commission or the Historic Preservation Officer may initiate proposed amendments to an individually designated local Mesquite Landmark (ML) or H-POD – Historic Preservation Overlay District ordinance.

4-406 – Overview of Regulations.

A. In General.

Buildings, lands, properties, sites, structures and objects individually designated as local Mesquite Landmarks (ML) or within designated and mapped H-POD – Historic Preservation Overlay District(s), within the city limits of the City shall be regulated in accordance with this Zoning Ordinance.

B. Activities Regulated.

Any activity involving exterior features and/or exterior architectural features, of a Mesquite Landmark (ML) or within any H-POD – Historic Preservation Overlay District, shall be harmonious with the special character of the historic designation. However, not all activities involving such exterior features require a formalized approval; but said activities are still required to be harmonious with the special character of the historic designation.

C. Building Permits and Other Regulated Permits.

A Certificate of Appropriateness or a Certificate of Demolition, Removal, or Relocation shall be obtained prior to the Building Official or other City official issuing a building permit or any other regulated permit.

D. Design Standards.

1. *General Design Standards.* General design standards are required to provide the basic protection of the traditional character and development patterns of Mesquite Landmarks (ML) and any H-POD – Historic Preservation Overlay District.

Cross reference – General Design Standards, Section 4-407.

2. *Specific Design Standards.* Any ordinance by the City Council designating any H-POD may also require and incorporate specific design standards for the H-POD, in addition to the general design standards, to provide for enhanced protection of the area's specific development patterns.

Cross reference – Specific Design Standards, Section 4-408.

E. Determination of No Material Effect – Administrative Approval for a CA.

Upon review of a complete application for a Certificate of Appropriateness (CA) the Historic Preservation Officer, or his/her designees, may administratively approve the application by making a “determination of no material effect” indicating approval for any ordinary repair and maintenance as defined by this Zoning Ordinance in Section 6-200. The Historic Preservation Officer making a determination of no material effect will serve as administrative approval of the Certificate of Appropriateness.

Cross reference – Certificate of Appropriateness, Section 4-409.

F. Certificate of Appropriateness (CA).

A Certificate of Appropriateness is required when an alteration or other activity, excluding demolition, removal, and relocation, on a Mesquite Landmark (ML) or a contributing property, compatible property, non-contributing property or any other historic resource within any H-POD – Historic Preservation Overlay District will (1) create a material change in exterior appearance or exterior feature(s), and (2) said alteration or other activity requires any regulated permit. A Certificate of Appropriateness shall be obtained prior to the Building Official or other City official issuing a building permit or any other regulated permit.

Cross reference – Certificate of Appropriateness, Section 4-409.

G. Certificate of Demolition, Removal or Relocation.

Unless otherwise excepted, a Certificate of Demolition, Removal, or Relocation is required to demolish, remove, or relocate a Mesquite Landmark (ML), a contributing property or any other historic resource within any H-POD – Historic Preservation Overlay District. A Certificate of Demolition, Removal, or Relocation shall be obtained prior to the Building Official or other City official issuing a permit.

Cross reference – Certificate of Demolition, Removal, or Relocation, Section 4-410.

H. Exception for Economic Non-Viability.

1. *Certificate of Appropriateness.*

In accordance with this Zoning Ordinance, Exceptions for Economic Non-Viability may generally be issued when the property owner has shown he/she will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or other activity.

When seeking an Exception for Economic Non-Viability, in association with a Certificate of Appropriateness, the exception authorizes an alteration or other activity to any Mesquite Landmark (ML), contributing properties, compatible properties, non-contributing properties or any other historic resource within any H-POD – Historic Preservation Overlay District.

Cross reference – Certificate of Appropriateness, Section 4-409.

2. *Certificate of Demolition, Removal or Relocation.*

In accordance with this Zoning Ordinance, Exceptions for Economic Non-Viability may generally be issued when the property owner has shown he/she will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or other activity.

When seeking an Exception for Economic Non-Viability, in association with a Certificate of Demolition, Removal, or Relocation, the exception authorizes an alteration or other activity to any Mesquite Landmark (ML), contributing properties, or any other historic resource within any H-POD – Historic Preservation Overlay District.

Cross reference – Certificate of Demolition, Removal, or Relocation, Section 4-410.

4-407 – General Design Standards.**A. Purpose.**

General design standards are required to provide the basic protection of the traditional character and development patterns of Mesquite Landmarks (ML) and any H-POD – Historic Preservation Overlay District. General design standards ensure, as far as reasonably possible, that the exterior features of Mesquite Landmarks, or buildings, structures, sites or objects, and their associated features located within any H-POD – Historic Preservation Overlay District remain in harmony with the character defining features of the historic designation.

B. The Secretary of the Interior's Standards.

The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings may be used as a guideline unless otherwise required by State or federal law.

