

## *DIVISION 8. LANDMARK COMMISSION*

### **Sec. 20-2801. Establishment of the Landmark Commission.**

The Landmark Commission was created and established, in accordance with State law, on November 11, 2019. The Landmark Commission may also be referred to as the "Mesquite Landmark Commission," "Landmark Commission," or "MLC."

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

**Mesquite Zoning Ordinance reference**—Landmark Commission, Part 5, 5-400, Section 5-406.

**State Law reference**—V.T.C.A. Local Government Code § 211.001 and § 211.003.

### **Sec. 20-2802. In General.**

The Landmark Commission was established by the City Council in accordance with Texas Local Government Code, Chapter 211 (Municipal Zoning Authority) or successor and as amended. The Landmark Commission works to protect, enhance, and promote landmarks and districts of historical, cultural, and architectural importance in the City. The Landmark Commission shall have final decision-making authority in some decisions, and in others shall make recommendations to the Planning and Zoning Commission and/or City Council and any other decision-making person or body as required by law.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

### **Sec. 20-2803. Members.**

- (a) Seven (7) REGULAR MEMBERS and two (2) ALTERNATES shall be appointed by the City Council in accordance with this chapter.
- (b) To assist with achieving, and maintaining, Certified Local Government status, the resumes of regular members, and alternates, of the Mesquite Landmark Commission and the designated Historic Preservation Officer (HPO), indicating their qualifications, credentials, or expertise in fields related to historic preservation shall be maintained in the Office of the City Secretary.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

**Cross reference(s)**—City Council action for appointments and confirmations, Article II, Section 20-206.

**Cross reference(s)**—Texas Historical Commission's Certified Local Government Handbook, as amended.

**Texas Administrative Code reference**—Texas Administrative Code, Title 13, Part 2, Chapter 15, §15.6.

### **Sec. 20-2804. Organization.**

#### (a) *Regular Members.*

- (1) REGULAR MEMBERS shall be appointed by the City Council to a specified position as designated below and shall have the following qualifications.

- (2) All regular members and alternates shall have a demonstrated interest or competence in, or knowledge of, one (1) or more of the following areas: history, historic preservation, local culture, education, archaeology, architecture, or the arts.
- (3) Position numbers are assigned for term expiration date purposes and do not signify rank or seniority.

Landmark Commission—Regular Members	
Position No. 1.	Appointed for a term expiring in odd-numbered years.
	An owner of a Mesquite Landmark, or an owner of a commercial building or business located in a H-POD—Historic Preservation Overlay District, or an owner of a commercial building or business located within the boundaries of the DOWNTOWN MESQUITE MAIN STREET PROGRAM BOUNDARY AREA.
Position No. 2.	Appointed for a term expiring in even-numbered years.
	A practicing design professional, including but not limited to: an architect, a landscape architect, an interior designer, or an engineer.
Position No. 3.	Appointed for a term expiring in odd-numbered years.
	A historian, including but not limited to professionals such as teachers, professors, librarians and other staff, knowledgeable of one or more of the following areas: history, historic preservation, local culture, education, archaeology, architecture, or the arts.
Position No. 4.	Appointed for a term expiring in even-numbered years.
	A resident of the City demonstrating an interest or competence in, or knowledge of, one or more of the following areas: history, historic preservation, local culture, education, archaeology, architecture, or the arts.
Position No. 5.	Appointed for a term expiring in odd-numbered years.
	Any resident of the City, including within any H-POD—Historic Preservation Overlay District.
Position No. 6.	Appointed for a term expiring in even-numbered years.
	EX OFFICIO MEMBER. Any member of the Mesquite Downtown Development Advisory Board, as decided by majority vote from the board members of the Mesquite Downtown Development Advisory Board.
Position No. 7.	Appointed for a term expiring in odd-numbered years.
	EX OFFICIO MEMBER. Any member of Historic Mesquite, Inc., as decided by majority vote from the board members of Historic Mesquite, Inc.

- (b) *Alternates.* ALTERNATES shall be appointed by the City Council to a specified position as designated below and shall have one (1) or more of the qualifications of the positions above. Alternate numbers are assigned for term expiration date purposes and do not signify rank or seniority.

Landmark Commission—Alternates	
Alternate No. 1.	Appointed for a term expiring in odd-numbered years.
	Any resident of the City who qualifies for any of the following positions: Position No. 1 through No. 5.
Alternate No. 2.	Appointed for a term expiring in even-numbered years.
	Any resident of the City who qualifies for any of the following positions: Position No. 1 through No. 5.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

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**Cross reference(s)**—Term duration and expiration, Article III, Division 1, Section 20-303.  
Calculation of terms and term limits, Article III, Division 1, Section 20-304.  
City Council action for appointments and confirmations, Article II, Section 20-206.

**Sec. 20-2805. Officers.**

- (a) *Chair.* The Landmark Commission shall elect a Chair in accordance with this chapter.
  - (b) *Vice-Chair.* The Landmark Commission shall elect a Vice-Chair in accordance with this chapter.
- (Ord. No. 4894, § 3(Exh. B), 9-7-21)

Cross reference(s)—Officers of the board, commission, or committee, Article III, Division 1, Section 20-326.

**Sec. 20-2806. Duties.**

- (a) *Code of ethics.* All REGULAR MEMBERS and ALTERNATES of the Landmark Commission shall comply with the City's CODE OF ETHICS.
  - (b) *Regulations for regular members and alternates.* All REGULAR MEMBERS and ALTERNATES of the Landmark Commission shall comply with Article III (General Regulations) of this chapter.
  - (c) *Other law.* All REGULAR MEMBERS and ALTERNATES of the Landmark Commission shall comply with State and other law as may be applicable.
- (Ord. No. 4894, § 3(Exh. B), 9-7-21)

Cross reference(s)—City Code Ch. 2, Article IV, Division 2—Code of Ethics.

**Sec. 20-2807. Powers and responsibilities of the Landmark Commission.**

The Landmark Commission is hereby charged with the following responsibilities and invested with authority and powers as follows:

- (1) *In General.* To exercise such duties and powers as may be now or hereafter conferred by the Charter of the City of Mesquite, Mesquite Zoning Ordinance, City Code, or applicable laws of the State of Texas.
- (2) *Review and Recommendation.* The Landmark Commission reviews and make a recommendation for the following types of applications:
  - a. To the City Council for designation, creation, and/or amendment of Mesquite Landmarks (ML) and H-PODs—Historic Preservation Overlay Districts.
  - b. To the Director of the Public Works Department for permits to use any City right-of-way or for abandonment of any City right-of-way, when the request is within an H-POD, as provided in Chapter 15, Art. III of the City Code.
  - c. Any other review and recommendation responsibilities specifically assigned by this Zoning Ordinance or other regulation or law.
- (3) *Review and Decision.* The Landmark Commission shall review and decide the following types of development related applications except for those which are handled administratively by the Historic Preservation Officer as provided by the Mesquite Zoning Ordinance.
  - a. Certificates of Appropriateness and Certificates of Demolition where required in accordance with the Mesquite Zoning Ordinance;

