

ORDINANCE NO. 438

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING SECTION 107 OF THE 1955 EDITION OF THE NATIONAL BUILDING CODE BY AMENDING SECTION 107.1 PROVIDING FOR THE APPOINTMENT OF A BOARD OF APPEAL; BY AMENDING SECTION 107.2 PROVIDING FOR THE TERM OF OFFICE OF THE BOARD OF APPEAL; BY AMENDING SECTION 107.3 PROVIDING FOR A QUORUM OF THE BOARD OF APPEAL; BY AMENDING SECTION 107.5 PROVIDING FOR THE PROCEDURE OF THE BOARD OF APPEAL; BY AMENDING SECTION 107.6 PROVIDING FOR APPEALS TO THE BOARD OF APPEAL; BY AMENDING SECTION 107.7 PROVIDING FOR MODIFICATIONS AND VARIATIONS BY THE BOARD OF APPEAL; BY AMENDING SECTION 107.8 PROVIDING FOR DECISIONS OF THE BOARD OF APPEAL; AND BY AMENDING SECTION 107.9 PROVIDING FOR APPEALS FROM DECISIONS OF THE BOARD OF APPEAL; AND DECLARING AN EMERGENCY.

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

Section 1. That Section 107.1 of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

"107.1 Appointment: There is hereby created a Board of Appeal consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction and who shall be appointed by the City Manager with the advice and consent of the City Council."

Section 2. That Section 107.2 of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

"107.2 Term of Office: The members of the Board of Appeal shall hold office from the date of their appointment and qualification until their successors have been appointed and qualified. The appointment or reappointment of members of the Board of Appeal shall be such that three (3) members shall be appointed on or about January 1 of odd-numbered years, and two (2) members shall be appointed on or about January 1 of even-numbered years. Any member of the Board of Appeal may be removed by the Governing Body of the City of Mesquite for cause. Vacancies within the Board shall be filled by appointment for the unexpired term."

Section 3. That Section 107.3 of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

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"107.3 Quorum: Three (3) members of the Board of Appeal shall constitute a quorum for the transaction of business and action taken by the quorum shall constitute an official action of the Board. No member of the Board shall pass upon any question in which he, or any corporation or firm in which he is a shareholder, is interested."

Section 4. That Section 107.5 of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

"107.5 Procedure: The Board of Appeal shall select a chairman of its own members and shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Code."

Section 5. That Section 107.6 b of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

"107.6 b Appeals: An appeal shall be taken within thirty (30) days from the date of the decision appealed, by filing with the City Secretary three (3) written copies of the appeal. A certified check in the amount of ten (\$10.00) dollars payable to the City of Mesquite shall accompany such appeal to cover the cost of processing such appeal. The City Secretary shall retain one copy of such appeal for the official records of the City and shall refer two (2) copies of the appeal to the Chief of the Division of Building Inspection, who shall investigate the facts and report the appeal and the facts to the Board of Appeal."

Section 6. That Section 107.7 a of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

"107.7 a Modifications and Variations by the Board of Appeal: The Board of Appeal, when so appealed to and after a public hearing, may vary the application of any provision of this Code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of this Code or public interest, or when, in its opinion, the interpretation of the building official should be modified or reversed. In hearing such an appeal the Board of Appeal shall not have the power to waive or set aside any of the requirements of this Code."

Section 7. That Section 107.8 a of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:

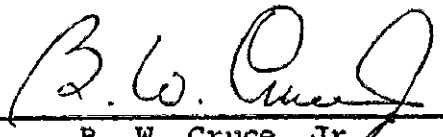
"107.8 a Decisions of the Board of Appeal: The Board of Appeal shall within thirty (30) days hear the appeal and the facts and reach a decision. Every decision of the Board shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed with the City Secretary and a certified copy of the decision mailed to the appellant."

Section 8. That Section 107.9 a and b of the 1955 Edition of the National Building Code be, and the same is, hereby amended so as to read as follows:


"107.9 a Appeals from Decisions of the Board of Appeal: A person aggrieved by a decision of said Board of Appeal may, within thirty (30) days after filing of the decision of the Board in the office of the City Secretary, apply to the appropriate Court of Law to annul or vacate the said order of the Board of Appeal. Such suit shall be filed against the Board of Appeal as defendant. The suit shall be tried as other civil cases, the burden of proof devolving upon the plaintiff assailing the order of the Board of Appeal."
"107.9 b: In such suits the Board of Appeal shall be defended by the City Attorney until final determination of the proceedings contained therein."

Section 9. Whereas, the present provisions of the 1955 Edition of the National Building Code adopted by the City of Mesquite need to be amended insofar as certain provisions concerning the Board of Appeal are concerned create an urgency and an emergency, and in the preservation of the public health, safety and welfare requires that this ordinance shall take effect immediately from and after its passage as the law and charter in such cases provides.

DULY PASSED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS on the 16th day of July, 1962.


B. W. Cruce, Jr.
Mayor

ATTEST:


Norma G. McGaughy
City Secretary