

ORDINANCE NO. 2654

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE, DULY ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO ADOPT SECTION 1-600; TEMPORARY USES AND STRUCTURES, REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, through administration and experience, the Planning and Zoning Commission has determined that it is necessary to revise certain regulations so that the intended purposes of the Zoning Ordinance are best served; and

WHEREAS, the Planning and Zoning Commission did give public notice and did hold public hearings regarding proposed revisions and has recommended amendment of the ordinance; and

WHEREAS, the City Council did give public notice and did hold public hearings regarding the proposed amendments;

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

SECTION 1. That the Mesquite Zoning Ordinance, duly adopted on September 4, 1973, and recodified on November 21, 1988, by adopting Section 1-600; TEMPORARY USES AND STRUCTURES as set out in the attached Exhibit "A".

SECTION 2. That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part of provision hereof other than the part so decided to be invalid, illegal, or unconstitutional and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 3. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of 1973 as amended, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

SECTION 4. The fact that the present ordinances of the City of Mesquite are inadequate to protect the public interest, comfort, and general welfare of the City of Mesquite, creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, on the 5th day of February, 1990.

*George A. Venner, Sr.*  
George A. Venner, Sr.  
Mayor

ATTEST:  
*Lynn Prugel*  
Lynn Prugel  
City Secretary

APPROVED:  
*E. J. Smith*  
E. J. Smith  
City Attorney

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PART 1: GENERAL PROVISIONS  
1-600 TEMPORARY USES AND STRUCTURES

## 1-600 TEMPORARY USES AND STRUCTURES

Notwithstanding other regulations and provisions of this ordinance, the following uses and structures may be permitted on a temporary basis and shall not be deemed violations of this ordinance when in conformance with the limitations, conditions, and approvals stated below.

### 1-601 GENERAL REQUIREMENTS AND PROCEDURES

#### A. PERMITS

All temporary uses and structures shall require approval of a permit or temporary Certificate of Occupancy with the application to be submitted to the Building Official, unless otherwise noted. The review and approval of permits shall be by the Development Review Committee, unless otherwise specified. The denial of an application may be appealed to the Board of Adjustment.

#### B. PERMIT FEES

Fees may be required for temporary use permits in the amount set by the City Council for the purpose of defraying the administrative costs of processing the applications.

#### C. OWNER APPROVAL

Whenever the property owner is different than the applicant, a letter or contract may be required to show the owner's approval to use the location for the stated purpose.

#### D. SITE PLAN

Applications shall be accompanied by a site plan showing the location of structures, parking, access drives, electrical and utility connections and other information necessary to

determine the appropriateness and impacts of the proposal.

#### E. USE OF PARKING/LOADING SPACES

No use or structure shall occupy or eliminate any required parking or loading space. Provided further, that no use or structure shall occupy or eliminate any parking or loading space designated on site and/or on the approved site plan, in a shared parking area, unless at least 51% of the tenants/businesses whose parking is provided by the shared parking lot(s) shall sign a letter or other document, which is submitted with the permit application, indicating that they do not object to the proposed temporary occupancy of such spaces. For the purpose of this requirement, shared parking area shall mean any parking where several tenants or businesses have access to common and/or shared spaces. For example, shared parking areas shall include parking where several businesses are located on a tract, such as a shopping center, as well as situations where businesses on separate tracts can access each other's parking due to continuous parking lot design and/or cross-access parking agreements.

#### F. SETBACKS

No use or structure shall be located in a required front or exterior side yard.

1-602 PERMITTED TEMPORARY USES AND STRUCTURES**A. TEMPORARY CONSTRUCTION OFFICE**

The location of a temporary office may be permitted on a site for which a building permit has been issued. Such office permit may be issued for no more than one year, but may be extended if the builder maintains active and continuous construction on the site. Temporary construction office shall mean office and/or storage space related to construction activities.

**B. TEMPORARY RESIDENTIAL SALES OFFICE**

A residential real estate sales office, located on a platted lot, may be permitted within a subdivision for which building permits have been issued and may be located either in a model home, in a temporary building, or in a portable trailer. Such office permit may be issued for no more than one year, but may be extended if the builder maintains active and continuous construction within the subdivision and a minimum of 10 lots in the subdivision remain unsold. Such sales office shall be used for sales in the subject subdivision only and not for sales in any other subdivision.