C. In General.

1. All exterior features and/or exterior architectural features shall be harmonious with the special character of the Mesquite Landmark (ML) or any H-POD – Historic Preservation Overlay District.
2. In considering new construction, rehabilitation, restoration, alterations, and additions to existing properties or vacant lots, the Landmark Commission shall not discourage contemporary design or adaptive reuse techniques when such activities do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
3. Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be accomplished in such a manner that, if the additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.
4. The Landmark Commission shall not seek to impose architectural styles from particular historic periods.

D. Design Standards for New Construction, Rehabilitation, Restoration, Alterations, and Additions.

The following list of general design standards shall be considered in the review of applications for a Certificate of Appropriateness. These standards apply to new construction, rehabilitation, restoration, alterations, and additions to an existing historic designated individual local Mesquite Landmark (ML), and to contributing, compatible, and non-contributing properties within any H-POD – Historic Preservation Overlay District, both commercial and residential.

1. Scale: Height and Width.

The height-width ratio, that is, the relationship between the height and width of the front facade, (in the case of corner lots, two facades including porches, wings and porte-cocheres), should be of similar proportions to the neighboring buildings. Where the height regulations or allowed height encroachments of the underlying district conflict with these height requirements, the height requirements of the Mesquite Landmark (ML) or the H-POD – Historic Preservation Overlay District shall control.

2. Massing and Building Form.

To maintain the existing character of the Mesquite Landmark (ML) or H-POD, any new construction or alteration should have similar massing and building form among buildings and structures in the immediate vicinity. Massing is defined as the three-dimensional geometric composition of a building, or the overall "bulk" of a building and how the building is placed on its site.

3. **Setback.**

The construction of additions and new buildings and structures shall be congruous with the setbacks of any typical well-related nearby building and structure within two blocks and compatible with the character of the Mesquite Landmark (ML) or H-POD. Where the setbacks or allowed encroachments of the underlying district conflict with these setback requirements, the setbacks of the Mesquite Landmark (ML) or the H-POD – Historic Preservation Overlay District shall control.

4. **Orientation and Site Coverage.**

The principal facades of new buildings and structures within the district should be oriented parallel to the street. Main entryways should be located along these principal facades. Lot coverage, or that percentage of lot area covered by buildings and structures on a lot, should be of a similar proportion to the site coverage on adjacent lots.

5. **Alignment, Rhythm and Spacing.**

Along a block, the uniformity of the proportions of the facades and the spacing of the buildings and structures must be considered to achieve harmony along the streetscape. Spacing between buildings and structures should be consistent along the street.

6. **Maintaining Materials within the District.**

It is important to utilize the types of building materials that are commonly used on the Mesquite Landmark (ML) or found within the district. Material types which are not commonly found on the Mesquite Landmark (ML) or found within the H-POD may detract from the continuity and character of the area.

7. **Trim and Detail: Link between Old and New.**

Any new construction or alteration should be complimentary and harmonious with surrounding historic buildings and structures without necessarily duplicating its detail.

8. **Facade Proportions and Window Patterns.**

The front facades of buildings and structures within the district may vary in style and detail; however, certain proportional relationships shall exist among buildings and structures in the immediate vicinity. It is important to maintain the relationship between the width and height of the front elevation of buildings and structures in the immediate vicinity. Also, the proportion of openings within the street side facade should reflect the same relationships within existing facades along the street, or visible from the street.

9. **Entrances and Porch Projections.**

The design of porches in new construction and alterations on a Mesquite Landmark (ML) or within any H-POD should capture the character of the porches on historic buildings within the district without imitating them. However, new buildings or structures should reflect the pattern of raising the first floor a few steps above street level if this pattern exists within the district. Ornamentations and details of new porches and entrances should also be complimentary and harmonious with surrounding historic buildings or structures without necessarily duplicating its detail.

10. **Roof Forms.**

It is important to use similar roof and parapet forms drawn from historic buildings and structures within the district.

11. **Maintaining Quality within the District.**

In new construction and alterations, the quality of materials, design, detailing and execution should be present to assure the continued positive character of the district. Modest buildings and structures constructed on relatively low budgets can show quality of design and detail with careful material selection and construction.

4-408 – Specific Design Standards.

A. Purpose.

Specific design standards are required to provide for enhanced protection of the traditional character and development patterns of any H-POD – Historic Preservation Overlay District. Specific design standards may be applied to any H-POD – Historic Preservation Overlay District to ensure, as far as reasonably possible, that the exterior features of Mesquite Landmarks (ML), or buildings, structures, sites or objects, and their associated features, located within any H-POD remain in harmony with the character defining features of the historic designation.

B. General Design Standards.

Any specific design standards contained in this Section are in addition to, and not in lieu of, the general design standards.

Cross reference – General Design Standards, Section 4-407.

