

ORDINANCE NO. 3742

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF MESQUITE BY DELETING SECTIONS 7-1, 7-2 AND 7-3 OF ARTICLE I IN THEIR ENTIRETY AND ADDING NEW SECTIONS 7-1, 7-2 AND 7-3 OF ARTICLE I THEREBY ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2003 EDITION, AND PROVIDING CERTAIN ADDITIONS AND DELETIONS THERETO; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE.

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

SECTION 1: That Chapter 7 of the Code of the City of Mesquite, Texas, is hereby amended by deleting Sections 7-1, 7-2 and 7-3 of Article I in their entirety and adding new Sections 7-1, 7-2 and 7-3 of Article I to read as follows, in all other respects said Code, Chapter and Article to remain in full force and effect:

**ARTICLE I. PROPERTY MAINTENANCE CODE**

**DIVISION 1. GENERALLY**

**Sec. 7-1. Adopted.**

The *International Property Maintenance Code*, 2003 Edition, a publication of the International Code Council (I.C.C.), is hereby adopted and designated as the official property maintenance code of the City of Mesquite to the same extent as if such Code were copied verbatim in this Article subject to the amendments prescribed in this Article. The Code shall be applicable to all existing residential and nonresidential structures and all existing premises and constitutes minimum requirements and standards for premises, structures, equipment and facilities for safe and sanitary maintenance. A copy of the *International Property Maintenance Code*, 2003 Edition, and the amendments thereto shall be maintained in the office of the City Secretary as an original document and ordinance of the city.

**Sec. 7-2. General terms.**

The following terms shall be applicable in the Property Maintenance Code adopted in Section 7-1:

*Housing advisory and board of appeal.* All references to housing advisory and board of appeal used in the *International Property Maintenance Code* shall

mean the board appointed by the City Council for such purposes and designated Board of Appeal, currently established as the Building Code Board of Appeal.

**Sec. 7-3. Amendments to the International Property Maintenance Code, 2003 Edition.**

The following amendments are made to the *International Property Maintenance Code*, 2003 Edition:

(1) *Chapter 1, Administration.*

- (a) *Section 102.3.* Amend by deleting the section in its entirety and adding a new Section 102.3 to read as follows:

*Application of other codes.* Repairs, additions or alterations to a structure or changes of occupancy shall be done in accordance with the procedures and provisions of the *International Building Code*, *International Plumbing Code*, *International Mechanical Code*, *International Fuel Gas Code* and the *National Electrical Code*.

- (b) *Section 110.4.1.* Amend by adding a new Section 110.4.1 to read as follows:

*Recovery of costs incurred by the City of Mesquite.* Recovery of costs incurred by the City in vacating, securing, removing or demolishing a building pursuant to this code shall be in accordance with the provisions of Chapter 214, Subchapter A of the Texas Local Government Code.

- (c) *Section 111.1.* Amend by deleting the first sentence in the section and adding a new first sentence to Section 111.1 to read as follows:

*Application for appeal.* Any person directly affected by a decision of the Code Official or a notice or order issued under this code shall have the right to appeal to the Building Code Board of Appeal provided that a written application for appeal is filed within 30 days after the day the decision notice or order was served.

- (d) *Section 111.2.* Amend by deleting the section in its entirety and adding a new Section 111.2 to read as follows:

*Board of Appeal:*

- (A) *Created composition.* There is hereby created a board to be known as the Board of Appeal. The Board shall be composed of five members who are

qualified through their experience to pass upon matters pertaining to building construction and who are not employees of the City of Mesquite.