**C. TEMPORARY BATCH PLANT**

A temporary concrete or asphalt batch plant may be permitted for use by a contractor for the period of active and continuous construction requiring concrete or asphalt. Such batch plant shall be located at least 500 feet from any occupied residential lot, and shall not be used for construction at any other location than the project for which it is permitted. An application to permit a temporary batch plant shall be submitted to the Engineering Division and shall include a copy of the approved State permit for such operation.

**D. TEMPORARY OUTDOOR SALES**

Temporary outdoor sales events may be permitted as set out below.

1. Sidewalk/Truckload Sales: Special outdoor sales of short duration, such as sidewalk or truckload sales, shall be permitted on the site of a lawful business, by that business or by a nonprofit/charitable organization, provided that no more than 4 sales of no more than 4 days each shall be held at a location during a calendar year. No permit shall be required for outdoor sales in accordance with this section, unless compliance with 1-601E regarding use of shared parking is required.

2. Christmas Tree Sales Lots: The outdoor sales of Christmas trees may be permitted for a period of not more than 30 days. The sale of firewood shall be permitted in conjunction with a Christmas tree sales lot. Sales lots located on undeveloped property shall provide adequate off-street parking, loading and electrical connections. Sales lots on developed sites which comply with the requirements for incidental outdoor display shall not require a permit under this section.

3. Other Special Outdoor Sales: All other sales events may be classified as Special Events and permitted under the regulations set out in 1-602E below; provided however, that the 15 day permits for sales events, shall not be combined to create longer event periods and that a minimum 30 day period shall be required between permits. See also 1-603C regarding extended permits.

**E. SPECIAL EVENTS**

Special events on a temporary basis, including but not limited to commercial

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amusements and special promotions such as circuses, carnivals, mechanical rides, pony rides, fairs, petting zoos, and including religious, civic, sports, and political events, shall be permitted in accordance with the following regulations, except as otherwise permitted by this ordinance.

1. Prohibited Events: Special events, for the purpose of this section, shall not include any use or activity which is elsewhere classified and regulated in this ordinance, which will be a permanent use of the land, or which will involve a permanent fixture or structure.

2. Permit Application: Applications for a Special Event permit shall include a description of all activities, of fixtures and equipment to be used, of the hours of operation proposed, and of other factors pertinent to evaluating health/safety and the impact on surrounding properties. No Special Event permit shall be approved unless safe and adequate provisions have been made for parking, loading, restrooms, trash containers, electrical connections and any other item deemed necessary by the Development Review Committee.

a. Other Permits: Temporary facilities such as tents, stages, benches, portable trailers, restrooms, electrical supply and connections, food service, etc. may require separate permits, which shall be limited to the duration of the event.

b. Permit Denial: The Development Review Committee shall deny any permit where it deems there is a problem or concern regarding health or safety, or where it feels adverse effects on surrounding properties are likely to occur. Factors such as proximity to residences, use of loudspeakers, use of large portions of required parking,

unsafe pedestrian street crossings, awkward circulation patterns, and similar concerns may be cause for permit denial.

3. Permit Conditions: Special event permits may be issued for 15 day periods, with a maximum of 4 such permits allowed at a location during a calendar year. Such permits, except permits for sales events, may be combined to create an event which is a maximum of 30 days in length. A minimum period of 30 days shall be required between permits. Events exceeding these limitations shall require approval by the Board of Adjustment as a Special Exception. See 1-603C.

F. MOBILE MEDICAL SERVICES

Mobile medical services, such as blood banks, mammogram testing, or care to the elderly and poor, on a non-profit basis only and not including veterinary services, may be permitted when offered from a self-contained unit, whether a vehicle or trailer. Services offered for a period of one week or less at a site shall not require a permit. Permits may be approved for periods exceeding one week, but not exceeding 30 days, at locations within a nonresidential district or at a public facility, such as a school, library, fire station, or church in a residential district.

G. TEMPORARY STORAGE VAULTS

The temporary placement of a storage vault shall be permitted on the site of a lawfully zoned business in any nonresidential zoning district, except the O-Office district, subject to the following conditions and requirements. The permanent placement of storage vaults shall be permitted where their placement is in compliance with the regulations governing outdoor storage.

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**1. Definition:** For the purposes of this Section, the term "storage vault" shall mean a vault, unit, or device designed and used specifically for storage, which is constructed of solid steel or metal construction and which is no larger than 8 1/2 feet in width, 22 feet in length, or 9 feet in height. This section shall not authorize the placement of trailers, trailers with wheels removed, export/shipping containers, or any other device designed and/or intended for transportation purposes or any modification of such device.

