

## **6-100 DEFINITIONS AND INTERPRETATION OF TERMS**

This Zoning Ordinance shall be construed liberally to effect the purposes and intent thereof.

### **6-101 INTERPRETATION OF TERMS**

**Ord. 3837/10-16-06; Ord. 2679/6-18-90**

The rules of this section, regarding interpretation, construction and interchangeability of terms, shall be observed, except when the context clearly requires otherwise.

#### **A. MANDATORY TERMS**

The terms "shall", "will", and "must" are mandatory, not discretionary. The terms "may" and "should" are permissive.

#### **B. CONFLICTS WITH TEXT**

In the event that any heading, caption, illustration, table, or map conflicts with the text of the ordinance, the text shall control. If a heading, caption, illustration, table or map clarifies or supplements the text, it shall apply as though it were an integral part of the text.

#### **C. INCLUSIVE CONSTRUCTION**

The following terms and construction shall be construed to include the related terms or construction as indicated. The present tense includes the future tense; the singular includes the plural; Development Review Committee includes authorized representatives thereof; the masculine includes the feminine; structure includes building; a City official named by title includes authorized representatives.

#### **D. INTERCHANGEABLE TERMS**

The following terms shall be interchangeable and shall be construed to have the same or similar meaning: principal, main, and primary; lot, site, tract, plot, location and premises; setback and required yard; person, owner, corporation, co-partnership, association, and individual; accessory, secondary, and incidental; area and size; dwelling, living unit, and residence; adjacent, adjoining, contiguous, and abutting; family and household; truck and heavy load vehicle; used, arranged, designed, constructed, altered, converted, rented, leased and intended to be used; street, avenue, boulevard, road, circle, highway and similar terms.

#### **E. ALTERNATE DEFINITIONS**

Terms not defined herein shall have the meaning assigned to them by the SIC Classification Manual, the Building Code, or other City ordinance, as applicable, or by customary definition based on planning and zoning literature or a general use dictionary, if no other source related to planning and zoning is found applicable.

**6-102 DEFINITIONS**

**Ord. 2679/6-18-90**

**ALLEY**

A public right of way which affords only secondary access to an abutting property.

**ALTERNATIVE FINANCIAL ESTABLISHMENT**

A check cashing business, payday advance or loan business, money transfer business or car title loan business.

**APARTMENT**

A multifamily dwelling unit.

*Efficiency Apartment:* A dwelling unit consisting of not more than one habitable room separated by no more than a 1/2 wall partition, plus kitchen and bathroom facilities.

**ASSISTED LIVING FACILITY** (Ord. 4210 / 4-16-2012)

A residential establishment, consisting of one or more facilities, licensed under Chapter 247 of the Texas Health and Safety Code that provides food, shelter and *personal care services* to four (4) or more persons unrelated to the proprietor of the establishment.

**AUTOMOBILE REPAIR:**

*Minor Repair:* Minor repair or replacement of parts, tires, batteries, and accessories; diagnostic services; minor motor services such as grease, oil, spark plug and filter changes; tune-ups; replacement of starters, alternators, hoses, brake parts, mufflers, water or fuel pumps; state inspections; steam cleaning and detailing; servicing of air conditioning systems; for vehicles, but not heavy load vehicles and not including any operation listed as major repair or collision service.

*Major Repair:* Major repair, rebuilding or reconditioning of engines, radiators, or transmissions; undercoating and rust proofing; any operation requiring dismantling or removal of heads, crankcases, engines or other major parts; and recapping or regrooving of tires; any repair of heavy load vehicles; and other operations not listed as minor repair, but not collision services.

*Collision Services:* Body, frame, and fender straightening or repair; customizing; painting.

**BANK OR FINANCIAL INSTITUTION**

An establishment, open to the public, for the deposit, custody, loan, exchange or issue of money, the extension of credit, and / or facilitating the transmission of funds and that is licensed by the appropriate state or federal agency as a bank, savings and loan association, or credit union. This includes business activities listed under SIC Codes 60 and 61 but excludes pawnshops, check cashing businesses, payday advance / loan businesses, money transfer businesses, and car title loan businesses.

**BEVERAGE BARN** (Ord. 4161 / 7-5-2011)

A building enclosed on two or more sides where vehicles may pull into or through the building and where pre-packaged beverages are sold to the occupants of the vehicle.

