

ORDINANCE NO. 4573

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 DIVISION 3, "NUISANCE PARTIES" WITH NEW SECTIONS 10-194.1 THROUGH 10-194.6 THEREBY PROVIDING REGULATIONS PERTAINING TO NUISANCE PARTIES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED THE AMOUNTS PROVIDED IN SECTION 2 OF THIS ORDINANCE AND DISPENSING WITH A CULPABLE MENTAL STATE FOR THE OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, Mesquite police officers are required to respond to numerous disturbances caused by parties, gatherings or events ("parties") on private property involving unreasonably loud or jarring noises and raucous conduct; and

WHEREAS, in efforts to restore the public safety, peace and welfare, Mesquite police officers are often required to make repeated responses to the same location where these parties are held because police orders to abate the disturbance and to disperse the participants go unheeded; and

WHEREAS, such repeat calls create excessive unrecovered costs for the City, and deplete the manpower and resources of the Mesquite Police Department and can leave other areas of the City with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike; and

WHEREAS, these parties are extremely disruptive to the peace, quiet and stability of neighborhoods and often create an immediate and significant threat to the public peace, health, safety and welfare; and

WHEREAS, there is a need to deter the occurrence and reoccurrence of nuisance parties in the City; and existing regulations have proven inadequate to deter nuisance parties by focusing indirectly on the problem and regulating the isolated secondary effects created by them; and

WHEREAS, the City Council desires to enhance the ability of police personnel to abate nuisance parties without making repeated responses to the scene of the same disturbance; therefore, under the authority provided by Chapter 217.042 of the Texas Local Government Code, the Mesquite City Council finds that these disruptive parties constitute a nuisance and must be abated.

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

SECTION 1. That the findings set forth in the recitals of this Ordinance are found to be true and correct, and are hereby adopted as the findings of the City Council.

SECTION 2. That Chapter 10 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by adding a new Division 3, “Nuisance Parties” with new Sections 10-194.1 through 10-194.6 to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

DIVISION 3. NUISANCE PARTIES

Sec. 10-194.1. Definitions.

The following definitions apply in this division:

Curfew violation means any offense provided in Chapter 10, Article VII – Curfew Hours for Minors.

Owner means the owner of any property, as well as any agent of an owner who acts on behalf of the owner to control or otherwise regulate the occupancy or use of the property.

Nuisance party means a gathering of ten or more persons on any private property, including property used to conduct business, in a manner that causes a disturbance of the quiet enjoyment of neighboring private or public property due to criminal behavior under provisions of this code or the Texas Penal Code. Such a disturbance shall include the occurrence of any or any combination of the following offenses in a manner that interferes with the public health, safety or welfare by creating disorder in the locality: excessive noise, obstruction of public streets by crowds or vehicles, assault, disorderly conduct, curfew violation, public intoxication, minor in possession of alcohol, minor in consumption of alcohol, possession or use of illegal drugs or littering.

Premise means the property that is the site of a nuisance party.

Person means person as defined in Section 1-2, “Rules of Construction,” of Chapter 1 of this code.

Responsible adult means a person no less than 21 years old.

Underage means a person under 21 years old.

Sec. 10-194.2. Purpose; nuisance parties prohibited.

- (a) The purpose of this division is to prevent and abate nuisance parties by creating an offense to address the negligent conduct of persons responsible for a nuisance party or responsible for the premise.
- (b) Pursuant to the authority provided by Chapter 217.042 of the Texas Local Government Code, the Mesquite City Council hereby finds that nuisance parties, as defined in this division, constitute a nuisance and are prohibited within the city limits of the City and within 5,000 feet outside the limits.

- (c) In accordance with state law, a peace officer may abate a nuisance party by reasonable means, including, but not limited to, citation, arrest and/or ordering discontinuation of the criminal activities.
- (d) If there are any underage participants at a nuisance party and no responsible adult is present when the peace officer determines that any violation of the following listed offenses has occurred, the peace officer shall order the party to disperse:
 - (1) Assault;
 - (2) Disorderly conduct;
 - (3) Public intoxication;
 - (4) Minor in possession of alcohol;
 - (5) Minor in consumption of alcohol;
 - (6) Possession or use of illegal drugs; or
 - (7) Curfew violation.

Sec. 10-194.3. Offenses; culpable mental state; penalty.

- (a) A person commits an offense under this division if the person is an owner, landlord, occupant or tenant of the premise where the nuisance party occurs.
- (b) A person commits an offense under this division if the person fails to comply with a peace officer's order to disperse under Section 10-194.2(d).
- (c) An offense under this section is a Class C Misdemeanor subject to a fine of up to \$500.00.
- (d) In addition to the separate offenses recognized in Chapter 1, Section 1-6(c), "General penalties; applicability; continuing violations," of this code, each separate response by an officer to a premise for a nuisance party constitutes a separate offense, even if within the same 24 hours.
- (e) For a second and any subsequent offense within a six-month period, the violation is a Class C Misdemeanor subject to a fine of no less than \$500.00.
- (f) A culpable mental state is not required for the commission of an offense under this section.

Sec. 10-194.4. Defenses to prosecution.

- (a) It is a defense to prosecution that the persons in attendance at the nuisance party obtained use of the premise through illegal entry or trespassing.
- (b) For the first offense within a six-month period, it is a defense to prosecution that the unlawful conduct giving rise to the nuisance party could not be reasonably foreseen and the owner, landlord, occupant or tenant of the premise took affirmative steps to prevent the nuisance party and, if applicable, to exclude uninvited persons from the premise.
- (c) For the first offense within a six-month period, it is a defense to prosecution that the unlawful conduct giving rise to the nuisance party could not be reasonably foreseen nor reasonably controlled by the owner, landlord, occupant or tenant of the premise without the intervention of the police.

Sec. 10-194.5. Other remedies.

Repeated violations at the same premise shall be reported to the City Manager for consideration of additional responsive legal action, including enforcement of civil remedies and the exercise of other powers granted to the City to prevent and abate nuisances and violations of this code and state law.

Sec. 10-194.6. Other offenses.

Nothing in this ordinance limits a person's criminal responsibility for the commission of other offenses at a nuisance party.

SECTION 3. 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 4. 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 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 the amounts provided in Section 2 of this ordinance, 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.

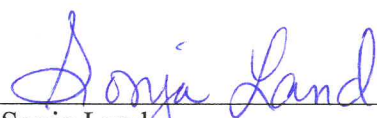
SECTION 6. That this ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on the 18th day of June, 2018.



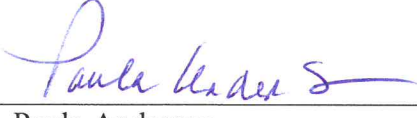
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



Paula Anderson
Interim City Attorney