

ORDINANCE NO. 4527

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY PROVIDING CERTAIN ADDITIONS AND DELETIONS TO THE INTERNATIONAL RESIDENTIAL CODE, 2015 EDITION, AS AMENDED, PERTAINING TO THE RENTAL CERTIFICATE OF OCCUPANCY PROGRAM; 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 5 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by providing certain additions and deletions to the International Residential Code, 2015 Edition, as amended, to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

**ARTICLE XIII. RESIDENTIAL CODE**

**DIVISION 2. AMENDMENTS**

**Sec. 5-468. Amendments to the International Residential Code, 2015 Edition.**

The following amendments are made to the *International Residential Code*, 2015 Edition:

(1) *Chapter 1, Scope and Administration.*

(a) *Section R110.1.* Amend by deleting Section R110.1 in its entirety and adding a new Section R110.1 to read as follows:

*Section R110.1.* It shall be unlawful and an offense for the owner of any non-owner occupied dwelling unit as defined in Section R202 to allow, suffer or permit such unit to be used or occupied without first obtaining a certificate of occupancy, or renewing a certificate, as provided in Section R110.2. Letting a non-owner occupied dwelling unit to more than one family unrelated to the owner shall be prohibited.

(b) *Section R110.2.* Amend by deleting the section in its entirety and adding a new Section R110.2 to read as follows:

*Change in occupancy.* When a non-owner occupied dwelling unit is vacated by the occupant, or a certificate of occupancy expires as

provided in Section R110.2.2, the owner of the unit must apply for and receive a certificate of occupancy from the Building Official prior to the unit being reoccupied. The Building Official or his designated representative will inspect the unit and premises for compliance with this code, the Property Maintenance Code, the Mesquite Zoning Ordinance and other applicable ordinances of the City. If deficiencies are found, the Building Official may prohibit occupancy of the unit and premises until such time as the owner takes action needed to bring the unit and premises into compliance. The inspection required by this section shall also be required for a non-owner occupied dwelling unit and premises prior to its original occupancy.

1. If the dwelling unit is found to be occupied prior to inspection, the Building Official shall assess a pre-inspection occupancy fee of Two Hundred Fifty (\$250.00) Dollars to defray the expense to the City for conducting an inspection of an occupied unit. Said fee shall be paid by the owner prior to any further inspection or reinspection of the unit and shall be cumulative of all other fees or penalties provided in this code. Provided, that said fee shall not apply to an inspection conducted during the ninety day period for renewing a certificate of occupancy under Section R110.2.3.

- (c) *Section R110.2.1.* Amend by adding a new Section R110.2.1 to read as follows:

*Reinspection fee.* A reinspection fee as provided in City Code Section 5-20 will be assessed for the second reinspection and each subsequent reinspection until corrections are made and the non-owner occupied dwelling unit is in compliance.

- (d) *Section R110.2.2.* Amend by adding a new Section R110.2.2 to read as follows:

*Certificate of occupancy as temporary license; expiration.* A certificate of occupancy to let a non-owner occupied dwelling unit shall constitute a temporary, revocable license to conduct an accessory use as provided under Chapter 2-200 of the Mesquite Zoning Ordinance. Said certificate of occupancy shall expire on the date the dwelling unit is vacated by the previous occupant, or on the third anniversary of issuance of the certificate, whichever is the earlier. Provided, a valid certificate of occupancy for a non-owner occupied dwelling unit that was in effect as of December 18, 2017, and which is continuously occupied by the same occupant thereafter, shall expire when said occupant vacates the unit, or on December 18, 2020, whichever is the earlier.

- (e) *Section R110.2.3.* Amend by adding a new Section R110.2.3 to read as follows:

*Renewal of certificate.* Beginning no earlier than ninety days prior to the third anniversary of issuance of a certificate of occupancy, the owner or owner's agent may request an inspection of the non-owner occupied dwelling unit for the purpose of renewing the certificate. The Building Official or his designated representative will inspect the unit and premises for compliance with this code, the Property Maintenance Code, the Mesquite Zoning Ordinance and other applicable ordinances of the City in effect on the date of the inspection. If deficiencies are found, the owner shall take such action needed to bring the unit and premises into compliance. When the non-owner occupied dwelling unit and premises are found to be in compliance, the Building Official shall issue a renewed certificate of occupancy as provided in Section R110.3.

- (f) *Section R110.3.* Amend the first paragraph in Section R110.3 to read as follows:

*Certificate issued.* When the Building Official determines that a non-owner occupied dwelling unit and premises are in compliance with the provisions of this and other applicable codes, the Building Official shall issue or renew a certificate of occupancy containing the following:

1. The address of the structure;
2. The name, address and telephone number of the property owner and local agent;
3. A statement that the described portions of the structure have been inspected for compliance with the requirements of this code;
4. The name of the Building Official;
5. The edition of the code on which the certificate was issued; and
6. The date the certificate of occupancy was issued.