C. List of H-POD – Historic Preservation Overlay Districts with Specific Design Standards.

1. Reserved.

4-409 – Certificate of Appropriateness.**A. Review Required.**1. *Defined.*

A Certificate of Appropriateness is an order issued by the Mesquite Landmark Commission. The order indicates approval of plans for an alteration or other activity, excluding demolition, removal, and relocation, to a designated individual local Mesquite Landmark (ML) or to contributing properties, compatible properties, non-contributing properties or any other historic resource within any H-POD – Historic Preservation Overlay District.

2. *Purpose.*

The intent of the Certificate of Appropriateness is to ensure that the integrity and character of Mesquite's historic resources and designations are maintained.

3. *When Required.*

A Certificate of Appropriateness is required when the alteration or other activity, excluding demolition, removal, and relocation, will:

- a. Create a material change in exterior appearance or exterior feature(s), and
- b. Said alteration or other activity requires any regulated permit.

4. *Exception for Economic Non-Viability.*

a. *In general.* An Exception for Economic Non-Viability may generally be issued, by the Landmark Commission, when the property owner has shown he/she will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or other activity.

b. *Authorization.* When seeking an Exception for Economic Non-Viability, in association with a Certificate of Appropriateness, the exception authorizes an alteration or other activity to any Mesquite Landmark (ML), contributing properties, compatible properties, non-contributing properties or any other historic resource within any H-POD – Historic Preservation Overlay District.

c. *Criteria for exception.* An Exception for Economic Non-Viability may be issued when the alteration or other activity, associated with a Mesquite Landmark (ML), contributing properties, compatible properties, non-contributing properties or any other historic resource within any H-POD – Historic Preservation Overlay District, will:

- (1) Create a material change in exterior appearance or exterior feature(s); and
- (2) Said alteration or other activity requires any regulated permit; and
- (3) For which a Certificate of Appropriateness and/or Certificate of Demolition, Removal, or Relocation "has been denied" or "would be denied"; and
- (4) The property owner has shown he/she will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or other activity.

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5. *Emergency Repairs and Emergency Demolitions.*

See Section 4-411.

6. *Building Permit and Site Plan Approval.*

Unless where otherwise excepted by this Zoning Ordinance, a Certificate of Appropriateness must be approved prior to issuance of any building permit or site plan approval. The Certificate of Appropriateness application shall be in addition to, and not in lieu of, any required building permit. Issuance of any necessary permits and approval of any plans from the building inspections, planning, public works, or environmental health departments are required with an approved Certificate of Appropriateness before work can commence.

B. Approval Standards.

It is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings and/or prohibit the demolition, removal, or relocation of the same. Upon review of the application for a Certificate of Appropriateness, the Landmark Commission must balance the following standards in making any decision for approval:

1. Whether the proposed activity involving exterior features and/or exterior architectural features is harmonious with the special character of the Mesquite Landmark (ML) or H-POD.
2. Whether the proposed activity will adversely affect any exterior feature and/or exterior architectural feature.
3. Whether the proposed activity will adversely affect the historic character of the landmark, site, building, structure, landscape and/or object.
4. In considering new construction, if a contemporary design or adaptive reuse technique is used, the architectural styles from particular historic periods are not required; however, a determination regarding whether the contemporary design or adaptive reuse technique is harmonious with the character of the Mesquite Landmark (ML) or H-POD is required.
5. Whether the proposed activity is in compliance with the general design standards contained in Section 4-407 and any applicable specific design standards adopted by ordinance of the City Council.

C. Procedure.1. *Application Required.*

The owner, owner of record, or his/her agent (e.g., lessee, architect, contractor, etc.) shall submit a completed application for a Certificate of Appropriateness requesting a review of the proposed changes.

2. *Historic Preservation Officer Review.*

- a. The Historic Preservation Officer (HPO) may meet with the applicant as needed and review the proposed work according to the approval standards. The HPO may make a determination of no material effect and administratively approve the application or the HPO shall forward the application to the Landmark Commission for review and decision.

b. *HPO Decision – Determination of No Material Effect.*

Upon review of a complete application for a Certificate of Appropriateness the Historic Preservation Officer, or his/her designees, may administratively approve the application by

making a “determination of no material effect” indicating approval for any ordinary repair and maintenance as defined by this Zoning Ordinance in Section 6-200.

The Historic Preservation Officer making a determination of no material effect will be administrative approval of the Certificate of Appropriateness and may be issued when:

- (1) The proposed activity is not an alteration, construction, demolition, removal, relocation or excavation as defined by this Zoning Ordinance in Section 6-200; and
- (2) The proposed activity does not create a material change of exterior appearance or does not create a major change in the exterior architectural features and appearance or exterior features of a building, structure, object, site, property, or land, including a protected tree; and
- (3) The proposed activity nonetheless does require a regulated permit.

