

5-100 REVIEW AND ENFORCEMENT PROCEDURES

5-101 GENERAL REVIEW REQUIREMENTS

Ord. 2667/4-2-90

The following review and approval shall be required for all uses and construction to determine that the proposed uses and structures comply with the requirements and provisions of this ordinance and to require compliance therewith.

A. SITE PLAN

A site plan, drawn to scale and showing the proposed development including all easements, property and setback lines, physical features, fire lanes and hydrants, buildings, utilities, parking and drives, adjacent streets with medians and drives, locations of refuse collection, and landscaping shall be attached to all applications for building permits and may be required with applications for Certificates of Occupancy if necessary to determine compliance with requirements. The Development Review Committee shall review site plans and approve those which are in compliance with all regulations of this ordinance and other applicable building laws. Site plans on land classified PD also require Commission and Council review and approval. See 4-200.

B. BUILDING PERMITS

All construction, erection, expansion, and alteration of primary or accessory structures shall require application for a building permit, review of building plans, and issuance of a building permit in accordance with the Mesquite Building Code.

C. CERTIFICATES OF OCCUPANCY (Ord. 4438 / 9-6-2016)

Except for single family residential and duplex uses, no building or land shall be used or changed in use or ownership until a Certificate of Occupancy shall have been issued by the Building Official stating that the building, land and authorized uses comply with the provisions of this ordinance and other applicable building laws.

- 1. Application** Application for a Certificate of Occupancy shall be made prior to occupancy and connection of utilities.
- 2. Nonconforming Situations** Prior to the issuance of a Certificate of Occupancy in a nonconforming situation, when there is uncertainty of the legal nonconforming status, a notarized affidavit may be required to verify that the use was legally in existence at the time of the ordinance adoption, amendment, or annexation which created the nonconformity. The affidavit should be accompanied by documentation showing relevant dates and should include a description of the use, the scope of operations, and structures and other improvements used at that time.
- 3. Records** A record of all Certificates of Occupancy shall be maintained by the Building Official and copies shall be furnished upon request to any person having an interest in the building or land.
- 4. Denial/Revocation** (Ord. 4438 / 9-6-2016)

Failure to comply initially or to continue to comply with the provisions of this ordinance, the site plan approval, or other applicable stipulations or building regulations, or the failure to conduct the authorized uses and only the authorized uses within the limits established by the Certificate of Occupancy, shall constitute a basis to deny or revoke approval of the Certificate of Occupancy, including denial or disconnection of utilities. See 5-103C.

 - a. Notice of Revocation:** The Director or Director's designee shall issue a written notice of intent to revoke a certificate of occupancy, which shall set forth the grounds upon which the notice is issued and inform the holder that the certificate of occupancy will be revoked at the end of ten (10) days after service of such notice unless a written request for hearing is filed with the Director within the ten (10) day period. If no request for hearing is filed within the ten (10) day period, the Director's decision to revoke the certificate of occupancy shall become final.

- b. *Hearing:* A hearing requested under this subparagraph (a) shall be scheduled before the Director not less than 10 days nor more than 30 days after the date a timely written request for a hearing was filed. At the hearing, the certificate holder will be allowed an opportunity to respond to the allegations and present any mitigating evidence or reasons why the proposed revocation is improper.
- c. *Appeal of Revocation:* If, after the hearing, the Director determines that the certificate of occupancy should be revoked, an appeal of the Director's decision may be made to the Board of Adjustment in accordance with Chapter 211 of the Texas Local Government Code.

5-102 SPECIAL REVIEW REQUIREMENTS

Ord. 2667/4-2-90

Additional review and approval procedures are required for those uses which are listed as Conditional Uses or Special Exceptions, for appeals of an administrative determination, for requests for variance, and for uses and development on tracts classified as Planned Development.

A. APPEALS

Appeals of an administrative decision and/or requests for interpretation of the ordinance shall require review by the Board of Adjustment in accordance with the procedures set out in 5-200.

B. SPECIAL EXCEPTIONS

Uses listed as Special Exceptions shall require review and approval by the Board of Adjustment in accordance with the procedures set out in 5-200.

C. VARIANCES

Requests for variance from the strict application of the requirements of this ordinance shall require review and approval by the Board of Adjustment in accordance with the procedures set out in 5-200.

D. CONDITIONAL USE PERMITS

Uses listed as Conditional Uses shall require amendment of the ordinance, including hearing and recommendation by the Commission, hearing by the Council, and adoption of an amending ordinance in accordance with the procedures for ordinance amendment set out in 5-300.

E. PLANNED DEVELOPMENT USES

Commission and Council review and approval is required for any development/site plan on property classified as PD in accordance with the requirements set out in 4-200.

5-103 ENFORCEMENT AND PENALTY

Ord. 2667/4-2-90

A. CRIMINAL PROSECUTION

A person or corporation who violates or fails to comply with any provision of this ordinance or who builds or alters any building, land, or use in violation of any plan submitted and approved hereunder, shall be guilty of a misdemeanor and each day or portion thereof during which the violation continues shall be a separate offense. Each offense shall be punishable by a fine of not more than \$2000. An owner of any structure or land where a violation exists, and any architect, builder, contractor, agent, or other person who commits or assists in the commission of the violation, shall be guilty of separate offenses.

B. CIVIL ACTION

The provisions of this ordinance may be enforced through civil court action as provided by State law.

C. UTILITY DISCONNECTION

Failure to comply with the provisions of this ordinance or other applicable building laws, shall constitute a basis to deny or disconnect City utilities and to require private utility companies to do likewise.

D. ENFORCEMENT AUTHORITY

The provisions of this ordinance may be enforced by the Building Official, the Health Official, the City Planner, or any other representative of the City.

5-200 APPEAL, VARIANCE AND SPECIAL EXCEPTION PROCEDURES

Appeals of an administrative determination and/or requests for interpretation of this ordinance, requests for variance, and requests for approval of a Special Exception require Board of Adjustment review and action and shall be processed as follows.

5-201 APPLICATION

Ord. 2667/4-2-90

A. INITIATION

- 1. Appeals/
Interpretation**
(Ord. 4400/11-2-15)

An appeal alleging error in a determination of an administrative official and/or requesting interpretation of the provisions of this ordinance may be made by any person aggrieved by the decision of an administrative official, or by any officer, department, board, or bureau of the municipality affected by the decision. An appeal to the Board must be made within 10 days after notice of the decision of the official.
- 2. Variances/ Special
Exceptions**

A request for variance or for approval of a Special Exception may be made by the owner of the property on which the variance or Special Exception is sought, or by an authorized agent, provided that the owner indicates his consent in writing.

