

ORDINANCE NO. _____
Zoning Text Amendment No. 2021-04

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE, AS AMENDED, BY MAKING CERTAIN DELETIONS AND ADDITIONS IN THE MESQUITE ZONING ORDINANCE TO VARIOUS PARTS AND SECTIONS REGARDING MESQUITE LANDMARKS AND HISTORIC PRESERVATION OVERLAY DISTRICTS, DESIGNATIONS, AND REGULATIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite, Texas (the “**City**”), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to the Texas Constitution, Article 11, Section 5 and the Texas Local Government Code, Chapter 9; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, Section 51.072(a); and

WHEREAS, it is the intent of the City Council of the City (the “**City Council**”) to protect the public health, safety, and welfare; and

WHEREAS, the City may regulate the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes pursuant to Texas Local Government Code, Title 7, Subtitle A, Chapter 211, Section 211.003; and

WHEREAS, on September 27, 2021, the City’s Planning and Zoning Commission considered text amendments to the Mesquite Zoning Ordinance (“**MZO**”) and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommended the City Council adopt the text amendments to the MZO as was first presented to the City Council on October 18, 2021; and

WHEREAS, the City Council gave public notice and held a public hearing regarding the proposed MZO text amendments on October 18, 2021; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the MZO as herein provided.

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

SECTION 1. The statements, facts, findings, and recitals contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated herein and adopted as part of this ordinance for all purposes.

SECTION 2. That the MZO, as amended, be and the same is hereby amended by making certain deletions and additions as identified in Exhibit A. The amended sections of the MZO shall now read as shown in Exhibit B. Said exhibits are attached hereto and made a part hereof, and in all other respects said MZO, parts, and sections shall remain in full force and effect.

SECTION 3. All ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. Should any word, sentence, clause, paragraph, phrase or section of this ordinance be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

SECTION 5. Any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed \$2,000.00 for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

SECTION 6. This ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of October 2021.

Bruce Archer
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary


David L. Paschall
City Attorney

MESQUITE CITY CODE

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APPENDIX C – MESQUITE ZONING ORDINANCE

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PART 4. – PD AND OVERLAY DISTRICTS

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

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[Editor's Note: Make the following revisions with additions identified in green font and underlined and deletions identified in ~~red font with strikethrough~~.]

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

A. Purpose.

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

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

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

1. any building, structure, object, site, property, or land, including a protected tree; and
2. at least fifty (50) years old; and
3. deemed to have Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined in Section 6-200, to the City, State or nation; and
4. receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission; and
5. ~~receives a review and recommendation, either for approval or denial, from the Planning & Zoning Commission; and~~
6. City Council approves the designation by ordinance with:

- a. *Simple Majority Vote.* A simple majority vote of all members of the City Council (i.e., 4 favorable votes) if the Owner of record consents to the designation.

Charter reference – Art. IV, Sec. 17.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

- b. *Three-Fourths Vote.* A three-fourths ($\frac{3}{4}$) vote of all members of the City Council is required for approval (i.e., 6 favorable votes) if the Owner of record does not consent to the designation along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval (i.e., 6 favorable votes) by ~~either~~ the Landmark Commission ~~or the Planning & Zoning Commission.~~

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

C. Application.

1. Property Owner-Initiated Designation.

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

2. City-Initiated Designation.

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

D. Review and Recommendation by the Landmark Commission.

1. *Schedule Public Hearing.* Upon staff's acceptance and determination of a complete application, the Historic Preservation Officer, or his/her designees, shall schedule a public hearing at the next practicable Landmark Commission meeting.
2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.
3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the ~~Planning & Zoning Commission~~City Council as to whether or not the building, structure, object, site, property, or land is eligible for a Mesquite Landmark (ML) designation according to the criteria for designation ~~in~~ and the merits of the application.

