

## ORDINANCE NO. 1816

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING SECTION 19-1 OF THE CITY CODE BY REQUIRING PROPERTY OWNERS TO MAINTAIN THE PUBLIC AREAS ADJACENT TO PRIVATELY OWNED REAL PROPERTY; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. Section 19-1 of the Code of the City of Mesquite is hereby amended as follows; in all other respects to remain in full force and effect:

"It shall be unlawful for any person owning, claiming, occupying and having supervision and control of any real property to intentionally, knowingly, recklessly or with criminal negligence to permit weeds, grass, brush, or other unsightly matter to grow to a height of greater than twelve (12) inches upon such real property within one hundred and fifty (150) feet of any property line or between said property and the curb line of a street for a distance of thirty (30) feet; or, if there be no curb line, the obligation to cut and remove weeds, grass and brush and other unsightly matter shall extend to the paved portion of street; and between said real property and the paved portion of an alley and to the centerline of an unpaved alley or utility easement; and further provided, that in instances where an alley abuts public property on the opposite side from said real property and there is no private property owner with an obligation to cut and remove weeds, grass, brush and other unsightly matter the obligation of the private real property owner on the one side of said alley shall extend to both sides of said alley; provided, however, that the obligation of the private real property owner, in no case shall extend to a distance of more than thirty (30) feet from the property line of real property by reason of such ownership, occupancy and control thereof.

It shall be a defense hereunder if the public property abutting private real property and within thirty (30) feet thereof is of such a nature that mowing thereof is rendered impossible or unreasonably difficult by reason of rough terrain, steep slopes or across a drainage ditch.

All vegetation not regularly cultivated and which exceeds twelve (12) inches in height shall be presumed to be objectionable and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street or easement, but shall be kept mowed the same as provided above. All vegetation not regularly cultivated and which exceeds twelve (12) inches in height, excluding trees and shrubs and domesticated flowers, shall be prima facie deemed to be objectionable and unsightly, subject to rebuttal as in other cases.

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Regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street but shall be mowed as provided herein.

It shall be the obligation of each person having the right of control over any real property within the city to inspect same together with those adjacent areas set forth herein for weeds, grass, brush and other unsightly matter at least every thirty (30) days and failure to do so shall be deemed, for the purpose of the required mental state to constitute criminal negligence absent circumstances of an unusual nature justifying such failure, and which circumstances it shall be the burden of the defendant to demonstrate to the satisfaction of the Court.


Right of Control, for the purposes of this ordinance shall mean the right to possession or use of the private real property, jointly or singly and the public property being adjacent to such private real property and designed for enjoyment of the occupant of said private property, whether said private real property is actually occupied or not. Multi-tenant real property shall be presumed to be controlled as follows, absent evidence to the contrary: Area enclosed with the premises actually occupied by a tenant such as a private patio area - by the occupant; common areas subject to use of tenants in separate units and those adjacent public areas - by the owner. Owner shall include the owner of any degree of fee title whether through heirship, partnership or community property interest, joint venture or other circumstances but shall not include a lienholder that has not reduced such right to title. Single family units together with adjacent public areas shall be deemed within the control of the occupant."

SECTION 2. Should any word, phrase, sentence, paragraph or section of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this Ordinance shall remain in full force and effect.

SECTION 3. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed to be guilty of a misdemeanor and upon conviction in the Corporation Court shall be subject to a fine not to exceed Two Hundred (\$200.00) Dollars for each offense, and each and every day such violation continues shall constitute a separate offense.

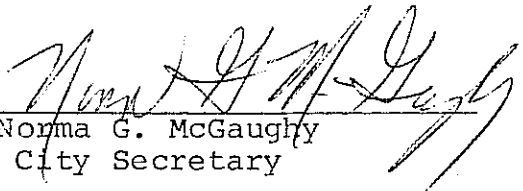
SECTION 4. The fact that the Code of the City of Mesquite, Texas, is inadequate to afford the necessary protection to the inhabitants of the city constitutes an urgency and an emergency for the preservation of the public health, safety and welfare of its citizens and requires that this ordinance shall take effect immediately from and after its passage and the publication of the caption of said ordinances, as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite,  
Texas, on the 20th day of September, A.D., 1982.

  
LEN GIBBENS  
MAYOR

ATTEST:

APPROVED AS TO FORM:

  
Norma G. McGaughy  
City Secretary

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Elland Archer  
City Attorney

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