B. APPLICATION FORM

Requests for Board action shall be submitted on application forms provided by the Planning Division and shall adequately set forth the description and justification of the request and/or specify the grounds for appeal, as is appropriate for the requested action.

C. MAP/DRAWING

The application shall include a map, site plan, plot plan, or other drawing, drawn to scale and/or dimensioned, which indicates the property in question and shows all structures and improvements and their relationship to each other, to the property boundaries, and to the proposed action.

D. APPLICATION FEE

The applicant shall submit with the application a fee in the amount set by the City Council for the purpose of defraying the administrative costs of processing the application. No fee or portion thereof shall be refundable after notices regarding the application have been issued.

5-202 PROCEDURES

Ord. 2667/4-2-90; Ord. 3923/12-17-07

A. STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Board those facts supporting the official's opinion that a stay would cause imminent peril to life or property. In such case, the proceedings may be stayed only by a restraining order granted by the Board or a court of record on application, after notice to the official, if due cause is shown.

B. PUBLIC HEARING AND NOTIFICATION

The Board shall hold a public hearing on all actions authorized by this ordinance. Notification of public hearings shall specify the time and place of the hearing, along with information regarding the location and nature of the requested action, and shall be provided as follows:

Mailing Before the tenth day before the date of the public hearing, written notice shall be sent to each owner of real property within 200 feet of the property which is the subject of the request, as such ownership is indicated by the most recently approved municipal tax roll. The notice may be served by its deposit, properly addressed with postage paid, in the United States mail.

5-203 CRITERIA FOR REVIEW

Ord. 2667/4-2-90

A. CRITERIA FOR SPECIAL EXCEPTIONS

Special exceptions may be granted as set out in this ordinance, when the Board determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the surrounding neighborhood. The Board shall also consider any criteria set out in this ordinance for a specific Special Exception.

B. CRITERIA FOR VARIANCES

Variations from the terms of this ordinance which will not be contrary to the public interest may be granted where, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, so that the spirit of the ordinance is observed and substantial justice is done. The Board shall consider whether:

1. **Special Conditions** Special conditions and circumstances exist which are peculiar to the land or improvements thereto and which are not applicable to other lands or improvements thereto in the same district.
2. **Unnecessary Hardship** Literal interpretation of the provisions of the ordinance would result in unnecessary hardship to the owner of the property.
3. **Not Self-Imposed** The special conditions and circumstances are not self-imposed, i.e. do not result from the actions of the applicant or owner.

C. SPECIAL EXCEPTIONS FOR THE HANDICAPPED

Ord. 4400/11-2-2015

It is the express intent of the City Council to comply with the Federal Fair Housing Amendments Act of 1988, as amended, and to ensure that all handicapped persons have equal opportunity to use and enjoy a dwelling. This section allows a person to seek relief from the enforcement of any regulation contained in this chapter that would result in illegal discrimination against the handicapped. This section does not authorize the Board to grant a change in the use of a building or structure.

The Board shall grant a special exception to any regulation in this chapter if, after a public hearing, the Board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person" means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended. The Board may impose reasonable conditions upon the granting of this special exception consistent with the purpose stated in this section.

5-204 BOARD ACTION

Ord. 2667/4-2-90; Ord. 4136/3-21-2011

A. ACTION AUTHORIZED

1. **Special Exceptions and Variances** The Board may deny or approve a request for Special Exception or Variance. The Board may impose reasonable conditions and limitations to an approval in order to further the purposes and intent of this ordinance.
2. **Appeals Interpretations** The Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.

B. EFFECT OF DECISIONS (Ord. 4400/11-2-15)

The Board's decision is final unless appealed to the district court within 10 days in accordance with Chapter 211 of the Texas Local Government Code.

C. RESUBMISSION (Ord. 3151/4-21-97)

The submission of an application previously determined by the Board shall not be permitted, unless the Board's determination is made "without prejudice". Except that, where extenuating circumstances exist, an applicant previously denied may appear before the Board to request that resubmittal of their application be permitted. Extenuating circumstances shall mean changed conditions or facts which will substantially alter the criteria for review of the application. This section shall not prohibit the submission of a new application which contains meaningful revisions for consideration. Meaningful revisions shall mean a substantial change in the size, location, or other physical characteristic of the subject of the application.

D. LIMITATION ON APPROVAL

The applicant shall file an application for a building permit or Certificate of Occupancy on or before the expiration of 180 days from the date of favorable Board action, unless an extended period is specifically granted by the Board. If the applicant fails to file such application within the time period, the request is automatically denied without prejudice and a new application must be made.

5-300 AMENDMENT AND CONDITIONAL USE PERMIT PROCEDURES

The City Council may from time to time, after receiving a final report thereon from the Planning and Zoning Commission, amend, supplement or change the regulations herein provided or the boundaries of the zoning districts, subject to compliance with the following amendment procedures. Approval of a Conditional Use permit constitutes an amendment and requires compliance with the following procedures.

5-301 APPLICATION

Ord. 2667/4-2-90

A. INITIATION

Consideration for a change of zoning classification, boundary, or regulation, and requests for approval of a Conditional Use permit may be initiated in the following manner:

1. **City** By direction of the Commission, City Council or City Planner.
2. **Property Owner** By application of the owner of the property on which a district boundary change is requested or by an authorized agent, provided that the owner indicates his consent in writing.
3. **Others** Persons having no ownership interest in the land and not having the owner's consent shall not be permitted to initiate an application to change the boundaries or classification on such land. Such parties may petition the Commission, in writing or by spokesperson, requesting that the Commission initiate an application. The Commission shall consider the time elapsed since the last zoning action on the property, any substantial changes in conditions in the area since the last zoning action, the relationship of current zoning and the requested action to the City's comprehensive plan/development policies, and other facts and reasons presented.

If the Commission determines that the potential for adverse impacts on surrounding property and for incompatibility of development due to changed conditions is greater than at other locations where similar uses abut or are in close proximity to each other, it may initiate an application in order to afford a full hearing on the matter. If the Commission declines to initiate an application, no similar non-owner petition shall be considered for a period of one year.

B. APPLICATION FORM AND MAP

A zoning change or Conditional Use permit request shall be submitted on an application form as provided by the Planning Division and shall state the specific zoning classification desired. A planimetric map, boundary survey, or other map, adequate to accurately identify and locate the property in question shall be submitted with the application form.

C. APPLICATION FEE (Ord. 4400/11-2-15)

The applicant shall submit with the application a fee in the amount set by the City Council for the purpose of defraying the administrative costs of processing. If an applicant causes his/her application to be continued or tabled, thus requiring new notification, the applicant shall be charged an additional fee of 30 percent of the original application fee. No fee or portion thereof shall be refunded after notices on the application have been issued.