**BODY ART/DECORATION** (Ord. 3309 / 7-19-99)

An establishment or facility where one or more of the following procedures are performed on the human body; tattooing practices wherein materials are applied to, or injected under or into the skin producing an indelible stain, mark, or figure on the skin; piercing the skin for the application rings, pins, and/ or other objects; practice of causing damage to the skin leaving permanent scars or brands on the skin; or any other means or practice wherein the human body is permanently marked, scarred or pierced. Body art/decoration shall not include ear piercing or minor cosmetic tattooing, such as lip or eyeliner, when conducted as an incidental, secondary function in a related establishment, such as a jewelry shop or beauty salon.

**BUILDING**

Any structure used or intended to be used for the shelter or enclosure of persons, animals, or property.

*Free-standing Building:* A building which is physically separated from other buildings.

**BUILDING LINE**

The line parallel or approximately parallel to street line, beyond which no building or part thereof shall project, except as otherwise provided.

**BUILDING SITE**

A lot which is shown on a plat approved by the Commission and filed in the plat records of the county.

**CARE INSTITUTION** (Ord. 4210 / 4-16-2012)

A residential establishment licensed as an *assisted living facility* under Chapter 247 of the Texas Health and Safety Code that provides food, shelter and *personal care services* to sixteen (16) or more persons.

**CAR TITLE LOAN BUSINESS**

An establishment that makes small, short-term consumer loans that leverage the equity value of a car or other vehicles as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application, and where failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle. This excludes state or federally chartered banks, savings and loan associations or credit unions engaged primarily in the business of making longer term loans and which make loans that leverage the total equity value of a car or vehicle as collateral.

**CARPORT** (Ord. 4084 / 4-05-2010)

A structure designed or used to shelter vehicles, which is open on at least two sides. Carport shall not include the covered portion of a circular drive, a porte cochere or similar covers which shall comply with the requirements for a principal building.

*Front Carport:* A carport constructed between the principal structure and the front or side lot lines over an approved driveway surface.

*Rear Carport:* A carport constructed over approved parking space located behind the rear façade of the principal structure.

**CERTIFICATE OF OCCUPANCY**

An official certificate issued by the City which indicates conformance with the zoning regulations and authorized legal use of the premises for which it is issued.

**CHECK CASHING BUSINESS**

An establishment that provides to the customer an amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction, and where there is an agreement not to cash the check or execute an electronic transfer of money for a specified period of time, the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose for compensation by any person or entity other than a retail seller engaged primarily in the business of selling consumer goods, including consumables to retail buyers, that cashes checks or money orders or issues money orders or money transfers for a minimum flat fee as a service that is incidental to its main purpose or business. This definition excludes a state or federally chartered bank, savings and loan association or credit union, pawnshop, grocery store or gas station, so long as the gas station does not conduct more than 100 such transactions within any calendar month.

**COMMUNITY HOME** (Ord. 4210 / 4-16-2012)

A residential establishment licensed by the State of Texas, where not more than six (6) disabled persons and two supervisors may reside at the same time, and where the disabled persons are provided food and shelter, personal guidance as well as supervised care and rehabilitation. The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another.

**COMPREHENSIVE PLAN**

The City's overall design for growth including land use policy, circulation plans and proposed facilities, consisting of the *Mesquite Development Guide*, Mesquite Thoroughfare Plan, master plans, related sub-area plans, and special long-range planning studies.

**CONVENIENCE STORE (Ord. 3253 / 9-21-98; Ord. 4771 / 3-16-2020)**

Any retail establishment offering for sale prepackage food products, household items, and other goods commonly associated with the same, which is a walk-in store having a gross floor area of less than 8,000 square feet.

**COVERAGE**

The percent of a building site or yard which is occupied by structures. Roof eaves to the extent of two feet from walls of a building may be excluded from coverage computation.

**CURB LINE**

Whenever a setback from a curb line is required, the measurement shall be taken from the back of the curb, if existing, or from the proposed curb on any street which is not currently improved with curbs.

**DAY CARE FACILITY**

A place other than the person's own home in which care, supervision and guidance, of the person unaccompanied by parent, guardian, or custodian is provided on a regular basis for a period of less than 24 hours per day. Categories of Day Care Facilities are as follows:

**Day Care Center:** A commercial establishment which may be a day nursery school, kindergarten, child play school, child development center, early childhood center, adult care center, and similar facilities and which is licensed by the State. Any facility not qualifying as a Registered Family Home shall be deemed to be a Day Care Center.