 - a. *Recommendation for Approval.*

 - (1) *Owner Consent – Simple Majority Vote.* If the Owner of record consents to the designation a simple majority vote, of a quorum, of the Landmark Commission, present and voting, is required to recommend designation.
 - (2) *No Owner Consent – Three-fourths Vote.* If the Owner of record does not consent to the designation a three-fourths (¾) vote (i.e., 6 favorable votes), of all members of the Landmark Commission ~~or of all members of the Planning & Zoning Commission,~~ is required to recommend designation. If three-fourths (¾) of the

Landmark Commission members do not recommend approval, ~~the application continues to the Planning & Zoning Commission~~, the application is deemed denied and shall not be forwarded to the City Council for consideration.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

b. *Recommendation for Denial.*

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

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

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

- ~~1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark Commission, the matter shall be scheduled by staff for the next practicable Planning & Zoning Commission meeting for a public hearing.~~
- ~~2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance.~~
- ~~3. *Recommendation.* The Planning & Zoning Commission shall consider the criteria for designation specified in the Zoning Ordinance.~~

~~a. *Recommendation for Approval.*~~

- ~~(1) *Owner Consent – Simple Majority Vote.* If the Owner of record consents to the designation a simple majority vote, of the Planning & Zoning Commission, is required to recommend designation.~~
- ~~(2) *No Owner Consent – Three-Fourths Vote.* If the Owner of record does not consent to the designation a three-fourths (¾) vote, of all members of either the Landmark Commission or a three-fourths (¾) vote of all members of the Planning & Zoning Commission, is required to recommend designation and the application continues to the City Council. If a three-fourths (¾) vote of approval is not received from either the Landmark Commission or the Planning & Zoning Commission, the application is deemed denied and shall not be forwarded to the City Council for consideration. (State law reference: Tex. Loc. Gov't Code Ann. § 211.0165).~~

~~b. *Recommendation for Denial.*~~

- ~~(1) *Owner Consent.* When the Owner of record consents to the designation, and the Planning & Zoning Commission recommends denial of the application, the application continues to the City Council.~~
- ~~(2) *No Owner Consent.* When the Owner of record does not consent to the designation, and the Planning & Zoning Commission recommends denial of the application, the application continues to the City Council only if the Landmark Commission recommended approval of the designation with a three-fourths (¾) vote.~~

F. Decision by the City Council.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the ~~Planning & Zoning Commission~~Landmark Commission, the matter shall be scheduled by staff for the next practicable City Council meeting for a public hearing.
2. *Notice.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

3. *Decision.*

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

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

Charter reference – Art. IV, Sec. 17.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

- (2) *No Owner Consent – Three-Fourths Vote.* If the Owner of record does not consent to the designation a three-fourths ($\frac{3}{4}$) vote, of all members of the City Council, (i.e., 6 favorable votes), is required to approve the designation, along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval by ~~either the Landmark Commission. or the Planning & Zoning Commission.~~

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

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

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

4. *Resubmission of application.*

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

G. Decision Recordation.

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

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

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

A. Purpose.

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

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

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

1. at least seventy-five (75) percent of the properties are at least fifty (50) years old; and
2. are deemed to have Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined in [Section 6-200](#); and
3. in the case of:
 - a. Property owner-initiated designations the receipt of the written support and consent of at least sixty (60) percent of the property owners of record within the proposed area; or
 - b. City-initiated designations, property owner signatures are not required; and
4. historic buildings, structures, sites, objects or landscapes need not be contiguous for an area to constitute an H-POD; and
5. receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission; and
6. City Council approves the designation by ordinance with:
 - a. Simple Majority Vote. A simple majority vote of all members of the City Council (i.e., 4 favorable votes) if the Owner(s) of record consent to the designation.

Charter reference – Art. IV, Sec. 17.
State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.
 - b. Three-Fourths Vote. A three-fourths (¾) vote of all members of the City Council is required for approval (i.e., 6 favorable votes) if any Owner of record does not consent to the designation along with first receiving a three-fourths (¾) favorable vote for recommendation of approval (i.e., 6 favorable votes) by the Landmark Commission.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

C. Application.

1. Property Owner-Initiated Designation.

- a. *Applicant.* Any person or business entity having a proprietary interest in a property, within the subject area, may submit an application to designate any locally defined area (or multiple areas) as a H-POD – Historic Preservation Overlay District.
- b. *Application and fees.* Applications shall be made in writing on a form suitable to the Director of Planning and Development Services, or his/her designees, and accompanied by payment of the appropriate fee to be charged by the City for administering the application. See Appendix D of Mesquite City Code for applicable fees.
- c. *Sixty (60) Percent Owner Consent.*

(1) General rule. A *Historic Designation Application* for property owner-initiated designation of any H-POD – Historic Preservation Overlay District must contain the signatures of property owners of record, or authorized agents, of at least sixty (60) percent of the total number of lots or parcels of land in the proposed district boundaries, as determined by the most recently approved municipal tax roll in which the district is located.