5-302 PROCEDURES

Ord. 2667/4-2-90

A. COMMISSION PUBLIC HEARING AND NOTIFICATION

Prior to making its report to the City Council, the Commission shall hold at least one public hearing on each application.

1. ***Proposed Changes In District Classification or Boundaries/ Conditional Use Permits*** Before the 10th day before the date of the hearing, written notice of the time and place of such hearing shall be sent to each owner of real property within 200 feet of the property which is subject of the application, as such ownership is indicated by the most recently approved municipal tax roll. The notice may be served by its deposit, properly addressed with postage paid, in the United States mail.
2. ***Proposed Changes In Text (Ord. 4188/11-7-2011)*** Before the 15th day before the date of the hearing, notice of the time and place of the hearing on proposed changes in regulations and/or the text of the Zoning Ordinance shall be published in the official newspaper of the City or a newspaper of general circulation in the City.

B. COMMISSION RECOMMENDATION

The Commission, after holding the public hearing, shall prepare its recommendations on the proposed changes and forward the same to the City Council.

C. APPEAL OF COMMISSION DENIAL

When the recommendation of the Commission is for denial of the application, it shall be presumed that the applicant declines a hearing before the City Council unless written request is made to the City Secretary, appealing the Commission recommendation and requesting a Council hearing.

D. COUNCIL PUBLIC HEARING AND NOTIFICATION

The City Council shall hold at least one public hearing on each application. Before the 15th day before the date of the hearing, notice of the time and place of such hearing shall be published in the official newspaper of the City or a newspaper of general circulation in the City. (Ord. 4188/11-7-2011)

5-303 CONDITIONAL USE PERMITS

Ord. 3032/5-1-95

A. PURPOSE AND SCOPE

The purpose of the Conditional Use Permit process is to identify those uses which might be appropriate within a zoning district, but due to either their locational, functional, or operational nature, could have potentially negative impact upon surrounding properties or upon the City as a whole; and to provide a procedure whereby such uses might be permitted, where appropriate, by further restricting or conditioning them so as to eliminate the probable and potential negative impacts.

B. REVIEW CRITERIA

In reviewing a request for Conditional Use Permit approval, the City Council shall consider:

1. ***Existing Uses*** That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.
2. ***Vacant Properties*** That the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in area
3. ***Services*** That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. Conditional uses in residential districts shall generally require direct access to an arterial street.
4. ***Parking*** That adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed uses.
5. ***Performance Standards*** That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance and to

control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

C. TERMINATION

All Conditional Use Permits approved prior to the date of passage of this section and all Conditional Use Permits approved after the date of passage shall automatically terminate if the conditions set out below occur. Extension of the approval period may be requested at any time prior to termination or within 60 days after termination. When it is determined that no significant changes affecting the Conditional Use Permit have occurred, the City council may, after recommendation by the Planning & Zoning Commission, extend the approval. All approvals and extensions shall be valid for one year from the date of action, unless the City Council specifies a greater or lesser period.

1. ***Failure to Implement*** Approval of the Conditional Use Permit shall automatically terminate one year after the date of the ordinance granting the Conditional Use Permit, unless a building permit or a Certificate of Occupancy has been issued for the use.
2. ***Discontinuance*** Approval of the Conditional Use Permit shall automatically terminate if the use is abandoned or is discontinued for a period of six months or more.

D. SPECIAL CONDITIONS (Ord. 3459, 10-15-01)

The City Council may stipulate conditions and limitations on the approval of the Conditional Use Permit in the interest of public welfare and to assure that the intent of this ordinance is carried out.

1. ***Conditions*** The approval of a Conditional Use Permit may place stipulations or conditions on the operation, location, arrangement, or construction of a Conditional Use Permit in order to assure the protection of adjacent properties and uses in the vicinity, and to safeguard the welfare of the citizenry as a whole as it may be affected by the use.
2. ***Time Limits*** A time limit may be imposed as a condition of the approval of a Conditional Use Permit when the City Council determines that one of the following circumstances exist:
 - a. The use is presented by the applicant as a temporary or interim use or the use, due to its nature and operation, may be considered temporary or interim, so that removal of the use is reasonably to be expected after a period of time. Temporary or interim use may be indicated by leasing of land or building space, by minimal construction of property improvements, or by the lack of construction customized for the specific use.
 - b. The use is consistent with current uses in the area and on adjoining property; however, anticipated future changes in the area would cause the requested use to become incompatible after a period of time.

When no time limit is proposed by the applicant, but the Council finds that the use is not appropriate without such condition, then the Council shall inquire of the applicant if a time limit is an acceptable condition. If such condition is unacceptable to the applicant, the Council shall deny the application.

When a Conditional Use Permit is to expire due to an imposed time limit and the property owner wishes to continue the use, a new application shall be submitted requesting to continue the Conditional Use Permit. Such applications shall require the same procedures outlined herein for initial approval of a Conditional Use Permit.

3.. Transferability

A Conditional Use Permit shall be transferable between owners and businesses except as follows: Where the City Council finds that a use or uses defined and permitted under a Conditional Use Permit are sufficiently unusual in character or operation as to create the potential for variations in function or operation with possible negative impacts upon adjacent properties or on the citizenry as a whole, the City Council may specify in its approval that the Conditional Use permit is approved solely for the business represented by the applicant, and that the Conditional Use Permit shall not be transferable to a different person or business.

A different business applicant desiring to continue a non-transferable Conditional Use Permit shall submit a new application requesting to continue the Conditional Use Permit. Such applications shall require the same procedures outlined herein for initial approval of a Conditional Use Permit.

5-304 CITY COUNCIL ACTION

Ord. 2667/4-2-90

A. ACTION AUTHORIZED

The City Council may sustain or reverse the recommendation of the Commission by a simple majority vote, except when a three-quarter majority vote is required as noted below.

A favorable vote of three-fourths of all members of the City Council shall be required to approve any amendment when the proposed change is protested, as provided by State law, by the owners of 20% of the area covered by the proposed change or of the area immediately adjoining and extending 200 feet from the subject area.

B. RESUBMISSION

No application on the same request shall be permitted within one year of the Council hearing, or Commission hearing when a denial is not appealed, unless the Commission shall determine that extenuating circumstances exist.

A notation of "denied without prejudice" on the minutes of the prior action on an application shall be evidence of the existence of extenuating circumstances and resubmission shall be permitted.