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- b. Signs within a H-POD—Historic Preservation Overlay District;
  - c. Appeals from administrative decisions of the Historic Preservation Officer;
  - d. Determination to grant or deny a request, by an applicant, to receive an Exception for Economic Non-Viability;
  - e. Moving a Mesquite Landmark from the location where it was designated; and
  - f. Any other actions specifically assigned by this Zoning Ordinance or other regulation or law.
- (4) *Other Powers.* The Landmark Commission may also:
- a. Initiate zoning map amendments, and corresponding Zoning Ordinance text amendments, to designate a Mesquite Landmark (ML) or a H-POD—Historic Preservation Overlay District.
  - b. Coordinate with the Historic Preservation Officer to facilitate the City's designation as a Certified Local Government (CLG), and upon designation, assist in maintaining the City in good standing as a CLG.
  - c. Upon the City's designation as a Certified Local Government, the Landmark Commission may exercise its authority, under Texas Local Government Code, Chapter 214 (Municipal Regulation of Housing and Other Structures), Section 214.00111, to review a substandard building that is subject to potential corrective action by the City to determine if the building can be rehabilitated and receive a national, state, or municipal historic designation as a Mesquite Landmark.
  - d. With consent from the Director of Planning and Development Services, file appropriate documents in the real property records of Dallas County or Kaufman County.
  - e. Conduct surveys and provide information to enable the City to compile and maintain the City of Mesquite, Texas, Landmark Register of Historic Places, which provides an inventory of significant pre-historic, historic, architectural, archeological, and cultural landmarks and districts located within the City.
  - f. Confer recognition upon the owners of Mesquite Landmarks, including through the issuance of certificates, plaques, or markers.
  - g. Testify before City boards and commissions on matters affecting historically, architecturally, archeologically, or culturally significant buildings, structures, objects, sites, property, land, or historic districts.
  - h. Provide comments to the State Historic Preservation Officer (SHPO) regarding designation on the National Register of Historic Places within the City.
  - i. Inform and educate the citizens of Mesquite concerning the pre-historical, historical, architectural, archeological, and cultural heritage of the City.
  - j. Periodically review the City's zoning regulations and recommend, to the Planning and Zoning Commission and City Council, amendments the Landmark Commission deems appropriate for the continued preservation and protection of historic designations, including landmarks and districts, and other significant buildings, structures, objects, and sites.
  - k. Apprise City Council of, and make recommendations pertaining to, the availability of state, federal, or other funds that can be used to promote the preservation of landmarks and historic districts within the City.
  - l. Provide comments to the Historic Preservation Officer about zoning changes and other issues affecting historic resources.

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- m. Coordinate plans and programs of the Landmark Commission with City departments and other City boards through the Historic Preservation Officer.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

### **Sec. 20-2808. Quorum.**

To conduct the business of the Landmark Commission a QUORUM shall be present. A QUORUM shall be calculated as a majority number of the FULL MEMBERSHIP of the Commission; therefore, four (4) persons shall constitute a QUORUM.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

Cross reference(s)—"Quorum" defined, Article I, Section 20-5.

**Similar State Law provision**—"Quorum" defined, V.T.C.A., Government Code, Open Meetings Act, § 551.001.

### **Sec. 20-2809. Number of Annual Meetings Required.**

The Landmark Commission shall meet at least six (6) times in a reporting year to maintain Certified Local Government status.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

**Cross reference**—Texas Historical Commission's Certified Local Government Handbook, as amended.

**Texas Administrative Code reference**—Texas Administrative Code, Title 13, Part 2, Chapter 15, § 15.6.

### **Sec. 20-2810. Rules of procedure.**

- (a) *In general.* The Landmark Commission shall comply with Section 20-324 (Rules of Procedure) of Article III, Division 1 in this Chapter, and as may be identified by law.
- (b) *Board specific rules of procedure.* The Landmark Commission specific rules of procedure, if any, shall be adopted in accordance with Section 20-324 (Rules of Procedure) of Article III, Division 1 in this Chapter. If the City Council approves specific rules of procedure for the Landmark Commission, said rules shall be filed in the Office of the City Secretary and posted on the City's website.

(Ord. No. 4894, § 3(Exh. B), 9-7-21)

### **Secs. 20-2811—20-2900. Reserved.**

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## **4-400 MESQUITE LANDMARKS (ML) AND HISTORIC PRESERVATION OVERLAY DISTRICTS (H-POD) DESIGNATIONS AND REGULATIONS<sup>1</sup>**

### **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.

Charter reference(s)—Zoning, Article III, Section 27.

State law reference(s)—General Zoning Regulations, V.T.C.A. Local Govt. Code, §§ 211.001, 211.003, and 211.0165.

- 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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

### **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.*

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<sup>1</sup>Editor's note(s)—Ord. No. 4738, § 4(Exh. B), adopted November 4, 2019, repealed the former § 4-400, §§ 4-401—4-403, and enacted a new § 4-400 as set out herein. The former § 4-400 pertained to similar subject matter and derived from Ord. No. 1135, adopted September 4, 1973; and Ord. No. 2569, adopted November 21, 1988.

Cross reference(s)—Historic preservation, § 5-431 et seq.

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- 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.

Cross reference(s)—Mesquite Landmark (ML) Individual Designations, Section 4-403; 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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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

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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; and
2. At least fifty (50) years old; and
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; and
4. Receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission; and
6. City Council approves the designation by ordinance with:
  - a. *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.

Charter reference(s)—Art. IV, Sec. 17.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

- b. *Three-Fourths Vote.* A three-fourths (¾) 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 (¾) favorable vote for recommendation of approval (i.e., 6 favorable votes) by the Landmark Commission .

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

C. *Application.*

1. *Property Owner-Initiated Designation.*

- a. *Applicant.* 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).
- 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. *Consent of all Owners of record.* A complete Historic Designation Application for property owner-initiated 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.*

- a. *Landmark Commission recommendation to City Council.* The Landmark 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).
- b. *City Council.* The City Council may, on its own motion or upon the recommendation received from the Landmark Commission, direct the City Manager 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



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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; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.
3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the City Council 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 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 a quorum, of the Landmark Commission present and voting, 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 (i.e., 6 favorable votes), of all members of the Landmark Commission, is required to recommend designation. If three-fourths ( $\frac{3}{4}$ ) of the Landmark Commission members do not recommend approval, the application is deemed denied and shall not be forwarded to the City Council for consideration.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

b. *Recommendation for Denial.*

- (1) *Owner Consent.* If the owner consents to the designation, but the Landmark Commission recommends denial of the application, the application shall still continue to the City Council for consideration.
- (2) *No Owner Consent.* If the Owner of record does not consent to the designation, and the Landmark Commission recommends denial of the application, the application is deemed denied and shall not be forwarded to the City Council for consideration.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

E. *Decision by the City Council.*

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark 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; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

3. *Decision.*

- a. *Vote requirement to approve the designation of a local Mesquite Landmark (ML).*

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- (1) *Owner Consent—Simple Majority Vote.* If the Owner of record consents to the designation, regardless of the MLC recommendation, the City Council may approve the designation with a simple majority vote of all members (i.e., 4 favorable votes).

Charter reference(s)—Art. IV, Sec. 17.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

- (2) *No Owner Consent—Three-Fourths Vote.* If the Owner of record does not consent to the designation a three-fourths (¾) 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 (¾) favorable vote for recommendation of approval by the Landmark Commission.

State law reference(s)—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 a quorum, of the Landmark Commission, present and voting. 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.
- F. *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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19; Ord. No. 4906, § 2(Exh. A), 10-18-21)

State law reference(s)—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

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(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; and
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; and
4. Historic buildings, structures, sites, objects or landscapes need not be contiguous for an area to constitute an H-POD and
5. Receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission; and
6. City Council approves the designation by ordinance with:
  - a. *Simple Majority Vote.* A simple majority vote of all members of the City Council (i.e., 4 favorable votes) if the Owner(s) of record consent to the designation.