3. *Landmark Commission Review and Decision.*

The Landmark Commission must render a decision to deny, approve, or approve with modifications the application within sixty (60) calendar days of the receipt of the application for a Certificate of Appropriateness by the Planning and Development Services Department. The Landmark Commission shall in its review consider the approval standards and issue a decision regarding a Certificate of Appropriateness to:

- a. deny;
- b. approve; or
- c. approve with modifications.

4. *Building Inspections Department.*

- a. *Notice of Decision.* The Historic Preservation Officer shall provide a written notice of the decision to the Building Inspections Department and the applicant within ten (10) calendar days after the date of decision by either the Historic Preservation Officer or the Landmark Commission.
- b. *Deemed Approved.* If the Historic Preservation Officer or Landmark Commission has taken no action within sixty (60) calendar days of the original receipt of the application, the Certificate of Appropriateness is automatically deemed approved and the building permit or other regulated permit shall be issued by the Building Inspection Department, unless other regulation or law prevents said issuance.

5. *Changes in Building or Site Plans Following a Decision.*

The applicant shall be allowed to work with the Historic Preservation Officer to resolve any issues that may arise during the permit review process. No change shall be made in the application for any building permit or other regulated permit after issuance of a Certificate of Appropriateness without resubmittal to the Historic Preservation Officer.

D. Appeals.1. *Appeal of Historic Preservation Officer Decision to the Landmark Commission.*

The applicant, or any aggrieved party, may appeal the decision of the Historic Preservation Officer to the Landmark Commission by filing a written request with the Director of Planning and Development Services within ten (10) calendar days of the date of decision. The Historic Preservation Officer shall schedule the appeal for the next practicable Landmark Commission meeting.

2. *Appeal of Landmark Commission Decision to the Board of Adjustment.*

If the Landmark Commission has denied the Certificate of Appropriateness, the Applicant may file in writing a notice of appeal to the Board of Adjustment, with the Director of Planning and Development Services, within ten (10) calendar days after the date of decision by the Landmark Commission.

- a. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal.
- b. The written notice of appeal shall be sent to the property owner of record by the Director of Planning and Development Services, or his/her designees.
- c. The Director of Planning and Development Services shall place the appeal on the next practicable Board of Adjustment Agenda, and the Applicant shall be notified of the date of the hearing.
- d. The Board of Adjustment, utilizing the approval standards, shall:
 - (1) deny;
 - (2) approve, with or without conditions, or
 - (3) remand the item to the Historic Preservation Officer or the Landmark Commission for further proceedings.

3. *Resubmittal Following a Decision.*a. *Resubmittal of Application – After Decision Where No Appeal is Made.*

Where no appeal is made to the Landmark Commission or Board of Adjustment, whichever the case may be, a resubmittal of application will not be accepted for additional hearing within one (1) year from the date of final decision except upon written request by the Applicant indicating the incorporation of changes in plans and specifications to the original application as recommended by the Historic Preservation Officer or Landmark Commission. A resubmittal of application is deemed a new application for purposes of process, procedures, and applicable fees. See Appendix D of Mesquite City Code for applicable fees.

b. *Resubmittal of Application – After an Appeal and Decision is Made.*

A resubmittal of application will not be accepted for additional hearing within one (1) year from the date of final decision except upon written request by the Applicant indicating the incorporation of changes in plans and specifications to the original application as recommended by the Historic Preservation Officer or Landmark Commission. A resubmittal of application is deemed a new application for purposes of process, procedures, and applicable fees. See Appendix D of Mesquite City Code for applicable fees.

E. Expiration and Extensions.

1. *Expiration.* Each Certificate of Appropriateness issued pursuant to this section shall expire and be void after one (1) year unless the construction, alteration or activity has commenced.
2. *Extensions.* Requests for extensions should be addressed to the Historic Preservation Officer prior to the date of expiration and should include the following:
 - a. Reason for requesting the extension; and
 - b. A timetable for starting and completing work.
3. *Extensions limited.* If there are no amendments to the previously approved Certificate of Appropriateness, extensions may be granted by the Historic Preservation Officer for any time period up to one (1) year provided no combination of previous extensions exceeds a total of one (1) year from the original expiration date.
4. *Revocation of Certificate of Appropriateness.* Failure to complete the work within the required time, including any extension(s), may result in the revocation of the Certificate of Appropriateness.
5. *Appeals.* The holder of an expired Certificate of Appropriateness, or a Certificate of Appropriateness that the Historic Preservation Officer finds inappropriate to extend, may appeal the request for extension to the Landmark Commission. The requested extension shall be scheduled to be heard at the next practicable Landmark Commission meeting.

4-410 – Certificate of Demolition, Removal, or Relocation.**A. Review Required.**1. *Defined.*

A Certificate of Demolition, Removal, or Relocation is an order issued by the Mesquite Landmark Commission. The order indicates approval of plans for demolition, removal, and/or relocation to a designated individual local Mesquite Landmark (ML), to contributing properties, or other historic resources within any H-POD – Historic Preservation Overlay District.