C. ORDINANCE PREPARATION AND ADOPTION

Upon approval of the request by the Council, authorizing the preparation of an ordinance, the applicant shall, on or before the expiration of 90 days from the Council hearing/approval, unless an extended period is specifically granted by the Council, provide field notes and a map of a survey of the property on 8 1/2 X 11 sheets. Upon receipt of adequate field notes, an ordinance shall be prepared and scheduled for adoption. If an applicant fails to provide the required property description within the time period, the previous action by the Council is null and void, unless an extended period shall be granted by the Council.

5-400 ADMINISTRATORS AND REVIEW BODIES

Administrators and Review Bodies

- 5-401 – Summary of Application Actions
- 5-402 – General Regulations of Boards and Commissions
- 5-403 – Development Review Committee
- 5-404 – Historic Preservation Officer
- 5-405 – Director of Planning & Development Services
- 5-406 – Landmark Commission
- 5-407 – Planning & Zoning Commission
- 5-408 – Board of Adjustment

5-401 SUMMARY OF APPLICATION ACTIONS

Ord. 4738/11-04-2019

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 & Development Services	Landmark Commission (MLC)	Planning & 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 & RR		PH & D	A	5-302
Zoning Map Amendment (Zoning Change)		RR		PH & RR		PH & D	A	5-302
Planned Developments (PD)		RR		PH & RR		PH & D	A	4-200
Conditional Use Permits		RR		PH & RR		PH & D	A	5-102 ; 5-302 5-303
Site Plan Requiring CC Action		RR				R & D	A	3-503 ; 4-603
Designation of Mesquite Landmark or H-POD	R	R	PH & RR	PH & RR		PH & D	A	4-400
* Board of Adjustment (BOA)								
Termination of Nonconforming Use					PH & D		A	1-304
Variance to Zoning		RR			PH & D		A	5-200
Special Exceptions		RR			PH & D		A	5-102 5-200
Appeal of Certain Administrative Decisions					R & D		A	5-102 5-200
* Planning & Zoning Commission (P&Z)								
Site Plan (PD)		RR		R & D		A		4-202 ; 5-101 & 5-102
* Mesquite Landmark Commission (MLC)								
Certificate of Appropriateness	R		R & D		A			4-400
Certificate of Demolition, Removal or Relocation	R		R & D		A			4-400
Director of Planning & Development Services								
Site Plan Review – Administrative		R & D			A			4-904 ; 4-934
Zoning Interpretation		R & D			A			5-102
Historic Preservation Officer (HPO)								
Determination of No Material Effect	R & D		A					4-400
KEY								
R = Review RR = Review & Recommendation PH – Public Hearing D = Decision A = Appeal								
* = A governmental body subject to the Open Meetings Act								

5-402 GENERAL REGULATIONS OF BOARDS AND COMMISSIONS. **Ord. 4738/11-04-2019**

These general regulations shall be applied to the boards and commissions herein identified.

A. Boards and Commissions.

The following boards and commissions exist to administer the ordinances, policies and programs associated with this Zoning Ordinance or other City ordinances or regulations.

1. *Landmark Commission.*

Cross reference – Sec. 5-406.

2. *Planning & Zoning Commission.*

Cross reference – Sec. 5-407.

State Law reference – Zoning Commission, V.T.C.A. Local Government Code, [§ 211.007](#).

3. *Board of Adjustment.*

Cross reference – Sec. 5-408.

State Law reference – Board of Adjustment, V.T.C.A. Local Government Code, [§ 211.008](#).

B. Independent Governmental Body.

Each board and commission is considered a “governmental body,” as defined by the Texas Open Meetings Act, a deliberative body having rulemaking or quasi-judicial power as an agency of the municipality. Pursuant to the City Charter, each board or commission shall be an independent body within the areas committed to such board or commission.

State Law reference – “Governmental body” defined, V.T.C.A. Government Code, [§ 551.001](#).

Charter reference – Independence of City Boards and Commissions, Article IX, [Sec. 8](#).

C. Eligibility.

Except as otherwise provided by this Zoning Ordinance, regular members and alternates must reside inside the City limits. Any regular member or alternate ceasing to be eligible as herein described, during a term of appointment, shall immediately and automatically forfeit his/her office. Employees of the City are not eligible to become regular members or alternates of a board or commission. The City Secretary shall verify eligibility of any proposed appointee to a board or commission prior to City Council consideration.

D. Terms of Office.

1. *Term of Office Defined.*

A term of office is defined and assigned herein as approximately two (2) years.

2. *Regular Members.*

All terms of regular members shall expire on the 31st day of December, with the terms of any odd-numbered positions (e.g., No. 1, No. 3, No. 5, No. 7) expiring in odd-numbered years, and the terms of any even-numbered positions (e.g., No. 2, No. 4, No. 6) expiring in even-numbered years.

3. *Alternates.*

All terms of alternates shall expire on the 31st day of December, with the terms of any odd-numbered positions (e.g., No. 1, No. 3) expiring in odd-numbered years, and the terms of any even-numbered positions (e.g., No. 2, No. 4) expiring in even-numbered years. Alternates shall be the first persons considered for appointment to fill a vacancy of a regular member's unexpired term of office.

4. *Reappointment.*

- a. *Consecutive terms.* A regular member or alternate may be reappointed for consecutive term(s).
- b. *Nonconsecutive terms.* A regular member or alternate may be reappointed for nonconsecutive term(s). A regular member or alternate wishing to be reappointed for a nonconsecutive term shall be cycled off the board or commission for a period of at least one (1) year prior to any reappointment for a nonconsecutive term.

5. *Term Limits.*

A regular member or alternate may serve no more than three (3) consecutive terms as a regular member, alternate or any combination thereof. If a person is appointed to serve during a vacancy, only serving for the unexpired portion of the original term, an appointment of one (1) year or more shall constitute a term of office.

6. *Serve Until Successor is Appointed and Qualified.*

All regular members and alternates shall serve until his/her successor is appointed by the City Council and qualified to serve.

7. *Resignation from Office.*

Any regular member or alternate may resign, at any time, from their appointment by providing notice to the City Secretary.

E. One Membership.

Regular members shall serve on only one board or commission at a time, except where the City Council determines otherwise that such dual membership is necessary or desirable.

F. Officers of the City.

Regular members and alternates of boards and commissions are considered "officers" of the City as defined by the Mesquite City Code. Regular members and alternates of boards and commissions are also considered "local public officials" as defined by the Local Government Code.

Cross reference – "Officer" defined in City Code Chapter 2, Article IV, Division 2 - Code of Ethics, [Sec. 2-121](#).

State Law reference – Definitions relating to conflicts of interest, V.T.C.A. Local Government Code, [§ 171.001](#).