**Registered Family Home:** A private residence registered with the State as an operation that regularly provides care for children in the private residence and operated in accordance with State rules and regulations.

**Adult Day Care Facility:** A facility which provides counseling, recreation or food or any combination of these services on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility.

**DENSITY**

The relationship of the total number of dwelling units to the area of the site, generally expressed as "units per acre." Density computation shall be based on gross acreage, i.e. total site area, unless otherwise specified.

**DEVELOPMENT REVIEW COMMITTEE**

A committee of employed personnel of the City of Mesquite assigned the responsibility of review of plats, site plans, and building plans submitted for approval prior to construction or development. The Committee may also be called the DRC.

**DISTRICT, ZONING**

A portion of the City of Mesquite within which uniform regulations apply under the provisions of this ordinance.

**Residential District:** The AG-Agricultural district, any R-Single Family Residential district, the D-Duplex district, any A-Multifamily district, and any portion of a PD-Planned Development district which permits residential uses.

**Nonresidential District:** Any district which is not a residential district and any portion of a PD-Planned Development district which permits nonresidential uses.

**DONATION COLLECTION FACILITY (Ord. 4054 / 6-15-2009)**

A box, bin, container, trailer, accessory structure or similar facility outside of an enclosed building used for the collection of donated materials, including household goods and clothing, and not used exclusively for the collection of recyclables such as paper or plastic.

#### **DWELLING UNIT**

A building or portion thereof having only one kitchen plus living, sleeping, and bathroom facilities designed and/or used by one family for residential purposes, but not including hotels, motels, travel trailers, tents and other such temporary living quarters.

**Accessory:** An area, in addition to the principal dwelling unit on a lot, which has living, sleeping, and bathroom facilities and which meets either of the following conditions: 1) contains a kitchen; or 2) has primary access which is not from within the principal dwelling unit, including any such area in a detached structure, whether or not the area contains a kitchen.

**Single Family Detached:** A dwelling unit located in a residential building containing one dwelling unit, located on a separate lot, and having no physical connection to any other dwelling unit.

**Single Family Attached:** A dwelling unit located in a residential building containing 2 or more dwelling units, located on separate lots, but connected by a common wall on one or more sides.

**Duplex:** A dwelling unit located in a residential building containing 2 dwelling units connected by common wall. A duplex may be located on one lot or on separate lots. Duplex also means two-family dwelling.

**Multifamily:** A dwelling unit located in a residential building containing three or more dwelling units.

**Zero Lot Line:** (See 2-504)

#### **ELEMENTARY, SECONDARY SCHOOL** (Ord. 4562 /; 5-07-2018)

A public, private or parochial institution for the education of students in any grade between pre-kindergarten through 12 or in any combination thereof. A public school includes an open enrollment charter school as defined under the Texas Education Code. Elementary, secondary school does not include a trade, vocational or commercial school.

#### **ESCAPE ROOM** (Ord. 4419 / 3-21-2016)

Also known as Escape Game or Real-Life Game, a type of physical adventure game in which people are locked in a room with other participants and have to use elements of the room to solve a series of puzzles, find clues, and escape the room within a set time limit.

#### **FAMILY**

Individuals living together as a single housekeeping unit, including cooking together, in which not more than 4 individuals are unrelated by blood, marriage, or adoption. Family shall not include groups of individuals which do not function as or constitute housekeeping units, such as boarding/ lodging houses, fraternity/sorority houses, and similar living arrangements.

#### **GRADE, AVERAGE**

The level of the finished ground surface elevation established for the purpose of applying height/setback restrictions:

**Building Grade:** Average grade for a building shall be determined by averaging the elevations of the ground at each corner of the building.

**Property or District Line Grade:** Average grade for a property or district line shall be determined by averaging the elevation of the ground at each turning point, end, or corner of the property or district line in question.

**GROCERY STORE** (Ord. 4583 / 7-16-2018)

A retail store where a minimum of 50 percent of the floor area or more than 25,000 square feet of floor area is devoted to food items including, but not limited to, fresh produce, fresh meats, fresh dairy products and prepackaged foods.