~~(1)~~(2) *Calculation of the Sixty (60) Percent.*

- (a) For purposes of calculating the support of sixty (60) percent of the property owners of record, each property as listed on the tax rolls shall be counted individually, regardless of whether an individual or group owns multiple properties within the proposed area.
- (b) Additionally, for properties owned by more than one party, only one (1) property owner of record need submit written support in order for the Historic Preservation Officer to count the property in the calculation.

2. City-Initiated Designation.

a. Landmark Commission recommendation to City Council. The Landmark Commission ~~or Planning & Zoning Commission~~ may recommend to the City Council an application be submitted to designate any locally defined area (or multiple areas) within the incorporated limits of the City as an H-POD – Historic Preservation Overlay District.

c. City Council. The City Council may, on its own motion or upon the recommendation received from the Landmark Commission, direct the City ~~staff~~Manager to initiate designation proceedings. Upon approval of such motion, the Historic Preservation Officer, or his/her designees, shall prepare a *Historic Designation Application* including a request for a zoning map amendment and a zoning text amendment to the Zoning Ordinance on behalf of the City of Mesquite. Property owner signatures are not required.

D. Review and Recommendation by the Landmark Commission.

1. *Schedule Public Hearing.* Upon staff's acceptance and determination of a complete application, the Historic Preservation Officer, or his/her designees, shall schedule a public hearing at the next practicable Landmark Commission meeting.
2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.
3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the ~~Planning & Zoning Commission~~ City Council as to whether or not the locally defined area (or multiple areas) within the incorporated limits of the City is eligible for designation as an H-POD – Historic Preservation Overlay District according to the criteria for designation in and the merits of the application.
 - ~~a. *Recommendation for Approval.* A simple majority vote of the Landmark Commission is required to recommend designation. If the Landmark Commission recommends approval of the application, the application continues to the Planning & Zoning Commission.~~
 - ~~b. *Recommendation for Denial.* A simple majority vote of the Landmark Commission is required to recommend denial of designation. If the Landmark Commission recommends denial of the application, the application continues to the Planning & Zoning Commission.~~
 - a. *Recommendation for Approval.*
 - (1) *Owner(s) Consent – Simple Majority Vote.* If the Owner(s) of record consent to the designation a simple majority vote of a quorum, of the Landmark Commission present and voting, is required to recommend designation.
 - (2) *No Owner Consent – Three-fourths Vote.* If any Owner of record does not consent to the designation a three-fourths (¾) vote (i.e., 6 favorable votes), of all members of the Landmark Commission, is required to recommend designation. If three-fourths (¾) of the Landmark Commission members do not recommend approval, the application is deemed denied and shall not be forwarded to the City Council for consideration.
 - b. *Recommendation for Denial.*
 - (1) *Owner(s) Consent.* If the Owner(s) of record consent to the designation, but the Landmark Commission recommends denial of the application, the application shall still continue to the City Council for consideration.
 - (2) *No Owner Consent.* If any Owner(s) of record do not consent to the designation, and the Landmark Commission recommends denial of the application, the application is deemed denied and shall not be forwarded to the City Council for consideration.

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

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

F. Decision by the City Council.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the ~~Planning & Zoning Commission~~Landmark Commission, the matter shall be scheduled by staff for the next practicable City Council meeting for a public hearing.
2. *Notice.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

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

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

City Charter reference – Art. IV, Sec. 17.

State law reference – Tex. Loc. Gov't Code Ann. § 211.006.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

- (2) *No Owner(s) Consent – Three-Fourths Vote.* If the ~~proposed designation of an H-POD – Historic Preservation Overlay District is protested by the owners of at least twenty (20) percent of either the area covered by the proposed change or of the area immediately adjoining the area covered by the proposed change and extending two hundred (200) feet from the subject area, then a three-fourths (¾) vote of all members of the City Council for approval (i.e., 6 favorable votes) shall be required to approve the designation.~~ If any Owner of record does not consent to the inclusion of their property within the H-POD, a three-fourths (¾) vote, of all members of the City Council, (i.e., 6 favorable votes), is required to approve the designation, along with first receiving a three-fourths (¾) favorable vote (i.e., 6 favorable votes) for recommendation of approval by the Landmark Commission.

State law reference – Tex. Loc. Gov't Code Ann. § 211.006.