G. Statement of Officer – Anti-Bribery Statement.

A *Statement of Officer* form, as promulgated by the Texas Secretary of State and commonly referred to as the "Anti-Bribery Statement," must be executed and kept on file in the Office of the City Secretary. The *Statement of Officer* form shall be executed prior to taking the Oath of Office.

State Constitution reference – Official oath, [Art. 16, § 1](#).

H. Oath of Office.

As appointed officers of the City, each regular member and alternate of a board and commission shall solemnly swear or affirm to faithfully execute the duties of their appointed office, and will to the best of their ability preserve, protect, and defend the Constitution and laws of the United States, of this State and the ordinances of the City. An *Oath of Office* form, as promulgated by the Texas Secretary of State, may be administered by a notary public, in accordance with State law, and shall be executed and kept on file in the Office of the City Secretary. The *Statement of Officer* form shall be executed prior to taking the Oath of Office.

Charter reference – Qualifications of city officers, Mesquite City Charter, Article IV, [Sec. 8](#).

Cross reference – “Officer” defined in City Code Chapter 2, Article IV, Division 2 – Code of Ethics, [Sec. 2-121](#).

State Constitution reference – Official oath, [Art. 16, § 1](#).

State Law reference – Administration of Oaths, V.T.C.A. Government Code, [§ 602.002](#).

I. Public Information Act.

Regular members and alternates of boards and commissions shall, in accordance with State law, choose whether to allow public access to the information in the custody of the City that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members. The completed Public Access Option Form shall be kept on file in the Office of the City Secretary.

State law reference – Open Meetings Training, V.T.C.A. Government Code, [§ 552.024](#).

J. Board or Commission Liaison.

Boards and commissions shall each have a designated City staff board or commission liaison assigned to it by the Director of Planning & Development Services, unless otherwise designated by this Zoning Ordinance.

K. Clerical and Technical Assistants.

The boards and commissions shall have clerical and technical assistants as may be assigned by the Director of Planning & Development Services or an authorized designee. Said assistants shall keep records of the boards and commissions proceedings, maintain minutes of the meetings and any other actions as may be assigned by the Director of Planning & Development Services.

L. Legal Advisor.

The city attorney, or his/her designee, shall be the legal advisor to the boards and commissions.

Charter reference – Office of the City Attorney, [Sec. 35](#).

M. Orientation.

The City staff board or commission liaison shall be responsible for providing regular members and alternates an orientation session to provide an overview of City government and the functions of the board or commission.

N. Training.

As a condition of membership on a board or commission, the regular members and alternates shall participate in such training and education as may be required by law or ordinance.

1. *Mandatory Open Meetings Act Training.* Regular members and alternates of the boards and commissions are required to complete a course of training regarding the Texas Open Meeting Act, made available by the Office of the Texas Attorney General, in accordance with State law. The Certificate of Course Completion shall be kept on file in the Office of the City Secretary.

State law reference – Open Meetings Training, V.T.C.A. Government Code, [§ 551.005](#).

2. *Mandatory Public Information Act Training.* Regular members and alternates of the boards and commissions are required to complete a course of training regarding the Texas Public Information Act (“open records training”), made available by the Office of the Texas Attorney General, in accordance with State law. The Certificate of Course Completion shall be kept on file in the Office of the City Secretary.

State law reference – Open Records Training, V.T.C.A. Government Code, [§ 552.012](#).

3. *Staff Training.* From time to time, the Director of Planning & Development Services, or his/her designee, shall provide additional required training and educational opportunities for the regular members and alternates of the board or commission in order to maintain and improve their knowledge and competence.

O. Salary.

All members of boards and commissions shall serve without salary.

P. Use of Position.

Appointed members or alternates shall not use or refer to their position in writing letters or taking public positions on any matter unless recommended by a majority of the board or commission and approved by the City Council.

Q. Boards and Commissions Office.

The official office for the boards and commissions shall be maintained in the Planning and Development Services Department under the direction of the Director of Planning & Development Services or an authorized designee. Board and commission decisions shall be filed in the office immediately, when required by law, or on the business day following the date the board or commission renders a final decision in an open meeting.

R. Records.

Board and commission records are City records and the property of the City of Mesquite. The assigned City staff liaison shall assist with maintaining the board or commission’s records. The City staff board or commission liaison shall seek assistance, as needed, from the Planning and Development Services Department Record Liaison Officer for compliance with the City’s Records Management Plan.

Cross reference – “Records Management Program” adopted in City Council Ordinance No. 2714, as amended, December 3, 1990.

S. Rules.

1. *Rules of Procedure.*

The boards and commissions shall be governed by the most recent revision of Robert's Rules of Order.

2. *Board or Commission Rules.*

Boards and commissions may adopt, by majority vote, or shall adopt if required by law, such other rules as the board or commission considers appropriate subject to City Council approval.

3. *Suspension of Procedural Rules.*

A waiver of any procedural rule is permissible if any member (1) makes a motion to “suspend the rules,” (2) the motion receives a second, and (3) the motion is approved by at least a two-thirds ($\frac{2}{3}$) vote.

4. *Code of Ethics.*

Regular members and alternates of boards and commissions are subject to the City's adopted Code of Ethics.

Cross reference – City Code Ch. 2, Article IV., [Division 2 – Code of Ethics](#).

5. *Conflicts of Interest.*

Regular members and alternates of boards and commissions are subject to prohibitions of conflicts of interest.

State Law reference – Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments, V.T.C.A. Local Government Code, [§ 171.001](#) et. seq.

T. Board and Commission Officers.

1. *Election.*

Each board or commission shall elect a chairperson (“Chair”) and vice-chairperson (“Vice-Chair”) by majority vote of its regular members.

2. *Terms of Officers.*

The terms for Chair and Vice-chair shall be for approximately one (1) year and shall expire on the 31st day of December. A regular member may serve as Chair or Vice-Chair for consecutive terms.

3. *Chairperson.*

The Chair shall have the following responsibilities and duties:

- a. Shall preside at the meetings.
- b. Shall be the spokesperson (along with his/her designees) when requested.
- c. Shall represent the board or commission (along with his/her designees) when requested in its work with city, county, state or federal departments, agencies, boards, committees, and commissions.

d. Shall be the authorized signatory for the board or commission.

4. *Vice-chairperson.*

In the absence of the Chair, or when requested by the Chair, the Vice-chair shall perform the duties of the Chair.

U. Meetings.

1. *Regular Meetings, Special Called Meetings, and Work Sessions.*

The boards and commissions may hold regular monthly or bi-monthly public meetings and shall hold meetings as often as necessary to conduct the business coming before the board or commission at the call of the Chair, at the call by the board or commission upon a majority vote, or otherwise upon the written request to the City Secretary of at least three (3) members. Special called meetings and public work sessions are also authorized in the same manner as described.

