

ORDINANCE NO. 3975

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, BY ADDING A NEW SECTION 10-128.5 THEREBY REQUIRING PROPERTY OWNERS TO MAINTAIN LANDSCAPING AND VEGETATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council finds that the proper use, care and maintenance of landscaped areas on residential and commercial properties adds beauty and variety to the urban fabric, protects the value of surrounding properties and encourages other property owners to invest in and maintain their premises; and

WHEREAS, that while the landscaping of residential and commercial properties provides an outlet for individual expression in neighborhoods and business corridors, it is appropriate to establish minimum standards of care for proper maintenance to ensure that the neglect of landscaped areas does not detract from the inherent attractiveness and appeal of a well-kept community; and

WHEREAS, the overuse of water features and aquatic plants in landscaping creates an attractive nuisance for neighborhood children and provides a breeding area for mosquitoes and other disease-carrying organisms, vermin and reptiles; and

WHEREAS, an overgrowth of trees, bushes and shrubs near doors and windows of a home can hinder the efforts of emergency fire personnel during rescue operations, block the escape of residents and provides places of concealment for persons engaged in or intending to commit criminal activity.

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

SECTION 1. That Chapter 10 of the Code of the City of Mesquite, Texas, is hereby amended by adding a new Section 10-128.5 to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

Sec. 10-128.5. Landscaping and vegetation to be maintained.

(a) For purposes of this section:

- (1) *Landscaping* includes but is not limited to trees, shrubbery, bushes, ornamental grasses, flowers and vines planted in landscaped areas.
- (2) *Landscaped area* means any and all portions of the premises defined by foundations, sidewalks, pavers, edging, ornamental grasses, timbers, railroad ties, brick, stone or other border materials where the sod or

surface of the ground has been removed, cultivated, covered or replaced by landscaping, mulch, rock or water features.

- (3) *Common vegetation* means all organic material other than lawn grass growing outside the boundaries of a landscaped area.
 - (4) *Neat and orderly manner and healthy condition* means adequately pruned, trimmed, watered and cultivated appropriate to the species, and maintained free of disease and parasites, as determined based upon the plant shape, color and condition of foliage, soil characteristics, and the size of plants relative to the size of the landscaped area or building façade.
- (b) An owner, occupant or person in control of any private premises commits an offense if the person:
- (1) Fails to maintain the landscaping or common vegetation on the premises in a neat and orderly manner and healthy condition.
 - (2) Allows the landscaping or any common vegetation to grow unkempt on the premises in a manner:
 - a. That physically obstructs more than 75 percent of the area of doors or windows of any structure on the premises so as to prevent ingress or egress from the structure;
 - b. That visually obscures more than 75 percent of the front door, porch or stoop of the structure when viewed from the street directly in front of the structure; or
 - c. That projects across or obstructs any sidewalk or driveway on the premises.
 - (3) Fails to edge, prune, fertilize, water (except when prohibited during City-initiated drought restrictions), weed and conduct such other activities common to the maintenance of landscaped areas to the degree necessary to ensure the area is kept in a neat and orderly manner and healthy condition.
 - (4) Fails to keep landscaped areas free of trash, litter, weeds and other such material or plants not a part of the landscaping.
 - (5) Replaces or covers the lawn grass, sod or surface of the ground with artificial turf on any portion of the premises, including a landscaped area, between a street façade of the structure and the curb of the street, or paves over the same except as an improved surface in conformance with Section 10-14.
 - (6) Covers more than 10 percent of the residential premises between a street façade of the structure and the curb of the street with water features such

as ponds, pools, streams or sunken gardens including the area covered with aquatic flora such as cattails or reeds.

- (7) Fails to remove or replace any landscaping or common vegetation that dies.

SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite 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 remaining provisions of this ordinance 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 Five Hundred (\$500.00) Dollars for each offense.


SECTION 5. That the present ordinances of the City of Mesquite are inadequate to provide for the proper regulation of the property owner's responsibility in maintaining landscaping and vegetation 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, Texas, on the 4th day of August, 2008.



John Monaco
Mayor

ATTEST:



Judy Womack
City Secretary

APPROVED:



B. J. Smith
City Attorney