**GROUP HOME** (Ord. 4210 / 4-16-2012)

A residential establishment licensed as an *assisted living facility* under Chapter 247 of the Texas Health and Safety Code that provides food, shelter and *personal care services* to seven (7) or more, but fifteen (15) or fewer persons. Supervisors may reside in the establishment, provided that no more than a total of fifteen (15) persons may reside therein, regardless of the legal relationship of those persons to one another.

**HEIGHT**

The vertical distance from average grade to the highest point of a structure, except:

1. On mansard roofs or roofs with parapet walls, the distance to the deck line, provided the mansard or parapet is not higher than 4 feet above the deck.
2. On hip and gable roofs, the distance between grade and the mean height level between the eaves and the ridge may be used; and
3. On multifamily buildings, the distance between the lowest level of fire department vehicle access and the top plate of the uppermost story shall be used.
4. On accessory structures, the distance to the highest point of the structure.
5. On architectural features, such as copulas, domes, etc., the distance to the highest point of the structure.

**HOME OCCUPATION** (See 2-700.)

**HOUSEHOLD EQUIPMENT**

Household equipment shall mean appliances; small electronic equipment; furniture; party supplies; dishes, silverware, tables, and banquet accessories; hand and table tools; garden tools, except tractors; painting supplies, including ladders; and similar items.

**HOUSEHOLD PETS**

Dogs, cats, fish, birds or other small domestic animals customarily kept for personal use or enjoyment within a home or its associated yards, but not including livestock or wild or dangerous animals which are not generally subject to domestication.

**INFILL LOCATION** (Ord. 4098 / 6-7-2010)

Land that has been bypassed, remained vacant and/or is underused as a result of continuing urban development and which is served by or readily accessible to one or more elements of the City's infrastructure.

**KEY LOT**

A corner lot in a single family or duplex subdivision where the rear of the lot abuts or is across an alley from the side lot line of a lot platted to front the side street which the corner lot adjoins.

**KITCHEN**

An area specifically set aside and containing the necessary appliances for cooking, but not including an area containing only a microwave oven, hot plate, or similar small cooking appliance.

**LIVING AREA**

The interior portion of a dwelling unit used for the accommodation of the occupants, but not including storage/shop areas served exclusively by exterior entrances or garages. Living area shall generally mean "heated/air conditioned" area and may be measured to the exterior surface of the walls.

### **LIVESTOCK**

Animals generally raised on farms, including cattle, sheep and goats, swine, poultry (chickens, turkeys, ducks, geese, fowl, etc.) and horses, mules, and donkeys, unless otherwise indicated.

### **LONG-SPAN PRECAST CONCRETE DECORATIVE SCREENING WALL**

A type of solid masonry barrier, fence or wall, which is designed and constructed in accordance with the City's General Design Standards, Screening Walls (Public and Private), dated February 5, 2015, as amended.

### **LOT**

A tract, parcel, plot, or building site. A Lot of record is a parcel whose boundaries have been established on a plat approved by the Planning & Zoning Commission and on file in the records of Dallas County.

***Lot Depth:*** The average horizontal distance between front and rear lot lines.

***Lot Size:*** The horizontal area contained within the lot lines.

***Lot Width:*** The required lot width is the straight line distance between the side lot lines, measured at the two points where the front building line intersects the side lot lines.

The average lot width is the average of the width at the building line as measured for the required width and the straight line distance measured between the corner where the rear lot line meets the side lot lines.

### **LOT LINES**

The property lines bounding the lot.

***Front Lot Line:*** The line separating the lot from a street right-of-way. Where a lot abuts 2 perpendicular streets, the front line is generally the shorter of the lot lines abutting a street and the line most nearly parallel to an interior side lot line shall be an exterior side lot line, not a front lot line, except on a key lot. Where a lot abuts 2 parallel streets, both lines adjacent to a street shall be front lot lines.

***Rear Lot Line:*** The lot line most distant from and most parallel to the front lot line.

***Side Lot Line:*** Any lot line intersecting a front lot line and any line which is not a front or rear lot line. A side lot line separating a lot from another lot is called an interior side lot line. An exterior lot line separates the lot from a side street on a corner lot.

### **MASONRY** (Ord. 3656 / 6-7-04)

Unless otherwise provided for in this ordinance, residential exterior fire resistant construction shall mean brick, stone (natural and/or manufactured), architectural concrete block, glass block and stucco. Other exterior construction materials for non-residential structures are tilt wall concrete panels, concrete masonry units, architectural concrete block and exterior finish and insulation system (EFIS).