Charter reference(s)—Art. IV, Sec. 17.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

- 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 any 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 (i.e., 6 favorable votes) by the Landmark Commission.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

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.*
    - (1) *General rule.* A Historic Designation Application for property owner-initiated 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.
    - (2) *Calculation of the Sixty (60) Percent.*

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- (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.*

- a. *Landmark Commission recommendation to City Council.* The Landmark 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.
- b. *City Council.* The City Council may, on its own motion or upon the recommendation received from the Landmark Commission, direct the City Manager 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; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.
- 3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the City Council 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.*
    - (1) *Owner(s) Consent—Simple Majority Vote.* If the Owner(s) of record consent to the designation a simple majority vote of a quorum, of the Landmark Commission present and voting, is required to recommend designation.
    - (2) *No Owner Consent—Three-Fourths Vote.* If any Owner of record does not consent to the designation a three-fourths ( $\frac{3}{4}$ ) vote (i.e., 6 favorable votes), of all members of the Landmark Commission, is required to recommend designation. If three-fourths ( $\frac{3}{4}$ ) of the Landmark Commission members do not recommend approval, the application is deemed denied and shall not be forwarded to the City Council for consideration.
  - b. *Recommendation for Denial.*
    - (1) *Owner(s) Consent.* If the Owner(s) of record consent to the designation, but the Landmark Commission recommends denial of the application, the application shall still continue to the City Council for consideration.

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- (2) *No Owner Consent.* If any Owner(s) of record do not consent to the designation, and the Landmark Commission recommends denial of the application, the application is deemed denied and shall not be forwarded to the City Council for consideration.

F. *Decision by the City Council.*

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark 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; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

3. *Decision.*

a. *Vote requirement to approve the designation of a H-POD—Historic Preservation Overlay District.*

- (1) *Owner(s) Consent—Simple Majority Vote.* If the Owner(s) of record consent to the inclusion of their property within the H-POD, regardless of the MLC recommendation, the City Council may approve the designation with a simple majority vote of all members (i.e., 4 favorable votes).

Charter reference(s)—Art. IV, Sec. 17.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

- (2) *No Owner(s) Consent—Three-Fourths (¾) Vote.* If any Owner of record does not consent to the inclusion of their property within the H-POD, a three-fourths (¾) 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 (¾) favorable vote (i.e., 6 favorable votes) for recommendation of approval by the Landmark Commission.

Charter reference(s)—Art. IV, Sec. 17.

State law reference(s)—Tex. Loc. Gov't Code Ann. § 211.0165.

- b. In the event the City Council approves the designation of the H-POD—Historic Preservation Overlay District, the following shall occur concurrently:
  - (a) *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."
  - (b) *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 a quorum, of the Landmark Commission, present and voting. If the Landmark Commission approves the resubmission of an

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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 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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19; Ord. No. 4906, § 2(Exh. A), 10-18-21)

Charter reference(s)—Art. IV, Sec. 17.

State law reference(s)—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(s)—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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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.

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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(s)—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(s)—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(s)—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(s)—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(s)—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(s)—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

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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(s)—Certificate of Demolition, Removal, or Relocation, Section 4-410.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

Cross reference(s)—General Design Standards, Section 4-407; Specific Design Standards, Section 4-408; Certificate of Appropriateness, Section 4-409; 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



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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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

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#### **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(s)—General Design Standards, Section 4-407.

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

- 1. Reserved.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

Cross reference(s)—General Design Standards, Section 4-407.

#### **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

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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.

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

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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.

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- 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

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extension to the Landmark Commission. The requested extension shall be scheduled to be heard at the next practicable Landmark Commission meeting.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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:

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- (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

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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.



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- (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

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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.
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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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.

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(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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(s)—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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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.

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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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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.

Cross reference(s)—General penalties; applicability; continuing violations, City Code 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.*

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- 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.
- (Ord. No. 4738, § 4(Exh. B), 11-4-19)

#### **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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

State law reference(s)—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.

(Ord. No. 4738, § 4(Exh. B), 11-4-19)

State law reference(s)—Additional authority to preserve substandard building as historic property, V.T.C.A. Local Govt. Code, § 214.00111.

## 5-401 Summary of Application Actions.

In the case of a conflict between this Chart and the ordinance language, the ordinance language shall prevail.

MESQUITE ZONING ORDINANCE—SUMMARY OF APPLICATION ACTIONS								
APPLICATIONS	ADMINISTRATORS AND REVIEW BODIES							
	Historic Preservation Officer (HPO)	Director of Planning and Development Services	Landmark Commission (MLC)	Planning and Zoning Commission (P&Z)	Board of Adjustment (BOA)	City Council (CC)	District Court	Zoning Ordinance Source Cited
* City Council (CC)								
Zoning Ordinance Text Amendment		RR		PH and RR		PH and D	A	5-302
Zoning Map Amendment (Zoning Change)		RR		PH and RR		PH and D	A	5-302
Planned Developments (PD)		RR		PH and RR		PH and D	A	4-200
Conditional Use Permits		RR		PH and RR		PH and D	A	5-102; 5-302; 5-303
Site Plan Requiring CC Action		RR				R and D	A	3-503; 4-603
Designation of Mesquite Landmark or H-POD	R	R	PH and RR	PH and RR		PH and D	A	4-400
* Board of Adjustment (BOA)								
Termination of Nonconforming Use					PH and D		A	1-304
Variance to Zoning		RR			PH and D		A	5-200
Special Exceptions		RR			PH and D		A	5-102; 5-200
Appeal of Certain Administrative Decisions					R and D		A	5-102; 5-200
* Planning and Zoning Commission (P&Z)								
Site Plan (PD)		RR		R and D		A		4-202; 5-101; 5-102
* Mesquite Landmark Commission (MLC)								

Certificate of Appropriateness	R		R and D		A			4-400
Certificate of Demolition, Removal or Relocation	R		R and D		A			4-400
Director of Planning and Development Services								
Site Plan Review—Administrative		R and D			A			4-904; 4-934
Zoning Interpretation		R and D			A			5-102
Historic Preservation Officer (HPO)								
Determination of no Material Effect	R and D		A					4-400
KEY								
R = Review    RR = Review and Recommendation    PH = Public Hearing D = Decision    A = Appeal								
* = A governmental body subject to the Open Meetings Act								

(Ord. No. 4738, § 5(Exh. C), 11-4-19)

### 5-404 Historic Preservation Officer.

A. *Position of Historic Preservation Officer.* The City Manager shall designate a qualified person, as outlined in the Secretary of the Interior's Professional Qualification Standards, who shall be, or become, an employee of the City, to serve as the Historic Preservation Officer. This position may also be referred to as the "HPO" or "Manager of Historic Preservation."

Charter reference(s)—City Manager; Powers and duties, Sec. 3.

B. *In General.* Historic Preservation is a division of the Planning and Development Services Department. The Historic Preservation Officer is responsible for administering ordinances, policies and programs associated with Mesquite Landmarks, historic districts and historic preservation activities. The Historic Preservation Officer is the primary City contact for historic designations and regulations or other preservation activities and serves as the staff liaison to the Landmark Commission. The Historic Preservation Officer, with approval of the Director of Planning and Development Services, may designate one or more staff persons to act as the Historic Preservation Officer; however, any formal decision of the Historic Preservation Officer or designee may only be rendered once.