- (g) *Section R110.3.1.* Amend by adding a new Section 110.3.1 to read as follows:

No certificate of occupancy shall be issued for a non-owner occupied dwelling unit until the owner has paid all perfected liens

of whatsoever nature attached to the property in favor of the City of Mesquite, together with interest as allowed by law.

- (h) *Section R110.3.2.* Amend by adding a new Section R110.3.2 to read as follows:

*Unlawful use or occupancy.* It shall be unlawful and an offense for any certificate holder to use, suffer or permit any non-owner occupied dwelling unit to be used or occupied in violation of the Mesquite Zoning Ordinance or contrary to the terms of said certificate.

- (i) *Section R110.3.3.* Amend by adding a new Section R110.3.3 to read as follows:

*Local agent.* No certificate of occupancy shall be issued for a non-owner occupied dwelling unit until the owner furnishes the name, physical address and telephone number of an individual who has express agency to act on behalf of the owner, receive notices and service of legal process pertaining to the dwelling. The physical address of such agent shall be within 25 miles of the City of Mesquite. The owner may serve as agent provided the locational requirement of this section is met.

- (j) *Section R110.5.1* Amend by adding a new Section R110.5.1 to read as follows:

*Revocation of certificate for non-owner occupied dwelling unit.* A non-owner occupied dwelling unit in violation of Section R110.3.2 constitutes an unlawful structure under Section 108 of the Property Maintenance Code. In addition to all other remedies available by statute, ordinance or regulation, the certificate of occupancy for such non-owner occupied dwelling unit shall be subject to revocation in accordance with procedures set forth in the Mesquite Zoning Ordinance.

- (k) *Section R111.1.1.* Amend by adding a new Section R111.1.1 to read as follows:

It shall be unlawful and an offense for any owner or owner's agent to make connections, or continue or maintain existing connections, for water utilities to any non-owner occupied dwelling unit that is required by this code to be inspected prior to occupancy or re-occupancy. As to continuing or maintaining existing connections, it shall be a defense to prosecution under this section that no later than the tenth day after the non-owner occupied dwelling unit was vacated by the previous occupant, the owner or owner's agent requested an inspection of the unit.

- (l) *Section R111.3.* Amend by deleting the section in its entirety and adding a new Section R111.3 to read as follows:

*Authority to disconnect service utilities.* In case of an emergency necessitating disconnection of utilities to eliminate an immediate hazard to life or property, the Building Official shall have the authority to authorize disconnection of utility service to a building, structure or system regulated by this code and the referenced codes and standards set forth in Section R102.4. The Building Official shall notify the service utility and whenever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If prior notification is not possible, the owner or occupants of the building, structure or service system shall be notified in writing, as soon as practical thereafter. In addition, the Building Official shall have the authority to authorize disconnection of utility service to a building, structure or system, if a building, structure or system is found to be in violation of this code, including a connection made without the approval required by Sections R111.1 and R111.2 and after notification of the violation has been made to the owner and/or occupant of the building or structure and the violation is not corrected.

- (2) *Chapter 2, Definitions.*

- (a) *Section R202.*

1. Amend by deleting the definition of “Dwelling Unit, Non-Owner Occupied” and adding a new definition of “Dwelling Unit, Non-Owner Occupied” in Section R202 to read as follows:

*Dwelling unit, non-owner occupied.* A dwelling unit or any portion thereof, including but not limited to a room or other living space in a one- or two-family dwelling that is let or intended to be let to a person or persons unrelated to the owner, regardless of whether or not any other unit, room or space in the dwelling is inhabited, or intended to be inhabited, by the person holding legal title thereto. A non-owner occupied dwelling unit shall include any unit or portion thereof, room or other living space occupied, or intended to be occupied, pursuant to a written or verbal tenancy agreement or other proffer for compensation of any duration or a contract for deed or any other contract or deed that conveys less than legal title to the occupant. For purposes of this code, a non-owner occupied dwelling unit shall include the premises whereon the dwelling is situated.

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 all chapters, sections and subsections amended by this ordinance are intended to amend the specified corresponding chapters, sections and subsections of the *International Residential Code*, 2015 Edition, even though applicable intervening articles and divisions or similar subparts may not be set out in this ordinance.

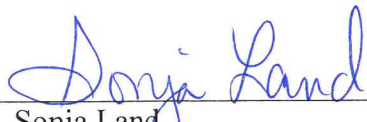
SECTION 5. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed 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 6. That this ordinance shall take effect from and after March 1, 2018.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of December, 2017.

  
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Stan Pickett  
Mayor

ATTEST:

  
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Sonja Land  
City Secretary

APPROVED:

  
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B. J. Smith  
City Attorney