### **MOBILE HOME**

A single family detached, factory-built home designed to be used as a year-round residential dwelling, transportable in one or more sections, and built on a permanent chassis, but not intended for transport other than for the purpose of delivery to a permanent site.

### **MOBILE HOME PARK**

Any lot or part thereof or any parcel of land which is used or offered as a location for two or more mobile homes.

### **MONEY TRANSFER BUSINESS**

An establishment, other than a bank or financial institution that engages in, or facilitates, the transmission of funds to or from a location outside the United States and its territories for a fee.

### **NON-CONFORMING USES, PREMISES, AND STRUCTURES** (See 1-300)

**OPEN SPACE**

The portion of a building site which is not occupied by structures, parking, or drives.

**OUTDOOR DISPLAY, SALES, AND STORAGE** (See 3-600)

**PATIO HOME** (Ord. 3837 / 10-16-2006)

A detached, single-family unit that orients outdoor activity within rear or side yard patio areas for better use of the site for outdoor living space.

**PAYDAY ADVANCE OR LOAN BUSINESS**

An establishment that makes small consumer loans, usually backed by postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until an applicant's next payday, and then cashed unless the customer repays the loan to reclaim such person's check.

**PERSONAL CARE HOME** (Ord. 4210 / 4-16-2012)

A residential establishment that provides food, shelter and *personal care services* to three (3) or fewer persons unrelated to the proprietor of the establishment.

**PERSONAL CARE SERVICES** (Ord. 4210 / 4-16-2012)

Assistance with feeding dressing, moving, bathing, or other personal needs or maintenance; administration of medication by a person licensed or otherwise authorized in this State to administer the medication or provide assistance with or supervision of the administration of medication; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence or who needs assistance to manage the person's personal life, regardless of whether a guardian has been appointed for the person.

**PRE-PACKAGED BEVERAGES** (Ord. 4161 / 7-5-2011)

Beverages sold to the consumer in the original container and include, but are not limited to, soft drinks, beer, wine, bottled water, milk, and juices.

**PRIVATE**

Private shall mean operated for the exclusive use of the occupants of a property or other specified area such as a neighborhood, including guests of the occupants.

**PRIVATE CLUB**

A private club shall mean a club offering the sale of alcoholic beverages to members as defined and permitted by the State Alcoholic Beverage Code, unless otherwise specified.

**PUBLIC**

Public shall mean owned and/or operated by the City or other governmental agency, unless otherwise specified.

**RANGE**

The variation, if any, in the actual referenced dimension, ratio of material, size or specification of existing primary buildings on the two most adjacent developed lots with the same primary street frontage. (Ord. 4372 / 7-20-2015)

**RECEPTION FACILITY** (Ord. 4541 / 2-19-2018)

An establishment that is made available for private use, principally for parties, dances, receptions, banquets or similar social events. The term does not include, and a separate certificate of occupancy is required for, the following uses if permitted by the applicable zoning regulations: restaurant; drinking place with private club; hotel; country club; theater; civic, social, fraternal organization; or commercial amusement.

***Minor Reception Facility:*** A Reception Facility that does not exceed 6,000 square feet of enclosed space.

***Major Reception Facility:*** A Reception Facility with more than 6,000 square feet of enclosed space.

**RECREATIONAL AND ENTERTAINMENT FACILITIES** (Ord. 4585 / 8-1-2018)

A facility whose principal purpose is to provide space and equipment for nonprofessional athletic activities within a fully enclosed building. A recreational and entertainment facility includes, but is not limited to, the following: batting cages, ice or roller skating rink, indoor rides, miniature golf course, laser tag, whirlyball, children play center, trampoline park, climbing center or similar facility or any combination of the above. This use does not include indoor shooting ranges.

**REFUELING STATIONS** (Ord. 4528 / 12-18-2017)

A commercial establishment that offers combustible fuels such as gasoline, diesel, ethanol, liquefied natural gas or propane for sale to the public for fueling automobiles and sport utility vehicles, recreational vehicles, trucks, commercial, light-load or heavy-load vehicles or similar vehicles, as a primary or accessory use.

**RESIDENTIAL CARE FACILITY** (Ord. 4210 / 4-16-2012)

A *personal care home, community home, group home, care institution, or other assisted living facility*, as those terms are defined herein.

**SETBACK**

The required minimum distance between any structure and any lot line of the lot on which it is located. Setbacks shall be measured perpendicular to the lot line. (See also Yard).