2. *Open Meetings Act and Public Notice.*

a. *Meetings open to the public.* All meetings and work sessions of any board or commission shall be conducted in accordance with the provisions of the Texas Open Meeting Act, regardless of whether the board, commission, or committee has rulemaking or quasi-judicial powers or functions only in an advisory capacity.

State Law reference – V.T.C.A., Government Code, Open Meetings Act, [§ 551.001](#) et. seq.

b. *Public notice.* The Boards and Commissions shall give written notice of its meetings and work sessions by posting an agenda containing the date, hour, place, and subject of each meeting or work session held and said notice shall be posted at least seventy-two (72) hours before the scheduled time of the meeting, except as otherwise provided by the Texas Open Meetings Act.

State Law reference – V.T.C.A., Government Code, Open Meetings Act, Notice of Meeting, [§ 551.041](#).

State Law reference – V.T.C.A., Government Code, Open Meetings Act, Time and Accessibility of Notice, [§ 551.043](#).

3. *Quorum.*

To conduct the business of the board or commission a quorum shall be present. A quorum shall be calculated as a majority number of the regular member positions appointed, unless otherwise provided for by other law.

State Law reference – “Quorum” defined, V.T.C.A., Government Code, Open Meetings Act, [§ 551.001](#).

State Law reference – Board of Adjustment, V.T.C.A. Local Government Code, [§ 211.008](#).

4. *Absence from Meeting or Work Session.*

In the event of an absence of a regular member from a meeting or work session, leaving the position temporarily vacant, the Chairperson, or in the Chair’s absence the Vice-chairperson, shall

designate an alternate, who shall have full authority to sit in the place of the absent regular member and shall have a vote on every question for that particular meeting or work session.

5. *Public Comment.*

- a. *Items appearing on the agenda.* The board or commission shall allow each member of the public who desires to address the body regarding an item on an agenda to address the body regarding the item at the meeting before or during the body's consideration of the item. Said public comment period shall be listed on the agenda.

State Law reference – Provisions for public testimony, V.T.C.A., Government Code, Open Meetings Act, [§ 551.007](#).

- b. *Items not appearing on the agenda.* The board or commission shall also allow an opportunity prior to the end of the meeting for members of the public to speak on matters not listed on the agenda.

6. *Minutes.*

The board or commission shall keep minutes of its proceedings indicating a roll call of members present and establishing a quorum is present. The minutes of meetings shall indicate the vote of each member on each question, or the fact that a member is absent or fails to vote. The board shall keep records of its business and other official actions. The minutes and records shall be filed immediately in the board's office, when required by law, or on the business day following the date the board or commission renders a final decision in an open meeting.

V. Attendance Requirements.

Active participation by all appointed members is necessary for proper functioning of boards and commissions.

1. *Required Attendance.*

Members may calculate their required attendance for regular meetings as shown below:

REQUIRED ATTENDANCE CHART	
If the Board or Commission regularly meets:	Required Attendance
(1) One time within a six-month period *	1*
(2) Two times within a six-month period	2
(3) Three times within a six-month period	2
(4) Four times within a six-month period	3
(5) Five times within a six-month period	4
(6) Six times within a six-month period	5
(7) Seven times within a six-month period	5
(8) Eight times within a six-month period	6
(9) Nine times within a six-month period	7
(10) Ten times within a six-month period	8
(11) Eleven times within a six-month period	8
(12) Twelve times within a six-month period	9
* Consideration may be given for illness or extenuating circumstances.	

2. *Automatic resignation and vacancy.*

Any regular member, or alternate when required to attend, who has been absent for more than seventy-five (75) percent of the regularly scheduled meetings, in any six-month period, shall be deemed to have voluntarily resigned, shall automatically cease to hold office, and the City Council shall fill the vacancy for the unexpired term. Members may calculate their required attendance for regular meetings using the Chart above. Upon a recommendation by the Chair of the subject board or commission, the Director of Planning and Development Services is authorized to give consideration for illness or extenuating circumstances in accordance with the Chart above. In all other cases, the Director of Planning and Development Services shall notify the regular member, or alternate if applicable, of their automatic resignation as required by, and in accordance with, this Zoning Ordinance.

W. Removal from Office.

The City Manager and/or any individual City Council member may institute proceedings to dismiss any regular member or alternate of a board or commission, prior to the expiration of his/her term, for cause, as found by a majority of the City Council.

The procedure for removal from office is as follows:

1. *Written Charge Filed with the City Secretary.*

A written charge, by the City Manager or any individual member of the City Council, shall be filed with the City Secretary.

2. *Notification.*

The City Secretary shall notify and forward a copy of the written charge to the regular member or alternate of the board or commission, City Manager, City Attorney, and City Council.

a. Upon receipt of said written charge, the regular member or alternate, if he/she so chooses, may provide a written resignation effective immediately.

b. If the regular member or alternate resigns, thereby creating a vacancy, the City Council shall not hold a public hearing and shall instead proceed with appointing a new regular member or alternate to the board or commission for the unexpired term.

3. *Placement on City Council Agenda.*

The City Secretary shall place the item on the next available City Council agenda for a public hearing and shall notify the above-mentioned parties of said public hearing date and time.

4. *Public Hearing.*

The City Council holds a public hearing.

5. *Decision by City Council.*

After the public hearing, the City Council may, by a majority vote, remove the board or commission member if the City Council determines cause exists for the member to be removed and wishes to remove the member.

State Law reference – The City may prescribe tenure of office for officers, V.T.C.A. Local Government Code, [§ 26.041](#).

State Law reference – Board of Adjustment, V.T.C.A. Local Government Code, [§ 211.008](#).

X. Vacancies.

1. *Procedure for Filling Vacancy.*

All vacancies on any board or commission shall be filled in the same manner as provided for the original appointments, unless otherwise provided.

2. *Time Period.*

Vacancies on a board or commission shall be filled within 60 days when possible.

3. *Appointment for Unexpired Term.*

When a vacancy occurs during a term of office, the person selected as the replacement member shall be appointed only for the unexpired portion of the original term.

4. *Priority Consideration Given First to Alternates for Replacement of Regular Members.*

When a vacancy of a regular member occurs, if possible, the City Council shall first consider appointing an alternate to replace any regular member vacancy.

5-403 DEVELOPMENT REVIEW COMMITTEE.

Ord. 4738/11-04-2019

A. Establishment of Development Review Committee.

A Development Review Committee is hereby authorized and shall be known as the "Mesquite Development Review Committee," "Development Review Committee," or "DRC." The DRC is not a "governmental body" of the City, does not have rule-making or quasi-judicial powers, and acts only in an advisory role providing recommendations to the applicable decision-making person or body.