C. *Responsibilities and Powers.* The Historic Preservation Officer has the following responsibilities and powers pursuant to this Zoning Ordinance:

1. Facilitates the protection of pre-historic, historic, architectural, archeological, or cultural resources of the City.
2. Carries out the duties of Historic Preservation Officer as mandated by the State of Texas Historic Preservation Office (SHPO).
3. As staff liaison to the Landmark Commission, provides staff assistance in the implementation of the ordinances, policies, goals, and programs of the City Council and Landmark Commission.

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4. Submit to the Texas Historical Commission a list of officially designated individual local Mesquite Landmarks and H-POD—Historic Preservation Overlay Districts designated.
  5. Monitor and report to the Landmark Commission and the Texas Historical Commission all actions affecting any recorded Texas Historic Landmark, State Antiquities Landmark, and National Register property, as deemed necessary.
  6. Review applications for Certificates of Appropriateness and Certificates of Demolition, Removal, and Relocation, and grant or deny administrative approval in the form of making a "determination of no material effect" when required by this Zoning Ordinance.
  7. Provides non-binding comments or recommendations to the applicable decision-making person or body.
  8. Informs the applicant of any potential issues the Historic Preservation Officer intends to present to the applicable decision-making person or body.
  9. Coordinates with the Landmark Commission to facilitate the City's designation as a Certified Local Government (CLG), and upon designation, manage reporting requirements to monitor and maintain Certified Local Government status.
  10. Provides technical, architectural, design, historical, and policy guidance to City staff, City Council, Landmark Commission, governmental officials, boards and committees, and regional, state, and national preservation agencies.
  11. Works with state, regional, and national historic preservation entities to further historic preservation activities in the City.
  12. Performs duties and responsibilities as may be assigned by the City Manager and/or Director of Planning and Development Services or as otherwise assigned by this Zoning Ordinance or other regulation or law.

(Ord. No. 4738, § 5(Exh. C), 11-4-19)

### **5-406 Landmark Commission.**

The following division in Article IV, or successor and as amended, in Mesquite City Code, Chapter 20 - Boards, Commissions, and Committees, is hereby adopted by reference as if set out word for word:

ARTICLE IV - QUASI-JUDICIAL BOARDS, COMMISSIONS, AND COMMITTEES

Division 8. - Landmark Commission

(Ord. No. 4738, § 5(Exh. C), 11-4-19; Ord. No. 4907, § 2(Exh. A), 10-18-21)

## ***6-200 DEFINITIONS FOR HISTORIC PRESERVATION AND LANDMARKS***

### **6-201 Abbreviations and Acronyms.**

A. *Abbreviations.* The following abbreviations may be used within this Zoning Ordinance or other City resource materials in association with historic preservation and landmarks:

1. ac: acre
2. ft: feet



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3. max: maximum
  4. min: minimum
  5. n.a.: not applicable
  6. sf: square feet

B. *Acronyms.* The following acronyms may be used within this Zoning Ordinance or other City resource materials in association with historic preservation and landmarks:

1. ADA: Americans with Disabilities Act
2. ADAAG: Americans with Disabilities Act Accessibility Guidelines
3. BOA: Board of Adjustment
4. CA: Certificate of Appropriateness
5. CC&Rs: Covenants, Conditions and Restrictions
6. CLG: Certified Local Government
7. ETJ: Extraterritorial Jurisdiction
8. GLO: Texas General Land Office
9. HPO: Historic Preservation Officer
10. H-POD: Historic Preservation Overlay District
11. ML: Mesquite Landmark
12. MLC: Mesquite Landmark Commission
13. NHL: National Historic Landmark
14. NHPA: National Historic Preservation Act
15. NPS: National Park Service
16. NRHP: National Register of Historic Places
17. RTHL: Recorded Texas Historic Landmark
18. ROW: Right-of-way
19. SHPO: State Historic Preservation Office
20. TAS: Texas Accessibility Standards
21. TCEQ: Texas Commission on Environmental Quality
22. TDLR: Texas Department of Licensing and Regulation
23. THC: Texas Historical Commission
24. TMSP: Texas Main Street Program

(Ord. No. 4738, § 6(Exh. D), 11-4-19)

## **6-202 Definitions.**

The rules of Section 6-101, regarding interpretation, construction and interchangeability of terms, shall be observed, except when the context requires otherwise.

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Definitions—The following words, terms and phrases, when used in this Zoning Ordinance regarding historic preservation, Mesquite Landmarks (ML), H-PODs—Historic Preservation Overlay Districts and any other historic designations shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

*Addition.* New construction added to an existing building or structure.

*Alteration.* Any act or process which changes the exterior architectural feature or any exterior feature of a building, structure, object, site or landscape, including, but not limited to, the erection, construction, reconstruction, restoration, demolition, removal or relocation of any building, structure, or object, or part thereof, excavation, or the addition of an improvement. Examples of alterations include: the changing to a different type, style or size of roofing or siding materials; changing, eliminating or adding doors, door frames, windows, window frames, shutters, fences, railings, columns, beams, walls, steps, porte cocheres, porches, balconies, signs or other ornamentation; the changing of paint color; dismantling, removing or moving of any exterior architectural feature, any exterior features, or demolition. Alterations shall not include ordinary repair and maintenance.

*Antiquities Code.* The Antiquities Code of Texas (the "Antiquities Code") was enacted in 1969 to protect archeological sites and historic buildings on public land. The Code requires state agencies and political subdivisions of the state, including cities, counties, river authorities, municipal utility districts, and school districts, to notify the Texas Historical Commission (THC) of ground-disturbing activity on public land and work affecting state-owned historic buildings. The law also established the designation of State Antiquities Landmark, which may be applied to historic buildings and archeological sites. The Antiquities Code is codified at Texas Natural Resource Code, Title 9, Chapter 191. The accompanying Rules of Practice and Procedure are codified at Texas Administrative Code, Title 13, Chapter 26.

*Applicant.* A person, or the person's designated and duly authorized agent or representative, seeking a designation or authorization associated with a Mesquite Landmark (ML) or an H-POD—Historic Preservation Overlay District. An Applicant may be any of the following: (1) the property owner of record, (2) the property owner of record's designated and duly authorized agent or representative, (3) An "owner" as defined in this section (which includes a Lessor or Lessee if responsible for payment of ad valorem taxes), (4) occupant of the property or site, (5) the Landmark Commission, or (6) the City Historic Preservation Officer (HPO).

*Appurtenant features.* The features that define the design of a building or property including but not limited to porches, railings, columns, shutters, steps, fences, attic vents, sidewalks, driveways, garages, carports, outbuildings, gazebos, and arbors.

*Archeological Significance.* A determination based on the following criteria:

1. The site is associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad cultural patterns of U.S. history and from which an understanding and appreciation of those patterns may be gained; or
2. The site is associated importantly with the lives of persons nationally significant in U.S. history; or
3. The site represents some great idea or ideal of the American people; or
4. The site embodies the distinguishing characteristics of an architectural type or specimen exceptionally valuable for a study of a period, style or method of construction, or that represents a significant, distinctive and exceptional entity whose components may lack individual distinction; or
5. The site is composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition, but collectively compose an entity of exceptionally historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or
6. The site has yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the U.S. Such sites

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are those which have yielded, or which may reasonably be expected to yield data affecting theories, concepts and ideas to a major degree.

*Archaeological Site.* A geographic location of the remains of prehistoric life or of historic human beings. These include but are not limited to, structures, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.