2. *Purpose.*

The intent of the Certificate of Demolition, Removal, or Relocation is to preserve historic and architectural resources of the City through limitations on demolition and removal of historic resources and designations to the extent it is economically feasible, practical, and necessary. The demolition, removal or relocation of individually designated local Mesquite Landmarks (ML), contributing properties, or other historic resources within any H-POD – Historic Preservation Overlay District diminishes the City's historic character, significance, and authenticity and is generally discouraged.

3. *When Required.*

Unless otherwise excepted by this Zoning Ordinance, no permit shall be issued by the Building Official to demolish, remove, or relocate a Mesquite Landmark (ML), a contributing property or other historic resource within any H-POD – Historic Preservation Overlay District without a Certificate of Demolition, Removal, or Relocation. The following require review by the Historic Preservation Officer or Landmark Commission:

a. *Individually designated local Mesquite Landmark (ML).*

The Landmark Commission shall render a decision to delay, deny, or grant a Certificate of Demolition, Removal, or Relocation.

b. *Contributing Property located within any H-POD – Historic Preservation Overlay District.*

The Landmark Commission shall render a decision to delay, deny, or grant a Certificate of Demolition, Removal, or Relocation.

c. *Historic resources such as buildings, structures, objects, sites and landscape features identified as integral to the historic interpretation or integrity of an area where a historic resource survey has been conducted.*

The Landmark Commission shall render a decision to delay, deny, or grant a Certificate of Demolition, Removal, or Relocation.

4. *Exception for Economic Non-Viability.*

a. *In general.* An Exception for Economic Non-Viability may generally be issued, by the Landmark Commission, when the property owner has shown he/she will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or other activity.

b. *Authorization.* When seeking an Exception for Economic Non-Viability, in association with a Certificate of Demolition, Removal, or Relocation, the exception authorizes an alteration or other activity to any Mesquite Landmark (ML), contributing properties, or any other historic resource within any H-POD – Historic Preservation Overlay District.

- c. *Criteria for exception.* An Exception for Economic Non-Viability may be issued when the alteration or other activity, demolition, removal or relocation of a Mesquite Landmark (ML), contributing properties, or any other historic resource within any H-POD – Historic Preservation Overlay District will:
- (1) Create a material change in exterior appearance or exterior feature(s); and
 - (2) Said alteration or other activity requires any regulated permit; and
 - (3) For which a Certificate of Appropriateness and/or Certificate of Demolition, Removal, or Relocation "has been denied" or "would be denied"; and
 - (4) The property owner has shown he/she will be deprived of any reasonable economic return on the property if not allowed to proceed with the requested alteration or other activity.

5. *Emergency Repairs and Emergency Demolitions.*

See Section 4-411.

6. *Building Permit and Site Plan Approval.*

Unless where otherwise excepted by this Zoning Ordinance, a Certificate of Demolition, Removal, or Relocation must be approved prior to issuance of any building permit or site plan approval. The Certificate of Demolition, Removal, or Relocation application shall be in addition to, and not in lieu of, any required building permit. Issuance of any necessary permits and approval of any plans from the building inspections, planning, public works, or environmental health departments are required with an approved Certificate of Demolition, Removal, or Relocation before work can commence.

B. Approval Standards.

It is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings and/or prohibit the demolition, removal, or relocation of the same. Upon review of the application for a Certificate of Demolition, Removal, or Relocation, the Landmark Commission must balance the following standards in making any decision for approval:

1. Whether the building, land, property, site, structure or object has Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined by this Zoning Ordinance in Section 6-200, and the importance of said significance to the community.
2. The current condition of the property.
3. The proposed new use of the property.
4. Whether the proposed demolition, removal, or relocation will adversely affect the historic character of any H-POD – Historic Preservation Overlay District or of any individual site, building, structure, landscape and/or object.
5. Whether denial of the proposed demolition, removal, or relocation would prevent the property owner from earning a reasonable economic return on the property.

C. Procedure.1. *Application Required.*

A property owner of record or his or her designee seeking a demolition, removal, or relocation to a designated Mesquite Landmark (ML), to contributing properties, or other historic resources within any H-POD – Historic Preservation Overlay District shall submit a completed application for a Certificate of Demolition, Removal, or Relocation. The application must be signed and sworn to by all the owners of record of the property or their duly authorized representatives. The application must provide all necessary documentation as proof to establish the necessity of a Certificate of Demolition, Removal, or Relocation.

2. *Historic Preservation Officer Review.*

The Historic Preservation Officer (HPO) may meet with the applicant as needed and review the proposed work according to the approval standards. The HPO is not authorized to make a determination of no material effect in association with a Certificate of Demolition, Removal, or Relocation and shall not administratively approve the application; therefore, the HPO shall forward the application to the Landmark Commission for review and decision.