City Charter reference – Art. IV, Sec. 17.

State law reference – Tex. Loc. Gov't Code Ann. § 211.0165.

b. In the event the City Council approves the designation of the H-POD – Historic Preservation Overlay District, the following shall occur concurrently.

(2) *Map Amendment to the Zoning Ordinance.* A map amendment shall be made to the official Zoning Map of the City of Mesquite, Texas, as periodically amended, depicting the area designated as "H-POD."

(3) *Text Amendment to the Zoning Ordinance.*

(a) If applicable, the Zoning Ordinance shall be updated to include any specific design standards for individual H-PODs to provide for enhanced protection of the area's specific development patterns.

(b) The *City of Mesquite, Texas, Landmark Register of Historic Places* shall be updated to add the designated H-POD – Historic Preservation Overlay District.

4. *Resubmission of Application.*

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

G. Decision Recordation.

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

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

MESQUITE CITY CODE

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APPENDIX C – MESQUITE ZONING ORDINANCE

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PART 4. – PD AND OVERLAY DISTRICTS

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

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

* * *

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

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

1. any building, structure, object, site, property, or land, including a protected tree; and
2. at least fifty (50) years old; and
3. deemed to have Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined in [Section 6-200](#), to the City, State or nation; and
4. receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission; and
5. City Council approves the designation by ordinance with:

- a. *Simple Majority Vote.* A simple majority vote of all members of the City Council (i.e., 4 favorable votes) if the Owner of record consents to the designation.

Charter reference – [Art. IV, Sec. 17](#).

State law reference – Tex. Loc. Gov’t Code Ann. [§ 211.0165](#).

- b. *Three-Fourths Vote.* A three-fourths ($\frac{3}{4}$) vote of all members of the City Council is required for approval (i.e., 6 favorable votes) if the Owner of record does not consent to the designation along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval (i.e., 6 favorable votes) by the Landmark Commission.

State law reference – Tex. Loc. Gov’t Code Ann. [§ 211.0165](#).

C. Application.

1. Property Owner-Initiated Designation.

- a. *Applicant.* Any person or business entity having a proprietary interest in a property may submit an application to designate the property as a Mesquite Landmark (ML).
- b. *Application and fees.* Applications shall be made in writing on a form suitable to the Director of Planning and Development Services, or his/her designees, and accompanied by payment of the appropriate fee to be charged by the City for administering the application. See Appendix D of Mesquite City Code for applicable fees.

- c. *Consent of all Owners of record.* A complete *Historic Designation Application* for property owner-initiated designation of an individually designated local Mesquite Landmark (ML) shall require the signatures of all owners of record of the property, or their authorized agents.

2. City-Initiated Designation.

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

D. Review and Recommendation by the Landmark Commission.

* * *

- 2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.
- 3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the City Council as to whether or not the building, structure, object, site, property, or land is eligible for a Mesquite Landmark (ML) designation according to the criteria for designation and the merits of the application.

- a. *Recommendation for Approval.*

- (1) *Owner Consent – Simple Majority Vote.* If the Owner of record consents to the designation, a simple majority vote of a quorum of the Landmark Commission, present and voting, is required to recommend designation.
 - (2) *No Owner Consent – Three-fourths Vote.* If the Owner of record does not consent to the designation, a three-fourths ($\frac{3}{4}$) vote (i.e., 6 favorable votes) of all members of the Landmark Commission is required to recommend designation. If three-fourths ($\frac{3}{4}$) of the Landmark Commission members do not recommend approval, the application is deemed denied and shall not be forwarded to the City Council for consideration.

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

- b. *Recommendation for Denial.*

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

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

E. Decision by the City Council.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark Commission, the matter shall be scheduled by staff for the next practicable City Council meeting for a public hearing.
2. *Notice.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

3. *Decision.*

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

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

Charter reference – [Art. IV, Sec. 17](#).

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

- (2) *No Owner Consent – Three-Fourths Vote.* If the Owner of record does not consent to the designation, a three-fourths ($\frac{3}{4}$) vote of all members of the City Council (i.e., 6 favorable votes) is required to approve the designation, along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval by the Landmark Commission.