*Architectural Feature and/or exterior architectural feature(s).* Any feature that helps give a building and/or structure its distinctive architectural character. Such character defining features include, but are not limited to, the color, architectural style, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material, the type and style of all roofs, light fixtures, signs, columns, pilasters, cornice boards, brackets, balustrades, quoins, fanlights, corner boards, window(s) and door frames, transoms, and other appurtenant fixtures. Also included, is the style, scale, material, size and location of outdoor advertising signs and billboards.

*Architectural Interest.* A determination that a building, structure, property, object, site or area that has sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration.

*Architectural Significance.* A determination based on the following criteria:

1. The structure(s) is (are) the work of, or associated with, a nationally or locally noted architect, architectural firm, engineer, builder or craftsman; or
2. The structure(s) is (are) an example of a particular period of architecture or architectural style in terms of detail, material, method of construction or workmanship, with no or negligible irreversible alterations to the original structure; or
3. The structure(s) is (are) one of the few remaining examples of a particular architectural style; or
4. The structure(s) is (are) one of a contiguous group of structures which have a sense of cohesiveness which is expressed through a similarity of characteristics, a similarity of a style, a similarity of period, a similarity of method of construction or which accent the architectural significance of the area.

*Building.* Any roofed structure used or intended for supporting or sheltering any use or occupancy, typically for any form of human activity. A building also may refer to an historically and functionally related unit, such as a courthouse and jail or a house and barn. Examples of buildings include: carriage house, church, garage, hotel, house, library, school, shed, store or theater. The term also includes mobile homes, manufactured homes and industrial housing.

*Certificate of Appropriateness.* An order issued by the Mesquite Landmark Commission. The order indicates approval of plans, by the Landmark Commission, for an alteration or other activity (excluding demolition, removal and relocation) to any Mesquite Landmark or a contributing property, compatible property, non-contributing property or any other historic resource within any H-POD—Historic Preservation Overlay District. A Certificate of Appropriateness shall be obtained prior to the Building Official or other City official issuing a permit or any other regulated permit.

*Certificate of Demolition, Removal or Relocation.* An order issued by the Mesquite Landmark Commission. The order indicates approval of plans, by the Landmark Commission, for demolition, removal or relocation to any contributing property or any other historic resource within a 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 or any other regulated permit.

*Certified Local Government (CLG).* A local governmental entity certified and recognized as a Certified Local Government (CLG) that may participate in the Federal Historic Preservation Program.

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*Certified Local Government Program.* Jointly administered by the National Park Service (NPS) and the State Historic Preservation Offices (SHPOs), each local community works through a certification process to become recognized as a Certified Local Government (CLG). Once certified, CLGs become an active partner in the Federal Historic Preservation Program. Each community gains access to benefits of the CLG program and agrees to follow required federal and state requirements. Through the Certified Local Government Program certification process, communities make a local commitment to historic preservation. The goal of the Certified Local Government Program is federal, state, and local preservation through partnership.

*Character Defining Feature(s).* Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property or area.

*City.* The City of Mesquite, Texas.

*Compatibility.* The relationship between buildings of scale, height, proportion and mass and their relationship to the viewscape.

*Compatible Property.* A structure within a H-POD—Historic Preservation Overlay District that was substantially constructed after the district's period of significance, but fits within the existing character of the H-POD to reflect existing buildings in massing, height, scale, material, roof, color, architectural details, and general appearance, or is built in accordance with an approved Certificate of Appropriateness.

*Construction.* The act of adding an addition to an existing building or structure, or the erection of a new principal or accessory building or structure on a lot or property.

*Contributing Property.*

1. Includes any building, structure, object, or site that by age, location, design, setting, materials, workmanship or feeling and association contains character defining features of any H-POD—Historic Preservation Overlay District and/or is Archeologically Significant, Architecturally Significant, Culturally Significant, and Historically Significant because:
  - a. It was present during the period of historical significance or it relates to the documented significance of the property; or
  - b. Despite alterations, disturbances, additions, or other changes, it still possesses historical integrity or is capable of yielding important information about the historically significant period; or
  - c. It independently meets one or more of the National Register of Historic Places criteria; or
  - d. It has been identified as contributing in a historical, architectural, or archeological survey.
2. Ordinarily buildings that have been built within the 50 years prior to the year of application shall not be considered to contribute to the significance of an H-POD unless:
  - a. The historical attributes of the H-POD are considered to be less than 50 years old; or
  - b. A justification concerning their historical or architectural merit is given by architectural historians and/or archaeologists recognized by the Texas State Historic Preservation Commission (SHPO).

*Cultural Significance.* A determination based on the following criteria:

1. The role a property, cultural landscape, building, site, structure, object, or character defining features of any H-POD—Historic Preservation Overlay District plays in a community's historically rooted beliefs, customs, and practices; or
2. Its association with events, or series of events, significant to the cultural traditions of a community.

*Demolition.* An act or process (excluding acts of God, criminal activity, etc.) which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic, or architectural integrity.

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*Deterioration from Neglect.* Deterioration of any structural component, architectural feature or exterior features, of a historic designated property from inadequate maintenance to the extent that it creates an irreversible detrimental effect on the life and character of the building, structure, object, or site and/or creates health and safety violations.

*Determination of No Material Effect.* Upon review of a complete application for a Certificate of Appropriateness or a Certificate of Demolition, Removal, or Relocation, 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 normal repair or act of 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 either the Certificate of Appropriateness or a Certificate of Demolition, Removal or Relocation.

*District.* A designated section of the City of Mesquite for which the City may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

*Element.* A material part or detail of a building, structure, object, site, street, or district.

*Excavation.* The digging out, removal or moving of earth, rock, soil or subsoil.

*Exception for Economic Non-Viability.* An exception issued by the Mesquite Landmark Commission when an applicant is seeking a Certificate of Appropriateness or Certificate of Demolition, Removal or Relocation and said certificate(s) "has been denied" or "would be denied".

*Exterior Feature(s).* Includes character defining features and means the architectural style and the general design and arrangement of the exterior of a building, structure, site or object, including, but not limited to, the kind and texture of the building material(s), and the type, style and arrangement of all windows, doors, light fixtures, signs and other appurtenant elements, or the natural features including significant tree(s). In the case of outdoor advertising signs and billboards, "exterior feature" includes the style, material, size and location of the sign.

*Extraterritorial Jurisdiction (ETJ).* An area outside the annexed municipal limits of the City, over which the City of Mesquite has the right to annex at some point in time based on certain provisions.

*Façade.* The entire exterior building wall including the parapet.

*Form.* The shape and structure of a building.

*Harmonious.* Having a pleasing or congruent arrangement.

*Historic Designated or Historic Designation(s).* An official recognition of the significance of a building, site, structure, object, or local historic district. Designation can occur on three different levels:

*Federal.* National Historic Landmarks (NHLs) and other listings on The National Register of Historic Places (for both individual buildings, sites, structures and objects and entire historic districts);

*State.* Recorded Texas Historic Landmarks (RTHLs) (only for individual buildings), State Antiquities Landmarks, State Archeological Landmarks, or Historic Texas Cemetery; or

*Local.* Designated by a municipal ordinance either individually, as a Mesquite Landmark (ML), or as a local historic district in the form of an H-POD—Historic Preservation Overlay District.

*Historic Designation Application.* An application of the City of Mesquite for consideration for official designation by the City Council of either an individual building, structure, site, object, property or land, including a protected tree, as a local Mesquite Landmark (ML); or 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 as an H-POD—Historic Preservation Overlay District.