State Law reference – Defining "governmental body," V.T.C.A. Government Code, Open Meetings Act, [§ 551.001](#).

B. In General.

The Development Review Committee consists of employees of the City of Mesquite assigned the responsibility of acting in an advisory role by reviewing, making comments, and recommendations on certain plats, site plans, and building plans submitted for approval prior to construction or development. DRC actions are not binding.

C. Membership.

The Director of Planning & Development Services shall recommend employees for assignment to the Development Review Committee. The City Manager shall approve or disapprove the recommendation of assignment(s) to the DRC.

D. Duties and Responsibilities.

1. The DRC may provide non-binding comments or recommendations to the applicable decision-making person or body.
2. The DRC may inform the applicant of any potential issues that it intends to present to the applicable decision-making person or body.
3. The DRC may have such other duties and responsibilities as may be assigned by the City Manager and/or Director of Planning & Development Services or as otherwise assigned by this Zoning Ordinance or other regulation or law.

E. Non-Binding and No Approvals.

Any actions, comments or recommendations made by the DRC is not binding upon the applicant, or the City of Mesquite, nor does it represent approval of any plan, application or project.

5-404 HISTORIC PRESERVATION OFFICER.

Ord. 4738/11-04-2019

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 – City Manager; Powers and duties, [Sec. 3](#).

B. In General.

Historic Preservation is a division of the Planning & 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 & 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.
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 & Development Services or as otherwise assigned by this Zoning Ordinance or other regulation or law.

5-405 DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES.

Ord. 4738/11-04-2019

A. Position of Director of Planning & Development Services.

The City Manager shall designate a qualified person who shall be, or become, an employee of the City, to serve as the Director of the Planning & Development Services Department.

Charter reference – City Manager; Powers and duties, [Sec. 3](#).

B. In General.

The Director of Planning & Development Services is the head of the Planning & Development Services department. The Director of Planning & Development Services is responsible for administering ordinances, policies and programs set by the City Council and various municipal boards and agencies. The Director of Planning & Development Services, with approval of the City Manager, may designate one or more staff persons to act as the Director of Planning & Development Services; however, any formal decision of the Director of Planning & Development Services or designee may only be rendered once.

C. Responsibilities and Powers.

The Director of Planning & Development Services, or his/her designee, has the following responsibilities and powers pursuant to this Zoning Ordinance:

1. Reviews and make final administrative decisions on site plan review applications when required by this Zoning Ordinance.
2. Reviews and make final administrative decisions on zoning interpretations of district boundaries or other interpretations of this Zoning Ordinance.
3. Receives and forwards applications as required by this Zoning Ordinance to the appropriate administrator or review and/or decision-making body.
4. Performs duties and responsibilities as may be assigned by the City Manager or as otherwise assigned by this Zoning Ordinance or other regulation or law.

5-406 LANDMARK COMMISSION.

Ord. 4738/11-04-2019

A. Establishment of Landmark Commission.

The City of Mesquite, Texas, Landmark Commission is hereby established by the City Council consisting of seven (7) regular members and two (2) alternates. The Landmark Commission may also be referred to as the "Mesquite Landmark Commission," "Landmark Commission," or "MLC."

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

B. In General.

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 & Zoning Commission and/or City Council and any other decision-making person or body as required by law.

C. Members.

Seven (7) regular members and two (2) alternates shall be appointed in accordance with this Zoning Ordinance.

Cross reference – Sec. 5-402 – General Regulations of Boards and Commissions.

D. Organization.

In addition to the following specific requirements for appointment, all regular members and alternates shall first meet the general requirements of eligibility prior to appointment, and after appointment shall in all other respects comply with Section 5-402 – General Regulations of Boards and Commissions.

1. *Regular Members – Appointed by City Council.*

The City Council shall appoint five (5) regular members by majority vote to serve a term of office in a specified position as designated below. In addition to meeting the requirements of the appointed position, all regular members and alternates shall have a demonstrated 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. 1. Appointed for a term of office 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 Main Street Program.

Position No. 2. Appointed for a term of office 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 of office 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 of office 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 of office expiring in odd-numbered years.

Any resident of the City, including within any H-POD – Historic Preservation Overlay District.

2. *Regular Members – Appointed and serve by way of position.*

The following regular member positions are automatically appointed and serve by way of other appointed position as described below.

Position No. 6. Appointed for a term of office expiring in even-numbered years.

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 of office expiring in odd-numbered years.

Any member of Historic Mesquite, Inc., as decided by majority vote from the board members of Historic Mesquite, Inc.

3. *Alternates.*

The City Council shall appoint two alternates, from the City at-large, by majority vote to serve a term of office in a specified position as designated below.

Alternate No. 1. Appointed for a term of office 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 of office expiring in even-numbered years

Any resident of the City who qualifies for any of the following positions: Position No. 1 through No. 5.

E. 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 regular member positions appointed; therefore, four (4) persons shall constitute a quorum.

State Law reference – “Quorum” defined, V.T.C.A., Government Code, Open Meetings Act, [§ 551.001](#).

F. Duties and Powers.

The Landmark Commission is hereby charged with the following duties 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 this Zoning Ordinance, the Charter of the City of Mesquite, or applicable laws of the State of Texas.

2. *Review and Recommendation.*

The Landmark Commission shall review and make a recommendation for the following types of applications:

- a. To the Planning and Zoning Commission and 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 this Zoning Ordinance:

- a. Certificates of Appropriateness and Certificates of Demolition where required in accordance with this Zoning Ordinance;
- 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 [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 & 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 & 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. Submit an annual report to City Council summarizing the Landmark Commission's previous year of work, on a yearly timetable established by the Commission in conjunction with the Historic Preservation Officer.
- l. 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.
- m. Provide comments to the Historic Preservation Officer about zoning changes and other issues affecting historic resources.

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

G. Resumes to Be Filed with City Secretary.

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.

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](#).

H. 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.

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](#).

5-407 – PLANNING AND ZONING COMMISSION

Ord. 4738/11-04-2019

A. Establishment of Planning & Zoning Commission.

The City of Mesquite, Texas, Planning and Zoning Commission is hereby established by the City Council consisting of seven (7) regular members and two (2) alternates. The commission may also be referred to as the "Mesquite Planning & Zoning Commission," "Planning & Zoning Commission," or "P&Z Commission."

State Law reference – Zoning Commission, V.T.C.A. Local Government Code, [§ 211.007](#).

B. In General.

The Planning and Zoning Commission hears, recommends, or determines any matter relating to land use issues, including planning, zoning, or subdivision plats, changes to this Zoning Ordinance and amendment to and update of the Comprehensive Plan, and any other items related to the physical development of the City, as may be specified or required under this Zoning Ordinance, the Charter, or the laws of the State.