3. *Landmark Commission Review.*

If the structure proposed for demolition, removal, or relocation is an individually designated Mesquite Landmark (ML), is classified as a contributing property, or other historic resource within any H-POD – Historic Preservation Overlay District, the Historic Preservation Officer shall schedule a public hearing for the next practicable Landmark Commission meeting. At least ten (10) calendar days prior to the public hearing, the applicant(s) shall be given written notice of the hearing to the address provided in the application. At the hearing, the commission shall review and consider all submitted documents and testimony of any interested parties.

4. *Landmark Commission Decision.*

The Landmark Commission must render a decision to delay, approve, or deny the application within sixty (60) calendar days of the receipt of the application for a Certificate of Demolition, Removal, or Relocation by the Planning and Development Services Department. The Landmark Commission shall in its review consider the approval standards and issue a decision regarding a Certificate of Demolition, Removal, or Relocation to:

- a. delay;
- b. approve; or
- c. deny.

5. *Building Inspections Department.*

- a. *Notice of Decision.* The Historic Preservation Officer shall provide a written notice of the decision to the Building Inspections Department and the applicant within ten (10) calendar days after the date of decision by the Landmark Commission.
- b. *Deemed Approved.* If the Landmark Commission has taken no action within sixty (60) calendar days of the original receipt of the application, the Certificate of Demolition, Removal, or Relocation is automatically deemed approved and the building permit or other regulated permit shall be issued by the Building Inspection Department, unless other regulation or law prevents said issuance.

6. *Demolition Delay.*
- a. *Suspension of the application by the Landmark Commission.*
- (1) In the interest of identifying alternatives to save a building or structure, the Landmark Commission may suspend an application for removal, relocation, or demolition of an individually designated Mesquite Landmark (ML), contributing properties or other historic resources within any H-POD – Historic Preservation Overlay District.
 - (2) The demolition, removal, or relocation of the structure may be delayed, and, in that event, the application shall be suspended for a period not exceeding ninety (90) calendar days from the date of the Landmark Commission review hearing.
 - (3) Within the suspension period, the Landmark Commission may request an extension of the suspension period by the Board of Adjustment.
 - (a) *Board of Adjustment review for determination of extension of the suspension period.* After notice to the Applicant and a public hearing, if the Board of Adjustment determines that there are likely to be reasonable grounds for preservation, the Board of Adjustment may extend the suspension period for an additional period not exceeding one hundred twenty (120) calendar days, for a total of not more than two hundred forty (240) calendar days from the date of the application for Certificate of Demolition, Removal, or Relocation.
 - (b) *Permits not authorized.* During the period of suspension of the application, no permit shall be issued for such demolition, relocation, or removal, nor shall any person demolish, remove, or relocate the structure, except as otherwise provided by this Zoning Ordinance.
 - (4) *Salvage plan prepared by Landmark Commission.*
 - (a) *Salvage plan.* During the suspension time of the delay period, the Landmark Commission may prepare and submit to the applicant a salvage plan, which may suggest proposals to preserve the site for purposes consistent with this Zoning Ordinance. The plan may include recommendations for complete or partial tax abatements, tax credits, or authority for alteration or construction not inconsistent with the purposes of this section, and other actions allowable by law. The plan may also include an architectural salvage plan if the structure cannot be saved.
 - (b) *Alternatives to demolition, removal or relocation.* The owner shall conduct in good faith, with the local and state preservation organizations and interested parties, a diligent effort to seek an alternative to demolition, removal, or relocation.
 - (c) *Approval.* If a reasonable agreement for salvage cannot be obtained with the applicant, then the Certificate of Demolition, Removal, or Relocation shall be issued at the end of the delay period or an earlier date upon motion and approval of the Landmark Commission.
- b. *Prohibitions for delay.* Demolition delay shall not be ordered for properties that request relief based on the fact that they are not economically viable or for properties that are a threat to public health or safety.

D. Appeals.1. *Appeal of Landmark Commission Decision to the Board of Adjustment.*

If the Landmark Commission has denied the Certificate of Demolition, Removal, or Relocation, the Applicant may file in writing a notice of appeal to the Board of Adjustment, with the Director of Planning and Development Services, within ten (10) calendar days after the date of decision by the Landmark Commission.

- a. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal.
- b. The written notice of appeal shall be sent to the property owner of record by the Director of Planning and Development Services, or his/her designees.
- c. The Director of Planning and Development Services shall place the appeal on the next practicable Board of Adjustment Agenda, and the Applicant shall be notified of the date of the hearing.
- d. The Board of Adjustment, utilizing the approval standards, shall:
 - (1) deny;
 - (2) approve, with or without conditions, or
 - (3) remand the item to the Historic Preservation Officer or the Landmark Commission for further proceedings.