**2. Permits:** The following types of temporary permits may be issued for storage vaults as indicated below. No permit is required when such vault complies with the regulations for outdoor storage.

a. **60 Day Permits:** The Building Official may issue a total of two 60 day permits to a business during a calendar year to allow the placement of a storage vault, subject to compliance with the conditions and requirements stated below. Such permits may be combined to create one 120 day permit period.

b. **Construction Permit:** The Building Official may issue a permit for the placement of a storage vault upon issuance of a permit for the construction or expansion of a permanent building or a permit for the repair/rehabilitation of a business which has had extensive damage. When a building permit has been issued, the use of a storage vault may be authorized for the period of active construction on the site.

**3. Required Conditions:** Storage vaults permitted pursuant to this section shall comply with the following requirements.

a. **Location:** Storage vaults shall be located in an interior side or rear yard and on an improved surface of concrete or asphalt. No vault shall be permitted in a location which is nearer to a public street than the main building. No vault shall be placed so as to obstruct or eliminate any drive, fire lane, or required parking or loading space.

b. **Electrical:** No electrical connections or any source of energy (such as self-contained power plants/generators) shall be permitted.

c. **Number:** A maximum of one vault per business shall be permitted, except in the following situations where vaults shall be permitted as stated.

(1) **Shopping Centers/ Multitenant Buildings:** On a shopping center or multitenant building site, the maximum number of vaults which may be permitted shall be one vault for each 25,000 square feet of gross floor area in the shopping center. A vault must be located behind or beside the business for which it is permitted and not behind or beside any other business.

(2) **Large Businesses:** Businesses in excess of 50,000 square feet, whether freestanding or located in a shopping center, shall be permitted a maximum of two vaults.

**4. Signage:** No signage or advertising shall be permitted on a vault other than identification of the leasing firm, limited to name and telephone number, one time per side, using letters no larger than 3-inch.

**5. Screening:** A solid 6-foot high wood screening fence shall be provided around the vaults and shall be removed at the end of the permit period. Such

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screening shall not be required on the side of a vault which is against a building or when the vault is generally

not visible from the surrounding streets and parking lots.

1-603 SPECIAL EXCEPTIONS

The Board of Adjustment may authorize the following exceptions for temporary uses where it determines that such approval can be accommodated without creating adverse impacts on adjacent properties or the surrounding neighborhood. The Board may impose time limitations upon the approval of Special Exceptions for temporary uses and may set out conditions for the termination or extension of such uses.

**A. TEMPORARY CLASSROOMS**

To allow the use of temporary classroom buildings by churches, private schools, boy/girl scouts and similar organizations. Approval shall be for no more than a 3 year period, provided that the Board may specify conditions under which the approval period may be extended. Such temporary buildings shall be considered compatible if the following criteria are met. Public schools shall not require approval of a Special Exception for the use of temporary classroom buildings.

1. Permanent Site: Buildings are to be located on a permanent site with a valid Certificate of Occupancy.

2. Proposed Construction: There is a proposed schedule of construction/expansion of permanent facilities which will eliminate the need for the long term use of the temporary buildings.

3. Alternate Space: There are no reasonable alternatives for providing needed space in a functional manner.

4. Site Adequacy: Parking, circulation, electrical and utility connections, drainage, fire protection and all other health and safety considerations can be accommodated and

provided for with the addition of temporary buildings in an orderly and safe manner.

5. Adjacent Properties: The placement of the temporary buildings on the site will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted.

6. Setbacks: The placement of the temporary buildings on the site will comply with all setback requirements.

**B. TEMPORARY RESIDENCES**

To permit placement and occupancy of a temporary residence, which may be a mobile home, under the following circumstances. Approval may be for no more than one year, provided that the Board may specify conditions for extension. Temporary residences shall be approved only on a building site of a size sufficient to accommodate such residence and the related construction so as to meet required setbacks and which will not substantially injure the use and enjoyment of other property in the immediate area.

1. Emergency Residence: A temporary residence located on the same lot as a residence made uninhabitable by fire,

flood, or other natural disaster and occupied by persons displaced by such disaster during the reconstruction of the permanent residence.

2. Construction Residence - Nonresidential: A temporary residence located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such site.

C. SPECIAL EVENTS - EXTENDED PERMITS

To allow special events and special outdoor sales for periods exceeding the conditions stated in 1-602. The Board shall specify the permitted duration for an event in its approval and such approval shall terminate at the end of that period unless the Board specifies time frames and/or conditions to allow regularly or periodically recurring events.