- (B) *Scope and authority of the Board.* The Board shall hear and decide appeal of orders, decisions or the determinations made by the Code Official relating to the application and interpretation of the building and housing codes of the City of Mesquite.
- (C) *Appeal procedures.* An appeal to the Board shall be filed within 30 calendar days after the date the determination or decision of the Code Official is made. If the 30<sup>th</sup> day falls on a Saturday, Sunday or city holiday, the time for filing the appeal shall be extended to the next day following the 30<sup>th</sup> day which is not a Saturday, Sunday or city holiday. The appeal shall be filed at the office of the City Code Official and such notice of appeal shall specify the grounds of such appeals, stating the reasons why appellant feels the Code Official's determination should be overturned.
- (D) *Terms.* The Board members are appointed by the City Council to serve without compensation for two-year terms. Three members shall be appointed on or about January 1 of odd-numbered years, and two members shall be appointed on or about January 1 of even-numbered years. The Board shall set its rules and regulations and appoint a chairman from among its members.
- (E) *Vacancies.* The City Council shall fill all vacancies by the appointment of a suitable person to serve the unexpired term.
- (F) *Meetings.* Board meetings shall be held at the call of the chairman or at such other times as the Board may determine. All meetings are open to the public. The Board shall keep minutes of its meetings and all records are open to the public upon request.
- (G) *Quorum.* Three members shall constitute a quorum. A concurring vote of three members of the Board shall be necessary to render a decision in favor of the Appellant.

- (e) *Section 111.7.* Amend by deleting the section in its entirety and adding a new Section 111.7 to read as follows:

*Court review.* Once the decision of the Board becomes final under this section, the person affected by an order may only appeal the decision to the State district court. Appeal to the district court must be filed within 30 days from the date that notice of final board findings is personally delivered or mailed to the affected person(s) by first class mail certified return receipt requested. Appeal in the district court shall be limited to a hearing under the substantial evidence.

(2) *Chapter 3, General Requirements.*

- (a) *Section 302.4.* Amend by deleting the first sentence of the section in its entirety and adding a new first sentence to Section 302.4 to read as follows:

All premises and exterior property, shall be maintained free from weeds or plant growth in excess of 12 inches.

- (b) *Section 303.1.1.* Amend by adding a new Section 303.1.1 to read as follows:

*Swimming pool, definition.* A swimming pool, for the purpose of this article shall be any pool, hot tub or spa containing or normally capable of containing water to a depth of one and one-half feet or more. No such swimming pool shall be constructed or operated unless it complies with the conditions and requirements of this article.

- (c) *Section 303.2.* Amend by deleting Section 303.2 in its entirety and adding a new Section 303.2 to read as follows:

*Enclosures:*

- (a) Every person in possession of land where a swimming pool, spa or hot tub exists shall be maintained at all times.
- (b) A swimming pool, spa or hot tub must be located behind a fence, wall or other structure designed to prevent small children from inadvertently wandering into the swimming pool.

- (c) The required fencing or other structure shall be measured not less than five feet in height except a fence for an above ground pool that is 42 inches or less in depth may be constructed at a minimum height of four feet. No openings in the required fence, wall or structure, other than openings in which a door or gate is located, may exceed four inches measured in horizontal direction, or three inches as measured between the bottom of the fence, wall or structure and the ground or supporting surface abutting the ground.
- (d) All doors or gates opening into a swimming pool enclosure shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping such doors and gates securely closed at all times when not being used for entry to or exit from the swimming pool enclosure. The required self-latching device shall be attached to the upper quarter of any such door or gate. The requirements for self-closing and self-latching devices shall not apply to the door of a dwelling that forms part of the swimming pool enclosure if the door is transparent.
- (e) It shall be unlawful to maintain any swimming pool in the corporate limits of the City that is not fenced in accordance with the requirements of this code.

(3) *Chapter 6, Mechanical and Electrical Requirements.*

- (a) *Section 601.1.* Amend by deleting the section in its entirety and adding a new Section 601.1 to read as follows:

*Scope.* The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided. Whenever reference is made to electrical code standards, all requirements shall be in accordance with the *National Electrical Code* as adopted.

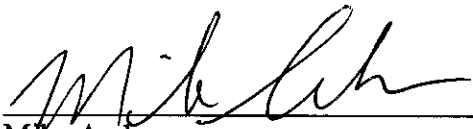
SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

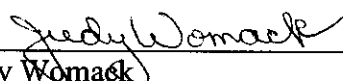
SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

SECTION 5. That this ordinance shall take effect on August 1, 2005.

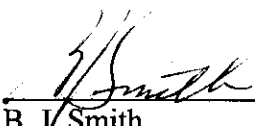
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of June, 2005.

  
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Mike Anderson  
Mayor

ATTEST:

  
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Judy Womack  
City Secretary

APPROVED:

  
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B. J. Smith  
City Attorney