**SIC** (See Standard Industrial Classification)

**STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE**

The use listing and numbering system as set out in the Standard Industrial Classification Manual (1987) of the Statistical Policy Division of the U.S. Office of Management and Budget. Nonresidential uses are listed and defined by their SIC reference group unless otherwise noted.

**STORY** (See definition in Building Code)

**STREET**

A public or private roadway which affords the principal access to an abutting lot.

*Arterial Street:* A street designated as such on the Mesquite Thoroughfare Plan.

*Residential Street:* A street in a 50 or 60 foot right-of-way and not designated as an arterial street on the Mesquite Thoroughfare Plan.

**STRUCTURE**

Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. Structure shall not include trailers, trailers with wheels removed, export/shipping containers, or any other device designed and/or intended for transportation purposes or any modification of such a device.

*Principal Structure:* A building or other structure occupied by or used by a principal use.

*Accessory Structure:* A building or other structure on a lot which is occupied by an accessory use. Accessory structure shall include agricultural structures and buildings, statues, monuments, and fountains.

**TOWNHOUSE** (Ord. 3837 / 10-16-2006)

A single-family, attached dwelling unit in a building with three or more dwelling units, each being on a separate lot and attached by common vertical walls extending from the foundation through the roof and structurally independent of the corresponding wall of the adjoining unit.

**TRUCK STOP** (Ord. 4371 / 7-20-2015)

A building, business or premises consisting of one or more adjoining parcels, that includes the refueling of *heavy load vehicles* and which offers, provides directly or through on-site third parties, conducts or acquiesces in, with or without

payment, fee, minimum fuel purchase or any other form of compensation, any of the following services or amenities for *heavy load vehicles* or the drivers of such vehicles: major or minor repairs or maintenance, tire sales or repair, a facility or designated space for self-repairs, parking in excess of four hours, overnight accommodations, showers, laundry or fitness facilities, or truck washing.

## **USE**

The purpose for which land or structure is or may be occupied in a zoning district.

***Principal Use:*** Any activity which is a primary part of the total activity and is more than incidental or insubstantial to other activities. Activity in a building or on a lot may include several principal uses. Some principal uses may be secondary in nature to another activity, but not so insubstantial as to be classified accessory.

***Accessory Use:*** An activity conducted in conjunction with a principal use which constitutes only an incidental or subordinate part of the total activity and which is commonly associated with the principal use. An activity which is an integral or substantial part of the primary use shall not be classified as accessory.

## **USED CAR LOT**

A lot or tract of land used for the sale or display for sale of two or more previously owned vehicles including but not limited to passenger automobiles, motorcycles, trucks, dune-buggies and other types of motor vehicles designed for use upon the public roads or for pleasure off public roads but not including farm implements, mobile home, camper and recreational vehicles as defined by City Code or construction equipment such as cranes, bulldozers and related equipment and trucks over one ton capacity.

## **UTILITY FACILITIES**

Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity or any entity defined as a public utility and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil, or electronic signals.

***Neighborhood Facilities:*** Utility facilities that are designed to serve the immediately surrounding properties.

***Community and Regional Facilities:*** All utility facilities other than neighborhood facilities.

## **VARIETY STORE** (Ord. 4583 / 7/16/2018)

A retail store that sells a wide variety of relatively small and inexpensive items, as defined by "A Planner's Dictionary" published by the American Planning Association.

## **VEHICLES**

***Commercial:*** A heavy load vehicle or any vehicle which is marked with a sign indicating its business usage.

***Heavy Load Vehicle:*** A vehicle having a manufacturer's classification of 2 tons or more, or having more than 2 axles, such as tractor-trailers, large recreational vehicles, buses, large vans, and other similar vehicles.

***Light Load Vehicle:*** A vehicle having a manufacturer's classification of less than 2 tons, but in no case having more than 2 axles.

## **YARD, GENERAL**

An open space that lies between a building or structure and a lot line.

## **YARD, REQUIRED**

An open space that lies between a lot line and the required setback line.

**Front Yard:** That portion of a lot which abuts the street, extending across the width of the lot from the front lot line to the structure (general) or to the front setback line (required).

**Rear Yard:** That portion of a lot, extending between the side lot lines from the rear lot line to the structure (general) or to the rear setback line (required) and not abutting a street.

