

ORDINANCE NO. 3343
File No. ZO99-5

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988 BY AMENDING SECTIONS 1A301C.3, 1A-303A, 1A-304A, AND 2-501G.1 REGARDING DISTRICT SCREENING REQUIREMENTS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; 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 is best served; and

WHEREAS, the Planning and Zoning Commission did give public notice and 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, adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended as follows, said ordinance in all other respects to remain in full force and effect:

1. **Amend** Section 1A-301C.3 to change required height for parking screens from three (3) feet to four (4) feet.
2. **Delete** the existing Section 1A-303A in its entirety and **adopt** a new revised Section 1A-303A to read as follows:

1A-303 Nonresidential uses abutting a residential district at the rear or interior side.

A. When a nonresidential district backs or sides upon a residential district, the following screening/buffering requirements shall apply.

1. *Basic Requirement - Minimum Setbacks:* An eight (8) foot high screening wall of solid masonry construction and a buffer tree line shall be established and maintained along the property line abutting the residential district. The tree

line may be located on either side of the wall provided that both the wall and tree line be located on the nonresidential property.

This requirement shall apply except that alternate screening as set out below may be utilized when the following conditions are satisfied; provided however, that the alternate screening may not be utilized if a masonry screening wall exists or will be required on adjoining nonresidential lots and the utilization of alternate screening would result in screening which is not continuous or not consistent.

2. *Alternative Screening - Increased Building Setbacks:* The height of the solid masonry screening wall may be reduced to six (6) feet whenever the nonresidential use provides an increased setback of at least three feet for each foot in height above grade at the residential district boundary. The buffer tree line shall be required as specified under the *Basic Requirement* above.
3. *Alternative Screening - No Build Setbacks and Adjoining Public Sites:* A six (6) foot wrought iron fence and landscape hedge may be used for screening whenever one of the following circumstances exists; provided however, that this modification is not permitted if the nonresidential use includes any outdoor storage or display, a loading yard or a service yard.
 - (a) The nonresidential use is separated from the nearest residential property by a permanent easement, right-of-way or other feature at least 80 feet in width, assuring the nonresidential use does not directly abut the residential use. This alternative may be utilized where drainage and/or utility easements or rights-of-way lie between a nonresidential use and a residential use, regardless of the actual district zoning of the easement or right-of-way area.
 - (b) The nonresidential use sets aside a "buffer-yard" so that no active portion of the use; i.e., no buildings, parking, pavement, storage, or structure of any kind, is within 80 feet of the residential district. This provision shall also allow deferment of masonry wall construction where the portion of a lot nearest the residential district is at least 80 feet wide and is reserved for future development. In this situation, the interim screening (a six (6) foot wrought iron

fence and landscape hedge) shall be placed either at the property line or at the edge of the developed portion of the lot. When construction occurs in the "buffer yard" area, the screening for the use must be upgraded to the *Basic Requirement* as outlined above.

- (c) The nonresidential use is being constructed adjoining a public school, park or similar public site, which is located in a district zoned AG, R or D.

4. *Nonresidential Uses Permitted in Residential Districts:* Whenever a nonresidential use which is a permitted use in the AG, R, or D district is being constructed in a nonresidential district and requires district screening, the screening required shall be the same screening which would be applicable to the use when constructed in the AG, R or D district, provided that all other development standards applicable to a residential district location are satisfied, i.e., lot size, setbacks, building heights, etc.

- 3. **Delete** the existing Section 1A-304A in its entirety and **adopt** a new revised Section 1A-304A to read as follows:

1A-304A. *Multifamily abutting an AG, R, or D district at the rear or side:* When a multifamily district backs or sides upon a single family or duplex district, an eight (8) foot high screening wall of solid masonry construction and a buffer tree line shall be established and maintained along the property line abutting the single family or duplex district. The tree line may be located on either side of the wall, provided that both the wall and tree line be located on the multifamily property. Alternate screening, as set out in 1A-303A above, may be utilized by a multifamily use when stated conditions of 1A-303A are satisfied

- 4. **Delete** the existing Section 2-501G.1 in its entirety and **adopt** a new revised Section 2-501G.1 to read as follows:

2-501G.1. Screening

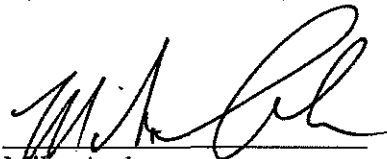
- (1) Screening and buffering requirements for multifamily uses are set out in 1A-304.

SECTION 2. That 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 of 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 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 Mesquite Zoning Ordinance as amended, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 4. That the need to regulate proper development of the City of Mesquite, and the need to protect the public interest, comfort and general welfare of the citizens of the City of Mesquite creates an urgency and 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, Texas, on the 15th day of November, 1999.



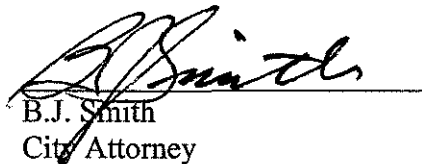
Mike Anderson
Mayor

ATTEST:

APPROVED:



Ellen Williams
City Secretary



B.J. Smith
City Attorney