*Historic District.* An area officially designated as a "historic district" either on a local, State or federal level and which may contain, within definable geographic boundaries, one or more landmarks, and which may have

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within its boundaries other proportions or structures that, while not of such historic or architectural significance to be designated as landmarks, nevertheless contribute to the overall historic or architectural characteristics of the historic district. The City of Mesquite designates its local historic districts as zoning overlay districts, specifically referenced and designated as "H-PODs—Historic Preservation Overlay Districts."

*Historic Integrity.* The composite of seven qualities: location, design, setting, materials, workmanship, feeling and association.

*Historic Preservation.* See "Preservation."

*Historic Preservation Officer (HPO).* The City's Manager of Historic Preservation shall also be known as the Historic Preservation Officer.

*Historic Rehabilitation.* See "Rehabilitation."

*Historic Resource.* A source or collection of sources such as buildings, objects, sites, structures, usually 50 years or older, or areas that exemplify the cultural, social, economic, political or architectural history of the nation, State or City.

*Historic Resources Survey.* A systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance. Properties may be classified as contributing properties, compatible properties, or non-contributing properties on historic resource surveys.

*Historic Significance.* A determination based on the following criteria:

1. The structure(s) or site(s) has (have) a strong association with the life or activities of a person or persons who have contributed to or participated in the historic events of the nation, State or community; or
2. The structure(s) or site(s) is (are) associated with an association or group (whether formal or informal) which has contributed to or participated in historic events of the nation, State or community; or
3. The structure(s) or site(s) or object(s) is (are) associated with an antiquated use due to technological or social changes in the nation, State or community, such as, but not limited to, a blacksmith's shop or railroad trestle; or
4. The site(s) or object(s) is (are) a monument to or a cemetery of historic personages.

*Historic Texas Cemetery.* Historic Texas Cemetery designations are issued by the Texas Historical Commission (THC). Cemeteries or burial sites that are at least 50 years old and worthy of preservation for their historical associations can receive this designation.

*H-POD—Historic Preservation Overlay District.* H-PODs—Historic Preservation Overlay Districts are established by ordinance under this Zoning Ordinance and require a zoning map amendment along with a text amendment to the Mesquite Zoning Ordinance. Areas within a H-POD—Historic Preservation Overlay District retain their underlying zoning designation for land use, and the overlay requires additional conformance to the H-POD design standards and any other Mesquite regulatory provisions identified for the overlay. All properties, including buildings, structures, sites, objects or landscapes, within a designated H-POD, whether individually identified as either a contributing property or non-contributing property, are subject to the regulations of the H-POD.

*Improvement.* Any building, structure, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or part of such betterment.

*Integrity.* The authenticity of physical characteristics from which properties obtain their significance. When properties retain historic material and form, they are able to convey their association with events, people, and designs from the past. All buildings change over time. Changes do not necessarily mean that a building is not

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eligible; but, if it has radical changes, it may no longer retain enough historic fabric, and may not be eligible for the National Register.

*Inventory.* A list of historic resources that have been identified and evaluated as meeting specified criteria of significance.

*Landmark.*

*Federal.* See "National Historic Landmark" (NHL).

*State.* See "Recorded Texas Historical Landmark" (RTHL).

See "State Archeological Landmark."

*Local.* See "Mesquite Landmark" (ML).

*Landmark Commission (LC).* The seven-member board appointed by the City Council.

*Local Historic District.* See "H-POD—Historic Preservation Overlay District."

*Local Register.* The City's local register is codified in Part 8 of this Zoning Ordinance, titled City of Mesquite, Texas, Landmark Register of Historic Places.

*Maintain.* To keep in an existing state of preservation or repair.

*Major Change(s).* Additions or alterations to a building, structure, site, or object or any other large-scale change that affects the character defining features of the building, structure, site, or object or the related viewscape.

*Massing.* The three-dimensional geometric composition of a building, or the overall "bulk" of a building and how the building is placed on its site.

*Material Change of Exterior Appearance.* Any change, alteration or modification of the exterior architectural features and appearance or exterior features of a building, improvement, structure, site, object or property which is visible from the street and for which a regulated permit is required for compliance with applicable local codes, including, but not limited to:

1. Changes in the exterior size, configuration, fenestration or other structural features of the property; or
2. Construction or reconstruction; or
3. Demolition, Removal or Relocation; or
4. Any alteration in the size, location or appearance of any sign on the property; or
5. Any excavation on property or the deposit of any waste, fill or other material on the property.

*Materials.* The physical elements that were combined or deposited in a particular pattern or configuration to form a historic property.

*Mesquite Landmark (ML).* Individual properties may be officially designated as local historic landmarks and shall be designated and referred to as Mesquite Landmarks (ML). All officially designated Mesquite Landmarks shall be listed in the Mesquite Local Register. For a complete listing of officially designated Mesquite Landmarks see Part 8.—City of Mesquite, Texas, Landmark Register of Historic Places.

*Minor Change(s).* Small-scale alterations to a building, structure, site or object that does not significantly affect its appearance and are easily reversible. Minor change(s) shall include the installation or alteration to awnings, fences, gutters, downspouts and incandescent lighting fixtures; restoration of original architectural features that constitute a change from the existing condition; alterations to signs; and additions and changes not visible from any street to the rear of the main building or structure, or to an accessory structure.

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*National Historic Landmark (NHL).* A nationally significant historic place designated by the Secretary of the Interior for its exceptional value or quality in illustrating or interpreting the history and heritage of the United States. These properties possess a high, not simply good, level of historic integrity. Listing a property as a National Historic Landmark does not change its ownership. Properties are owned by private individuals, universities, non-profit organizations, corporations, tribal entities, local and state governments, or, in some cases, the Federal government. All properties designated as NHLs are automatically listed in the National Register of Historic Places, if not previously listed.

*National Park Service (NPS).* A bureau of the Federal Department of the Interior with numerous preservation-related programs, including the National Register, Preservation Briefs, and the Certified Local Government program. Provide Preservation Briefs which provide history and guidance on historic building materials.

*National Register of Historic Places (NRHP).* The nation's official list of buildings, districts, and sites, including structures and objects, significant in American history and culture, architecture, archeology, and engineering maintained by the National Park Service and administered on a state-wide basis by the Texas Historical Commission. These properties tell stories that are important to a local community, the residents of a specific state, or to all Americans. Properties must possess good historic integrity. As with National Historic Landmark, listing a property on the National Register of Historic Places does not change its ownership. Properties are owned by private individuals, universities, non-profit organizations, corporations, tribal entities, local and state governments, or, in some cases, the Federal government. The National Park Service maintains the National Register of Historic Places.

*National Register-Eligible Property.* An historic property that is eligible for inclusion in the National Register of Historic Places because it meets the National Register criteria, which are specified in the Department of the Interior regulations.

*National Register-Listed Property.* An historic property that has been formally listed in the National Register of Historic Places and accepted by the Secretary of the Interior, who is represented for purposes of the decision by the Keeper of the National Register.

*New Construction.* Construction that is characterized by the introduction of new elements, buildings, structures, objects, or sites, or additions to existing buildings and structures in historic areas and districts.