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

* * *

4. *Resubmission of application.*

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

* * *

F. Decision Recordation.

* * *

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

* * *

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

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

1. at least seventy-five (75) percent of the properties are at least fifty (50) years old; and
2. are deemed to have Pre-historic Significance, Historic Significance, Architectural Significance, Archeological Significance, or Cultural Significance, as defined in [Section 6-200](#); and
3. in the case of:
 - a. Property owner-initiated designations the receipt of the written support and consent of at least sixty (60) percent of the property owners of record within the proposed area; or
 - b. City-initiated designations, property owner signatures are not required; and
4. historic buildings, structures, sites, objects or landscapes need not be contiguous for an area to constitute an H-POD; and
5. receives a review and recommendation, either for approval or denial, from the Mesquite Landmark Commission; and
6. City Council approves the designation by ordinance with:
 - a. *Simple Majority Vote.* A simple majority vote of all members of the City Council (i.e., 4 favorable votes) if the Owner(s) of record consent to the designation.

Charter reference – Art. IV, Sec. 17.

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

- b. *Three-Fourths Vote.* A three-fourths ($\frac{3}{4}$) vote of all members of the City Council is required for approval (i.e., 6 favorable votes) if any Owner of record does not consent to the designation along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote for recommendation of approval (i.e., 6 favorable votes) by the Landmark Commission.

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

C. Application.

1. Property Owner-Initiated Designation.

* * *

c. Sixty (60) Percent Owner Consent.

- (1) *General rule.* An *Historic Designation Application* for property owner-initiated designation of any H-POD – Historic Preservation Overlay District must contain the

signatures of property owners of record, or authorized agents, of at least sixty (60) percent of the total number of lots or parcels of land in the proposed district boundaries, as determined by the most recently approved municipal tax roll in which the district is located.

(2) *Calculation of the Sixty (60) Percent.*

* * *

2. **City-Initiated Designation.**

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

D. **Review and Recommendation by the Landmark Commission.**

* * *

2. *Notice and Publication.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.
3. *Recommendation.* The Landmark Commission shall make a recommendation, either for approval or denial, to the City Council as to whether or not the locally defined area (or multiple areas) within the incorporated limits of the City is eligible for designation as an H-POD – Historic Preservation Overlay District according to the criteria for designation in and the merits of the application.
 - a. *Recommendation for Approval.*
 - (1) *Owner(s) Consent – Simple Majority Vote.* If the Owner(s) of record consent to the designation, a simple majority vote of a quorum of the Landmark Commission, present and voting, is required to recommend designation.
 - (2) *No Owner Consent – Three-fourths Vote.* If any Owner of record does not consent to the designation, a three-fourths ($\frac{3}{4}$) vote (i.e., 6 favorable votes) of all members of the Landmark Commission is required to recommend designation. If three-fourths ($\frac{3}{4}$) of the Landmark Commission members do not recommend approval, the application is deemed denied and shall not be forwarded to the City Council for consideration.
 - b. *Recommendation for Denial.*
 - (1) *Owner(s) Consent.* If the Owner(s) of record consent to the designation, but the Landmark Commission recommends denial of the application, the application shall still continue to the City Council for consideration.
 - (2) *No Owner Consent.* If any Owner(s) of record do not consent to the designation,

and the Landmark Commission recommends denial of the application, the application is deemed denied and shall not be forwarded to the City Council for consideration.

E. Decision by the City Council.

1. *Schedule Public Hearing.* Upon receiving a recommendation by the Landmark Commission, the matter shall be scheduled by staff for the next practicable City Council meeting for a public hearing.
2. *Notice.* The matter shall proceed in the same manner as a request for both a map amendment and text amendment to the Zoning Ordinance; except that the Landmark Commission shall make the recommendation to the City Council without the need for the Planning and Zoning Commission's review and recommendation.

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

3. *Decision.*

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

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

City Charter reference – [Art. IV, Sec. 17](#).

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

- (2) *No Owner(s) Consent – Three-Fourths Vote.* If any Owner of record does not consent to the inclusion of their property within the H-POD, a three-fourths ($\frac{3}{4}$) vote of all members of the City Council (i.e., 6 favorable votes) is required to approve the designation, along with first receiving a three-fourths ($\frac{3}{4}$) favorable vote (i.e., 6 favorable votes) for recommendation of approval by the Landmark Commission.

City Charter reference – [Art. IV, Sec. 17](#).

State law reference – Tex. Loc. Gov't Code Ann. [§ 211.0165](#).

* * *

4. *Resubmission of Application.*

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

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