**Side Yard:** That portion of a lot, extending between the front and rear setback lines, from the side lot line to the structure (general) or to the side setback line (required). An interior side yard abuts another lot or an alley. An exterior side yard abuts a side street on a corner lot.

## 6-200 DEFINITIONS FOR HISTORIC PRESERVATION AND LANDMARKS

This Zoning Ordinance shall be construed liberally to effect the purposes and intent thereof.

### **6-201 ABBREVIATIONS AND ACRONYMS.**

**Ord. 4738/11-04-2019**

#### **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
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

**6-202 DEFINITIONS**

**Ord. 4738/11-04-2019**

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

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** means new construction added to an existing building or structure.

**Alteration.** Alteration means 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.** Applicant means 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.** Appurtenant features means 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.** Archeological Significance means 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 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.** Archaeological site means 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.** Architectural feature and/or "exterior architectural feature(s)" means 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.** Architectural interest means 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.** Architectural Significance means 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.** Building means 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.** Certificate of Appropriateness is 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.** Certificate of Demolition, Removal or Relocation is 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.

***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.*** City shall mean the City of Mesquite, Texas.

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

***Compatible Property*** means 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.*** Construction means 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. Contributing property means a contributing property and 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.*** Cultural significance is 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.*** Demolition means 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.

***Deterioration from Neglect.*** Deterioration from neglect means 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.*** District means 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.*** Element means a material part or detail of a building, structure, object, site, street, or district.

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

***Exception for Economic Non-Viability.*** An Exception for Economic Non-Viability is 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).*** Exterior features 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.*** Façade shall mean the entire exterior building wall including the parapet.

***Form.*** Form means the shape and structure of a building.

***Harmonious.*** Harmonious means having a pleasing or congruent arrangement.

***Historic Designated or Historic Designation(s).*** Historic designated or historic designation(s) means 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.*** A *Historic Designation Application* is 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.*** Historic District means 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 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.*** Historic integrity is 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.

***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 properties or non-contributing property, are subject to the regulations of the H-POD.

***Historic Rehabilitation.*** See "Rehabilitation."

***Historic Resource.*** Historic resource means 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.*** Historic resources survey means 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.*** Historic significance is 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.

**Improvement.** Improvement means 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 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.** Inventory means 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.”  
See “State Archeological Landmark.”
- Local.** See “Mesquite Landmark” (ML).

**Landmark Commission (LC).** The Mesquite Landmark Commission (“LC”) shall mean 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.** Maintain means to keep in an existing state of preservation or repair.

**Major Change(s).** Major change(s) are 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.** 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.

**Material Change of Exterior Appearance.** Material Change of Exterior Appearance means 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.** Materials means 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).** Minor change(s) are 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.

**National Historic Landmark (NHL).** National Historic Landmark (NHL) means 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).** National Register of Historic Places means 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.** National register-eligible property means 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.** National register-listed property means 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.** New construction means 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. Non-contributing property means a non-contributing property and 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).

**Object.** Object means 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.** Ordinary repair and maintenance means 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.** Overlay zoning district means 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.** Owner shall mean 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.** Owner of record means 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.** Prehistoric significance means 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.** Preservation means 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.** [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.** Preservationist shall mean someone with experience, education or training in the field of preservation.

**Protected Tree.** See “Tree, Protected Tree.”

**Reconstruction.** Reconstruction means 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).** [Recorded Texas Historic Landmark](#) is 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.** Regulated permit means 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.** Rehabilitation means 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.** Relocation means any repositioning of a building, structure, or object on its site or moving it to another site.

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

**Resource.** See “Historic Resource.”

**Restoration.** Restoration shall mean 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.** Restoration alternatives include, but are not limited to, different materials, techniques or methods for rehabilitation of historic buildings and structures, or archeological sites.

**Retain.** Retain means 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.** Scale means 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.** Setting means the sum of attributes of a locality, neighborhood or property that defines its character.

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

**Significant Tree.** See “Tree, Protected Tree.”

**Site.** Site means 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.** Stabilization means 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.** State antiquities landmark means 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.** State Archeological Landmark shall mean 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).** **\*\*Look this up\*\*** State Historic Preservation Office (SHPO) means 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.** Streetscape means 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.** Structure is 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.

**Style.** Style means 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.

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

**Tax Credits.** Tax credits are 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 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).

**Visible from the Street.** Visible from the street means 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.** Zoning means 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.