*Non-Contributing Property.*

1. Includes any building, site, structure, or object that by age, location, design, setting, materials, workmanship or feeling and association does not contain any character defining features of the H-POD Historic Preservation Overlay District and/or is not archeologically significant, architecturally significant, culturally significant, and historically significant because:
  - a. It was not present during the period of historical significance or does not relate to the documented significance of the property; or
  - b. Due to alterations, disturbances, additions, or other changes, it no longer possesses historical integrity or is incapable of yielding important information about the historically significant period; or
  - c. It does not independently meet one or more of the National Register of Historic Places criteria.
2. Ordinarily buildings that have been built within the 50 years prior to the year of application shall not be considered to contribute to the significance of a HPOD unless:
  - a. The historical attributes of the HPOD are considered to be less than 50 years old, or
  - b. A justification concerning their historical or architectural merit is given by architectural historians and/or archaeologists recognized by Texas State Historic Preservation Commission (SHPO).



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*Object.* A material thing of functional, aesthetic, cultural, or historical value that may be, by nature or design, moveable, yet associated to a specific setting or environment. An object is primarily artistic or utilitarian in nature and is relatively small in scale and simply constructed (as distinguished from buildings and structures). Examples of objects include: fountain, milepost, monument, sculpture, figure or statue.

*Ordinary Repair and Maintenance.* Any work, the purpose and effect of which is to correct any deterioration or decay of, or damage to a building, structure, site, or object, or any part thereof, and to restore the same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same materials, or those materials available which are as close as possible to the original. In-kind replacement, or repair, is included in this definition. "In-kind replacement " means the replacement of an element with a new element of the same material, color, texture, shape and form as the original.

*Overlay zoning district.* Zoning, applied over one or more other districts, creating an additional, mapped zone that is superimposed over the conventional zoning districts. The regulations for properties included in the overlay district and are in addition to those of the underlying base zoning district or any other applicable underlying districts. Development within any overlay zoning district must conform to the requirements of all zones, or the more restrictive of the zones. The location and boundaries of overlay districts, established by this Zoning Ordinance, are set forth in the Official Zoning Map, as periodically amended.

*Owner.* The individual, firm, corporation, limited liability company, partnership, or other legal business entity in whom is vested the ownership, dominion or title of property and who is responsible for payment of ad valorem taxes on that property. The definition of owner shall include a Lessor or Lessee if responsible for payment of ad valorem taxes.

*Owner of Record.* Any person, firm, corporation, limited liability company, partnership, or other legal business entity listed as owner on the property records of the Kaufman County or Dallas County Clerk.

*Prehistoric Significance.* A determination based on the following criteria:

1. That a property, cultural landscape, building, site, structure, object, or area has yielded or may be likely to yield, information important in prehistory; or
2. That property, cultural landscape, building, site, structure, object, or area provides a diagnostic assemblage of artifacts for a particular cultural group or time period or that provides chronological control (specific dates or relative order in time) for a series of cultural groups.

*Preservation.* The act or process of applying measures to sustain the existing form, integrity and material of a building, structure, object or site including, but not limited to, initial stabilization work and ongoing maintenance of historic building materials and the existing form and vegetative cover of a site. Preservation focuses on the maintenance and repair of existing historic materials and retention of a historic designation's form as it has evolved over time.

Preservation is one of four approaches for the treatment of historic properties as identified in the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

*Preservation Briefs.* Provide guidance on preserving, rehabilitating, and restoring historic buildings. These National Park Service (NPS) Publications help historic building owners recognize and resolve common problems prior to work. The briefs are especially useful to Historic Preservation Tax Incentives Program applicants because they recommend methods and approaches for rehabilitating historic buildings that are consistent with their historic character.

*Preservationist.* Someone with experience, education or training in the field of preservation.

*Protected Tree.* See "Tree, Protected Tree."

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*Reconstruction.* The act or process of reassembling, reproducing or replacing by new construction, the form, detail and appearance of the property and its setting as it appeared at a particular period of time by means of the removal of later work, or by the replacement of missing earlier work, or by reuse of the original materials.

Reconstruction is one of four approaches for the treatment of historic properties as identified in the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

*Recorded Texas Historic Landmark (RTHL).* A state designation for buildings and structures deemed worthy of preservation for their architectural integrity and historical associations and for which have retained a high degree of their original historic fabric. Authorized by the Texas Government Code, Chapter 442, RTHL is the highest honor the state can bestow on historic structures in Texas. Properties so designated are afforded a measure of legal protection and become part of the recorded history of the State's built environment.

*Register.*

*Federal.* See "National Register of Historic Places."

*Local.* See "Local Register." See also Part 8 of this Zoning Ordinance, titled City of Mesquite, Texas, Landmark Register of Historic Places.

*Regulated Permit.* An official document or certificate issued by the Building Official (e.g., building permit), City Engineer (e.g., right-of-way permit) or other official of the City pursuant to the provisions of the Mesquite City Code or Zoning Ordinance or other regulation, and which authorizes the performance of a specified activity. For purposes of this Zoning Ordinance the term regulated permit does not include a Certificate of Appropriateness or Certificate of Demolition, Removal or Relocation.

*Rehabilitation.* The act or process of returning a building, structure, object, or site to a state of utility through repair, remodeling, or alteration, that makes possible an efficient contemporary use while preserving those portions or features of the building, structure, object, or site, that are significant to its historical, architectural and cultural value.

Rehabilitation is one of four approaches for the treatment of historic properties as identified in the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

*Relocation.* Any repositioning of a building, structure, or object on its site or moving it to another site.

*Removal.* The act or process of permanently removing any building, structure, or object from any site or land, or permanently removing any exterior architectural features, exterior features, or elements from a building, structure, object, site, or land.

*Repair.* Any change which does not require a building permit, and which is not construction, demolition, removal or relocation.

*Resource.* See "Historic Resource."

*Restoration.* Returning a property, including a building, site, structure, or object, to a state indicative of a particular period of time in its history and usually involves the removal of evidence of later time periods.

Restoration is one of four approaches for the treatment of historic properties as identified in the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

*Restoration Alternatives.* Include, but are not limited to, different materials, techniques or methods for rehabilitation of historic buildings and structures, or archeological sites.

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*Retain.* To keep secure and intact. The terms "retain" and "maintain" both describe the act of keeping an element, detail or structure, and continuing the same level of repair to aid in the preservation of elements, sites and structures.

*Review.* "Review" or "Design Review" shall refer to the decision-making process, conducted by the Historic Preservation Officer and/or the Landmarks Commission, that is guided by established terms, processes, and procedures as outlined in this Zoning Ordinance.

*Scale.* Proportional elements that demonstrate the size and style of buildings, the proportions of the elements of a building to one another and the whole, and to adjacent buildings.

*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. In this Zoning Ordinance, when the phrase "Secretary of the Interior's Standards" is used, it means the collective publication(s) of the Secretary of Interior, to only be used as guides unless otherwise required by State or federal law.

*Setting.* The sum of attributes of a locality, neighborhood or property that defines its character.

*Siding.* The covering of exterior vertical or nearly vertical wall surfaces, excluding architectural features.

*Significant Tree.* See "Tree, Protected Tree."

*Site.* The location of a significant building, improvement, structure, object or event. Site also means the location of a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure. Examples of sites include: cemetery, designed landscape, habitation site, natural feature having cultural significance, rock carving, rock shelter, ruins, trail or village site.

*Stabilization.* The act or process of applying measures essential to the maintenance of a deteriorated building or structure to establish structural stability and a weather resistant enclosure.

*State Antiquities Landmark.* A designation made by the Texas Historical Commission and, in the case of privately owned property, with the landowner's permission. This designation can include buildings as well as archeological sites. For a building to be designated as a State Archeological Landmark, it must first be listed on the National Register of Historic Places.