2. *Resubmittal Following a Decision.*a. *Resubmittal of Application – After Decision Where No Appeal is Made.*

Where no appeal is made to the Landmark Commission or Board of Adjustment, whichever the case may be, a resubmittal of application will not be accepted for additional hearing within one (1) year from the date of final decision except upon written request by the Applicant indicating the incorporation of changes in plans and specifications to the original application as recommended by the Historic Preservation Officer or Landmark Commission. A resubmittal of application is deemed a new application for purposes of process, procedures, and applicable fees. See Appendix D of Mesquite City Code for applicable fees.

b. *Resubmittal of Application – After an Appeal and Decision is Made.*

A resubmittal of application will not be accepted for additional hearing within one (1) year from the date of final decision except upon written request by the Applicant indicating the incorporation of changes in plans and specifications to the original application as recommended by the Historic Preservation Officer or Landmark Commission. A resubmittal of application is deemed a new application for purposes of process, procedures, and applicable fees. See Appendix D of Mesquite City Code for applicable fees.

E. Expiration and Extensions.

1. *Expiration.* Each Certificate of Demolition, Removal, or Relocation issued pursuant to this section shall expire and be void after one (1) year unless the demolition, removal or relocation has commenced.
2. *Extensions.* Requests for extensions should be addressed to the Historic Preservation Officer prior to the date of expiration and should include the following:
 - a. Reason for requesting the extension; and
 - b. A timetable for starting and completing work.
3. *Extensions limited.* If there are no amendments to the previously approved Certificate of Demolition, Removal, or Relocation, extensions may be granted by the Historic Preservation Officer for any time period up to one (1) year provided no combination of previous extensions exceeds a total of one (1) year from the original expiration date.

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4. *Revocation of Certificate of Demolition, Removal, or Relocation.* Failure to complete the work within the required time, including any extension(s), may result in the revocation of the Certificate of Demolition, Removal, or Relocation.
5. *Appeals.* The holder of an expired Certificate of Demolition, Removal, or Relocation or a Certificate of Demolition, Removal, or Relocation that the Historic Preservation Officer finds inappropriate to extend, may appeal the request for extension to the Landmark Commission. The requested extension shall be scheduled to be heard at the next practicable Landmark Commission meeting.

4-411 – Emergency Repairs and Emergency Demolitions.

A. Emergency Repairs.

If a historic designation is unexpectedly damaged and the Historic Preservation Officer determines that additional deterioration is likely to occur without immediate repair, the Historic Preservation Officer may authorize the property owner, or agent on behalf of the property owner, to take immediate temporary measures to stabilize and protect the structure. In such cases, the property owner of record, or agent on behalf of the property owner of record, shall apply for a Certificate of Appropriateness within ten (10) calendar days of completion of the emergency corrective measures. The corrective measures authorized under this Section shall not permanently alter the exterior architectural features of the historic designation.

B. Emergency Demolition, Removal or Relocation.

If any Mesquite Landmark (ML) or property within an H-POD – Historic Preservation Overlay District, regardless of classification, is deemed by the Building Official to pose an immediate threat to public health or safety, a Certificate of Demolition, Removal or Relocation for total or partial demolition, removal, or relocation may be approved by the Historic Preservation Officer at any time.

4-412 – Minimum Maintenance Requirement and Prevention of Deterioration.

A. In General.

Mesquite Landmarks (ML), contributing properties, or other historic resources within any H-POD –Historic Preservation Overlay District shall be maintained in accordance with the minimum property, structural, health, and safety standards as adopted by the City. Owners and/or owners of record, of an individually designated local Mesquite Landmark (ML), contributing properties, or other historic resources within any H-POD – Historic Preservation Overlay District, shall not permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior features or exterior architectural feature which would produce a detrimental effect upon the character of the historic designation or the life and character of the property itself. Failure to provide the minimum maintenance required by this section may result in a finding of Deterioration by Neglect.

Cross reference – Procedure to Address Deterioration by Neglect, Section 4-413.

B. Minimum Maintenance Requirements for Prevention of Deterioration.

Owners and/or owners of record shall be required to fulfill a minimum level of maintenance on their property in order to keep it from deteriorating. Any of the following are prima facie evidence of a serious state of disrepair:

1. Deterioration of exterior features or exterior architectural features that causes delamination, instability, loss of shape and form, or crumbling.
2. Deterioration that causes a detrimental effect upon:
 - a. any designated individual local Mesquite Landmark (ML); or
 - b. the special character or the unique attributes of any historic resource or contributing property, such as a building, structure, object, site, or landscape within the boundaries of any H-POD – Historic Preservation Overlay District as a whole.

4-413 – Procedure to Address Deterioration by Neglect.

Failure to provide the minimum maintenance required by Section 4-412 of this Section may result in a finding of Deterioration by Neglect. If conditions of neglect are present or suspected, the Historic Preservation Officer, in coordination with the Building Official, is authorized to lawfully investigate in an effort to prevent further deterioration.