C. Members.

Seven (7) regular members and two (2) alternates shall be appointed in accordance with this Zoning Ordinance.

Cross reference – Sec. 5-402 – General Regulations of Boards and Commissions.

D. Organization.

In addition to the following specific requirements for appointment, all regular members and alternates shall first meet the general requirements of eligibility and after appointment shall in all other respects comply with Section 5-402 – General Regulations of Boards and Commissions.

1. *Regular Members – Appointed by City Council.*

The City Council shall appoint seven regular members, from the City at-large, by majority vote to serve a term of office in a specified position as designated below.

- | | |
|------------------------|---|
| Position No. 1. | Appointed for a term of office expiring in odd-numbered years. |
| Position No. 2. | Appointed for a term of office expiring in even-numbered years. |
| Position No. 3. | Appointed for a term of office expiring in odd-numbered years. |
| Position No. 4. | Appointed for a term of office expiring in even-numbered years. |
| Position No. 5. | Appointed for a term of office expiring in odd-numbered years. |
| Position No. 6. | Appointed for a term of office expiring in even-numbered years. |
| Position No. 7. | Appointed for a term of office expiring in odd-numbered years. |

2. *Alternates.*

The City Council shall appoint two alternates, from the City at-large, by majority vote to serve a term of office in a specified position as designated below.

- | | |
|-------------------------|--|
| Alternate No. 1. | Appointed for a term of office expiring in odd-numbered years. |
|-------------------------|--|

Alternate No. 2. Appointed for a term of office expiring in even-numbered years.

E. Quorum.

To conduct the business of the Planning and Zoning Commission a quorum shall be present. A quorum shall be calculated as a majority number of the regular member positions appointed; therefore, four (4) persons shall constitute a quorum.

State Law reference – “Quorum” defined, V.T.C.A., Government Code, Open Meetings Act, [§ 551.001](#).

F. Duties and Powers.

The Planning & Zoning Commission is hereby charged with the following duties and invested with authority and powers as follows:

1. *In General.*

Exercise such duties and powers as may be now or hereafter conferred by this Zoning Ordinance, the Charter of the City of Mesquite, or applicable laws of the State of Texas.

2. *Comprehensive Plan.*

Formulate and recommend to the City Council for adoption a comprehensive plan for the orderly growth and development of the City and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety and general welfare of the citizens of the City.

3. *Platting.*

Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats, and vacation of plans, plats, or replats set out in Mesquite City Code Appendix B titled “Subdivision” and State law.

4. *Zoning Changes.*

Initiate for consideration at public hearings, proposals for the original zoning of annexed areas or for the change of zoning district boundaries. No fee shall be required for the filing of any such proposal in the name of the City.

5. *Planning Information.*

Keep informed with reference to the progress of city planning in the United States and other countries and recommend improvements in the adopted plans of the City.

6. *Capital Improvement Advisory Committee.*

To serve on the capital improvements advisory committee, relating to impact fees.

State Law reference – Municipal Comprehensive Plans, V.T.C.A. Local Government Code, [§ 213.001](#).

State Law reference – Zoning Commission, V.T.C.A. Local Government Code, [§ 211.007](#).

Cross reference – City Code [Ch. 7.5 Impact Fees](#).

5-408 – BOARD OF ADJUSTMENTS

Ord. 4738/11-04-2019

A. Establishment of Board of Adjustment.

The City of Mesquite, Texas, Board of Adjustment is hereby established by the City Council consisting of five (5) regular members and two (2) alternates. The Board may also be referred to as the "Mesquite Board of Adjustment " or "Board of Adjustment" or "BOA."

State Law reference – Board of Adjustment, V.T.C.A. Local Government Code, [§ 211.008](#).

B. In General.

The Board of Adjustment holds quasi-judicial public hearings to determine requests made by property owners in the City for special exceptions, variances and appeals of administrative interpretations or decisions, as authorized by state law and local ordinance.

C. Members.

Five (5) regular members and two (2) alternates shall be appointed in accordance with this Zoning Ordinance.

Cross reference – Sec. 5-402 – General Regulations of Boards and Commissions.

D. Organization.

In addition to the following specific requirements for appointment, all regular members and alternates shall first meet the general requirements of eligibility and after appointment shall in all other respects comply with Section 5-402 – General Regulations of Boards and Commissions.

1. *Regular Members.*

The City Council shall appoint five regular members, from the City at-large, by majority vote to serve a term of office in a specified position as designated below.

Position No. 1. Appointed for a term of office expiring in odd-numbered years.

Position No. 2. Appointed for a term of office expiring in even-numbered years.

Position No. 3. Appointed for a term of office expiring in odd-numbered years.

Position No. 4. Appointed for a term of office expiring in even-numbered years.

Position No. 5. Appointed for a term of office expiring in odd-numbered years.

2. *Alternates.*

The City Council shall appoint two alternates, from the City at-large, by majority vote to serve a term of office in a specified position as designated below.

Alternate No. 1. Appointed for a term of office expiring in odd-numbered years.

Alternate No. 2. Appointed for a term of office expiring in even-numbered years.

E. Quorum.

To conduct the business of the Board of Adjustment a quorum shall be present. A quorum shall be

calculated as seventy-five (75) percent of the regular member positions appointed; therefore, four (4) persons shall constitute a quorum.

State Law reference – Board of Adjustment, V.T.C.A. Local Government Code, [§ 211.008](#).

F. Voting.

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official, to grant a variance, or to decide in favor of the applicant on any matter upon which the Board is required to act under this Zoning Ordinance.

State Law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#).

G. Duties and Powers.

The Board of Adjustment is hereby charged with the following duties 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 this Zoning Ordinance, the Charter of the City of Mesquite, or applicable laws of the State of Texas.

2. *Interpretation.*

Hear and decide appeals that allege error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Zoning Ordinance.

3. *Special Exceptions.*

Hear and decide special exceptions to the terms of this Zoning Ordinance when the Mesquite City Code or this Zoning Ordinance requires the Board to do so.

4. *Variances.*

a. Authorize in specific cases a variance from the terms of this Zoning Ordinance if the variance is not contrary to the public interest and, due to special conditions, the literal enforcement of the provisions of this ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice done.

b. Use variances are prohibited. A use variance is a request for a variance to allow a use that is not listed as a permitted use within a zoning district.

State Law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#).

H. Ex Parte Communications Prohibited.

Regular members and alternates are prohibited from holding private meetings or communicating with an applicant or member of the public, outside of a public hearing or meeting properly noticed of the entire Board, regarding a pending application or appeal.