*State Archeological Landmark.* A designation made by the Texas Historical Commission and, in the case of privately-owned property, with the landowner's permission. Although called "archeological" landmarks, this designation may include buildings as well as archeological sites. For a building to be designated as a State Archeological Landmark, it must first be listed on the National Register of Historic Places. Damage to a State Archeological Landmark is subject to criminal, not civil, penalties.

*State Historic Preservation Office (SHPO).* The State Office responsible for administering federal historic preservation programs as defined in the National Historic Preservation Act of 1966, as amended, and subsequent legislation. The Executive Director of the Texas Historical Commission serves as the SHPO for the State of Texas.

*Streetscape.* The distinguishing character of a particular street as created by its width, degree of curvature, paving materials, design of the street furniture, and forms of surrounding buildings.

*Structure.* A term used to distinguish specific types of functional constructions from buildings. A structure is anything constructed or erected (excluding buildings), the use of which requires a permanent or temporary location on or in the ground. As distinguished from buildings, structures are those functional constructions made usually for purposes other than creating human shelter. Examples of structures include: earthwork, decks, fences, walls, gazebos, advertising signs, billboards, backstops for tennis courts, swimming pools, radio, television, cellular or other antennas and facilities, including supporting poles and towers.

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*Style.* A type of architecture distinguished by special characteristics of structure and ornament and often related in time. Also, a general quality of a distinctive manner.

*Tax Credits.* Available at the state and federal level for historic preservation.

*Texas Accessibility Standards (TAS).* Texas Standards for accessibility that closely follow the Americans with Disabilities Act Accessibility Guidelines (ADAAG). In Texas, the Texas Department of Licensing and Regulation (TDLR) enforces the Americans with Disabilities Act (ADA) as it relates to building design. Rather than use the federal design guidelines, Texas adopted its own version, the Texas Accessibility Standards (TAS).

*Texas Department of Licensing and Regulation (TDLR).* In Texas, the Texas Department of Licensing and Regulation (TDLR) enforces ADA as it relates to building design.

*Texas Historical Commission (THC).* State agency for historic preservation.

*Texas Main Street Program (TMSP).* A program in the Community Heritage Development Division of the Texas Historical Commission (THC). The City of Mesquite's downtown area is a designated Texas Main Street Program.

*Treatment.* The Secretary of the Interior's Standards for the Treatment of Historic Properties and associated Guidelines offer four distinct approaches to the treatment of historic properties: preservation, rehabilitation, restoration, and reconstruction. Choosing an appropriate treatment for a historic building, structure, object, or site is critical.

*Tree, Protected Tree.* Significant trees may be considered "protected trees" as defined by Mesquite City Code App. C, Part 1A-402(C)(1) which states, a protected tree means any tree named in 1A-500-1 Tree Schedule which is at least of the size indicated as "protected size" for the category in which the tree is listed. Protected tree(s) are included within the definition of exterior feature(s).

*Unique and Compelling Circumstances.* Those uncommon and extremely rare instances, factually detailed, which would warrant the Landmark Commission's review, due to the evidence presented.

*Visible from the Street.* Any portion of a building, structure, site or object that can be seen from any public street and/or sidewalk abutting the subject property.

*Zoning.* A police power measure, enacted by a municipality, including the City, in which the community is divided into districts or zones within which permitted and conditional uses (or special uses) are established as are regulations governing lot size, building bulk, placement and other development standards.

(Ord. No. 4738, § 6(Exh. D), 11-4-19; Ord. No. 4771, § 1(Exh. A(E)), 3-16-20)

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## **PART 8. CITY OF MESQUITE, TEXAS, LANDMARK REGISTER OF HISTORIC PLACES**

### **8-100 IN GENERAL**

#### **8-101 Title.**

This part shall be known and cited as "City of Mesquite, Texas, Landmark Register of Historic Places." It may also be cited as the "Mesquite Local Register."

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-102 Purpose.**

The City Council seeks to ensure the proper identification and codification of the City's historic resources and designations.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-103 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.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-104 Maintenance of the Mesquite Local Register.**

The Mesquite Landmark Commission (MLC), with assistance from the Historic Preservation Officer, shall from time to time, as needed, propose text amendments to ensure the accuracy and maintenance of this Mesquite Local Register.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-105 Handbook.**

The Mesquite Landmark Commission (MLC), with assistance from the Historic Preservation Officer, is authorized to produce a Handbook titled "City of Mesquite, Texas, Landmark Register of Historic Places— Handbook," and may also be referred to as the "Mesquite Local Register Handbook." The Mesquite Local Register Handbook may include illustrations, background, photographs and other documentation such as statements of significance for each property or district listed on the Mesquite Local Register. The Mesquite Local Register Handbook shall be kept on-file with the City Secretary and made available on-line.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

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## **8-106 Process for Amending the Mesquite Local Register.**

- A. *Mesquite Landmarks (ML)*. Any officially designated Mesquite Landmark (ML) shall be placed on the Mesquite Local Register. The process and procedure for designation of an individual local Mesquite Landmark (ML) includes provisions for placement of the designation onto the Mesquite Local Register.

Cross reference(s)—Mesquite Landmark (ML) Individual Designation, Section 4-403.

- B. *H-POD—Historic Preservation Overlay Districts*. Any officially designated H-POD—Historic Preservation Overlay District shall be placed on the Mesquite Local Register. The process and procedure for designation of a H-POD—Historic Preservation Overlay District includes provisions for placement of the designation onto the Mesquite Local Register.

Cross reference(s)—Historic Preservation Overlay District (H-POD) Designation, Section 4-404.

- C. *State-level Designations and Federal-level Designations*. The Mesquite Landmark Commission (MLC), with assistance from the Historic Preservation Officer, shall from time to time, as needed, propose text amendments to include any State-level and Federal-level designations of properties within the city limits on the Mesquite Local Register.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

## *8-200 MESQUITE LANDMARKS (ML)*

### **8-201 In General.**

Any officially designated Mesquite Landmark (ML) shall be placed on the Mesquite Local Register. The process and procedure for designation of an individual local Mesquite Landmark (ML) includes provisions for placement of the designation onto the Mesquite Local Register.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

Cross reference(s)—Mesquite Landmark (ML) Individual Designation, Section 4-403.

### **8-202 Reserved.**

## *8-300 H-POD—HISTORIC PRESERVATION OVERLAY DISTRICTS*

### **8-301 In General.**

Any officially designated H-POD—Historic Preservation Overlay District shall be placed on the Mesquite Local Register. The process and procedure for designation of a H-POD—Historic Preservation Overlay District includes provisions for placement of the designation onto the Mesquite Local Register.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

Cross reference(s)—Historic Preservation Overlay District (H-POD) Designation, Section 4-404.

### **8-302 Reserved.**

### *8-400 STATE-LEVEL DESIGNATIONS*

#### **8-401 Recorded Texas Historic Landmarks (RTHL).**

Reserved.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-402 State Antiquities Landmarks.**

Reserved.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-403 State Archeological Landmarks.**

Reserved.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-404 Historic Texas Cemetery.**

Reserved.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

### *8-500 FEDERAL-LEVEL DESIGNATIONS*

#### **8-501 National Historic Landmarks (NHL).**

Reserved.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)

#### **8-502 Listings on the National Register of Historic Places (NRHP).**

Reserved.

(Ord. No. 4738, § 7(Exh. E), 11-4-19)