

ORDINANCE NO. 4460

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 9 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY DELETING SECTION 9-169 IN ITS ENTIRETY AND ADDING A NEW SECTION 9-169 THEREBY REGULATING THE PARKING OF COMMERCIAL VEHICLES IN NON-COMPLIANCE WITH ZONING RESTRICTIONS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00.) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

SECTION 1. That Chapter 9 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by deleting Section 9-169 in its entirety and adding a new Section 9-169 to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

Sec. 9-169. Parking of commercial vehicles in non-compliance with zoning restrictions.

- (a) It shall be unlawful for any owner or person in control of a commercial vehicle as defined in this division, or any owner or person in control of property, to leave, park or stand a commercial vehicle, or suffer or permit the leaving, parking or standing of a commercial vehicle upon property within a nonresidential zoning district in any manner that conflicts with provisions of the Mesquite Zoning Ordinance, an approved site plan, a planned development ordinance, a conditional use permit, a variance or special exception, or other development regulation, which restricts, limits or controls the leaving, parking or standing of a commercial vehicle upon such property.
- (b) *Defenses.*
 - (1) It shall be a defense to prosecution if:
 - a. The commercial vehicle is parked or standing for the purpose of expeditiously loading and unloading passengers, freight or merchandise;
 - b. The commercial vehicle is parked on an approved surface at a lawfully zoned business establishment, wherein such commercial vehicle is utilized as an integral part of such lawfully zoned business;
 - c. The commercial vehicle is a passenger bus parked on a parking lot in an area designated by the owner of the parking lot for the parking of buses, and with the consent of the owner during such period as the bus passengers are attending an event at a facility zoned for such activities, or are customers at a retail center, or in the case of a hotel or motel, during such periods of time that the bus passengers are customers of the hotel or motel;

- d. The commercial vehicle is parked in a designated area at an exhibit or exhibition hall, convention center, entertainment or similar facility when the commercial vehicle is involved in the delivery and removal of equipment, products, merchandise, livestock or other items to and from the facility. All such commercial vehicles must be identified with an official temporary parking permit issued by the facility hosting the event, and must be parked in the area designated for such vehicles. The temporary permit must identify the vehicle to which it is issued by license plate number and state, year, make, model and color, the driver of the vehicle, and the name and date or dates of the event during which the permit is valid;
- e. The commercial vehicle is a truck or trailer no greater than 26 feet in length, bumper to bumper, being driven by an individual who has rented the vehicle from a commercial business for the purpose of transporting his personal property from one location to another, and parked for less than 24 hours at a motel or hotel while the driver of the vehicle is a customer of the hotel or motel;
- f. The commercial vehicle is parked in a truck parking area at a motel or hotel within the City, which has been specifically approved for truck parking by the City Council in accordance with the procedures and standards set out below.
 - i. *Application:* An application containing the following information shall be submitted:
 - a) Specific identification of the property for which the request is made;
 - b) A detailed site plan of the property showing dimensions and indicating the area(s) for which truck parking is being requested;
 - c) The maximum number of trucks the proposed area will accommodate;
 - d) Description and identification of the location of proposed screening and buffering; and
 - e) Other information relevant to the request.
 - ii. *Notification and hearing:* Prior to making a determination concerning the application, the City Council will hold a public hearing to receive input from the applicant, adjoining property owners and other interested persons. Owners of property abutting the property described in the application, including properties separated from the subject property by a street or alley, shall be provided written notification at least 10 days prior to consideration of the application. Adjoining owners shall be informed of the applicant's request for a truck parking area and be given the opportunity to respond in writing and/or in person at a public hearing.

- iii. *Application review criteria for new hotel or motel:* A determination of approval or denial by the City Council shall be based upon an evaluation of the purpose and justification for a truck parking area as stated in the application; the location of the property and proposed parking area in relationship to existing, and proposed and potential uses in the area; the ability to reasonably accommodate truck parking and maneuvering on the site; and other factors affecting on-site circulation and off-site impact. The decision of the City Council shall be final. City Council approval of a truck parking area at a new hotel or motel will include specification of the number of trucks that may be parked in the approved area and require the construction of a standard truck parking area.
 - iv. *Application review criteria for an existing hotel or motel:* In addition to the criteria set forth for the determination of approval or denial for a new motel or hotel, an existing hotel or motel must demonstrate that their existing parking lot can support and accommodate the use and maneuvering of trucks, that truck traffic will not greatly impact the area, and that requirements concerning the number of spaces required for passenger vehicles will continue to be met. The decision of the City Council shall be final. City Council approval of a truck parking area at an existing hotel or motel will include specification of the number of trucks that may be parked in the approved area. The provisions of this section shall not affect truck parking approved at an existing hotel or motel prior to September 1, 1999.
- (2) It shall be a defense to prosecution of the owner or person in control of the commercial vehicle if the commercial vehicle is parked upon an approved parking surface and no sign is erected on the premises giving reasonable notice to the owner or person in control of a commercial vehicle of the applicable zoning restrictions on parking.
 - (3) It shall be a defense to prosecution of the owner or person in control of the property if signs are erected on the premises giving reasonable notice to owners or persons in control of commercial vehicles of such zoning restrictions, that the number, size, legibility and location of signs have been approved by the Building Official, and that all signs were present on the premises at approved locations at the time the violation occurred.

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 Two Thousand (\$2,000.00) 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.

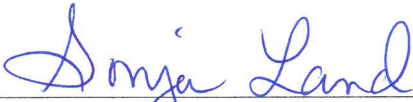
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 21st day of November, 2016.



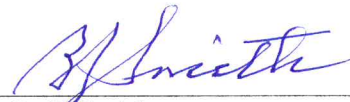
Bruce Archer
Mayor Pro Tem

ATTEST:

APPROVED:



Sonja Land
City Secretary



B. J. Smith
City Attorney