A. General Procedure to address Deterioration by Neglect.1. *Documentation of neglect.*

The Historic Preservation Officer and Building Official shall document evidence of disrepair or neglect.

2. *Notification of owner.*

The owner shall be notified in writing, providing specific information about the alleged deterioration, and requesting that the owner to appear before the Landmark Commission at the next practicable regular meeting of the Landmark Commission. The notification shall be sent to the owner by registered mail.

3. *Hearing.*

The Landmark Commission shall conduct a hearing. The purpose of the hearing is to enable the commission to make a fuller and more accurate determination of the existence and degree of deterioration and, the urgency for corrective action. The owner may appear before the Landmark Commission in person or by agent.

4. *Required action upon finding of deterioration by neglect.*

If the Landmark Commission determines that the deterioration has produced a detrimental effect on the architectural significance and/or historic integrity of the property or district, the Historic Preservation Officer, in coordination with the Building Official, shall take the following actions:

- a. Send notice to the owner, by certified mail, describing the required repairs or stabilization and specifying:
 - (1) The repairs must be started within sixty (60) calendar days; and
 - (2) A date by which the repairs must be completed; as determined by the Landmark Commission.
- b. Meet with the owner within ninety (90) calendar days after the notice is sent, if the Historic Preservation Officer determines that it would be useful to discuss progress in making repairs and consider any issues that may delay completion of repairs.
- c. Administratively approve a certificate of appropriateness, if necessary, to expedite work.

B. Appeals.

An owner or owner of record may appeal the decision of the Landmark Commission to the Board of Adjustment by filing a written request with the Director of Planning and Development Services within ten (10) calendar days of the date of decision. The Director of Planning and Development Services shall schedule the appeal for the next practicable Board of Adjustment meeting.

C. Case May Be Referred to the City Attorney's Office.

The Historic Preservation Officer or Building Official may refer a Deterioration by Neglect case to the City Attorney for enforcement of this section.

D. Other Law Applicable.

The requirements of this section do not prohibit enforcement and prosecution under any other applicable law.

4-414 – Prohibited Acts, Penalty for Violation and Enforcement**A. Prohibited Acts.**

It shall be unlawful to construct, reconstruct, remove, structurally alter, remodel, renovate, restore, demolish, raze, maintain, or failure to maintain any Mesquite Landmark (ML), contributing property, or historic resource within any H-POD – Historic Preservation Overlay District in violation of the provisions of this Zoning Ordinance. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing, maintenance, or failure to maintain, to restrain, correct, or abate such violation.

B. Penalty for Violation.

Any violation of the provisions or terms of this Section by any person, firm, business entity, or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Chapter 1, [Section 1-6](#) of the Mesquite City Code for each offense. Every day a violation continues shall constitute a separate offense unless some other time period is specified.

Mesquite City Code reference – General penalties; applicability; continuing violations, Chapter 1, [Section 1-6](#).

C. Enforcement.1. *Work and Inspection.*

All work performed pursuant to a Certificate of Appropriateness or Certificate of Demolition, Removal, or Relocation issued under this Zoning Ordinance shall conform to all of its requirements. It shall be the duty of the Historic Preservation Officer, or his/her designees, to inspect periodically to assure such compliance.

2. *Stop-Work Order.*

a. In the event of any of the following, or upon notification of such fact by the Landmark Commission and verification by the Historic Preservation Officer, the Building Official shall issue a stop-work order and all work shall immediately cease:

(1) Work is not being performed in accordance with a Certificate of Appropriateness or a Certificate of Demolition, Removal, or Relocation; or

(2) No certificate has been approved.

b. Upon issuance of a stop-work order, the property owner shall be required to apply for a Certificate of Appropriateness or Certificate of Demolition, Removal, or Relocation and receive approval.

c. No further work shall be undertaken on the project as long as a stop-work order is in effect until a decision is rendered by the Historic Preservation Officer or Landmark Commission on the application.

D. Other Approvals.

All required permits must be issued and plans approved by the building inspections, planning, public works, and environmental health departments before work can commence under an approved Certificate of Appropriateness or Certificate of Demolition, Removal, or Relocation.

4-415 – Authority to Acquire Historic Sites.

The City may, by gift, devise, purchase, or eminent domain proceeding, acquire land, historic buildings, sites or landmarks as permitted by and in accordance with State law.

State Law reference – Acquisition and maintenance of historic sites, V.T.C.A. Local Government Code, [§ 331.001](#) et seq.

4-416 – Authority to Preserve Substandard Building as Historic Property.

Upon the City of Mesquite’s designation as a certified local government by the State Historic Preservation Officer, the City shall obtain authority to, and may, preserve a substandard building as historic property as permitted by and in accordance with State law.

State Law reference – Additional authority to preserve substandard building as historic property, V.T.C.A. Local Govt. Code, [§ 214.00111](#).