

ORDINANCE NO. 4451

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY ADDING A NEW ARTICLE XIII THEREBY REGULATING UNAUTHORIZED TEMPORARY SHELTERS ON PUBLIC PROPERTY; 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 EFFECTIVE DATE THEREOF.

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, as amended, is hereby amended by adding a new Article XIII to read as follows, in all respects said Code and Chapter to remain in full force and effect:

ARTICLE XIII. PROHIBITION ON THE UNAUTHORIZED PLACEMENT, ERECTION OR MAINTENANCE OF TEMPORARY SHELTERS ON DESIGNATED PUBLIC PROPERTY.

- (a) In this section:
- (1) *Designated public property* means any of the following:
 - a. Any parks, grounds, buildings, facilities or rights-of-way under the jurisdiction, management or control of the City.
 - b. Any vacant and unimproved lots owned, leased or controlled by the City.
 - (2) *Temporary shelter* means any tent or other type of portable or impermanent structure, whether manufactured or makeshift, in or under which a person can be sheltered or partially sheltered from the elements.
- (b) A person commits an offense if the person places, erects or maintains a temporary shelter in or upon any designated public property.
- (c) It is a defense to prosecution under Subsection (b) of this section that the placement, erection or maintenance of the temporary shelter by the person on the designated public property was expressly authorized by:
- (1) An ordinance, resolution, or license approved by the City Council;
 - (2) A permit or license issued by the City; or
 - (3) A contract with the City.

- (d) A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.
- (e) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's reason for placing, erecting or maintaining a temporary shelter on the designated public property. The police officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present. Before issuing a citation or making an arrest, the police officer shall give the person an oral or written warning that:
 - (1) Requests the person to cease the placement, erection or maintenance of the temporary shelter and to completely remove the temporary shelter and all personal belongings from the designated public property within three hours after issuance of the warning; and
 - (2) States that failure to comply with the warning may result in the citation or arrest of the person and, if applicable, the removal by the City of the temporary shelter and any personal belongings remaining on the designated public property.
- (f) If a person's temporary shelter and personal belongings are not removed from the designated public property in compliance with a warning issued by a police officer under Subsection (e), the City may remove those items from the designated public property and store them at a secure location (if the items are determined by the City to have a market value) or dispose of them as solid waste (if the items are determined by the City to be perishable, to have no market value, or to pose a threat to the public health, safety or welfare). If stored property is not claimed within 90 days after removal, it will be deemed unclaimed or abandoned, and the City may sell, recycle, convert or dispose of the property in accordance with city ordinances and policies, and any applicable State or federal laws.

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.

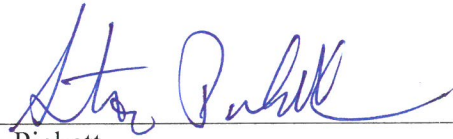
SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Five Hundred (\$500.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the

maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

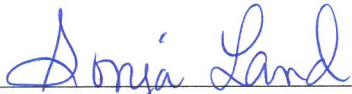
SECTION 5. That this ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 3rd day of October, 2016.



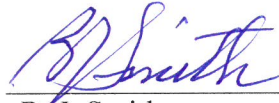
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney