

ORDINANCE NO. 4674

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5, "BUILDINGS AND CONSTRUCTION," CHAPTER 11, "PLANNING AND DEVELOPMENT," CHAPTER 15, "STREETS AND SIDEWALKS" AND CHAPTER 16, "WATER AND LIQUID WASTE" OF THE MESQUITE CITY CODE, AS AMENDED, BY PROVIDING CERTAIN ADDITIONS AND DELETIONS UNDER CHAPTERS 5, 11, 15 AND 16 TO CROSS REFERENCE AND INCORPORATE CHANGES REQUIRED BY AND TO CORRESPOND WITH THE ADOPTION OF THE CITY OF MESQUITE ENGINEERING DESIGN MANUAL TO CREATE COMPREHENSIVE AND EASILY ACCESSED STANDARD ENGINEERING PRACTICES AND MINIMUM CRITERIA; RENUMBERING AND MAKING CERTAIN CLERICAL, GRAMMATICAL AND OTHER NONSUBSTANTIVE CHANGES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE NOT TO EXCEED \$2,000.00 FOR A PERSON VIOLATING A PROVISION OF THIS ORDINANCE GOVERNING FIRE SAFETY, ZONING, OR PUBLIC HEALTH AND SANITATION AND A PENALTY NOT TO EXCEED \$500.00 FOR ALL OTHER PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, engineering requirements are located in several chapters of the Mesquite City Code and other documents; and

WHEREAS, the creation of this Engineering Design Manual facilitates and streamlines the permit review process for staff and applicants by relocating all applicable requirements to this Manual; and

WHEREAS, in order to relocate certain regulations from the Mesquite City Code to the Engineering Design Manual and to accurately cross reference applicable provisions, it is necessary to amend Chapters 5, 11, 15 and 16 in the Mesquite City Code; and

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendments.

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

SECTION 1. That Chapters 5, 11, 15 and 16 of the Mesquite City Code, as amended, are hereby amended by making certain additions and deletions, attached hereto as Exhibits "A," "B," "C" and "D," incorporated herein by reference and hereby made a part of Chapters 5, 11, 15 and 16 of the Mesquite City Code, in all other aspects said Code and Chapters to remain in full force and effect.

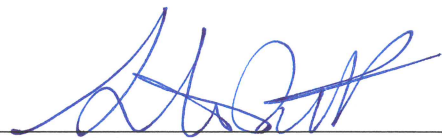
SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4. That, unless specifically provided otherwise by this ordinance or by state law, any person (as defined in Chapter 1, Section 1-2 of the Mesquite City Code, as amended) violating any of the provisions or terms of this ordinance governing fire safety, zoning, or public health and sanitation, shall be deemed to be guilty of a Class C Misdemeanor and, upon conviction, shall be subject to a fine not to exceed \$2,000.00, and that any person (as defined in Chapter 1, Section 1-2 of the Mesquite City Code, as amended) violating any other provision of this ordinance shall be deemed to be guilty of a Class C Misdemeanor, and, upon conviction, shall be subject to a fine not to exceed \$500.00. 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 5. That this ordinance shall take effect and be in force from and after five days after publication.

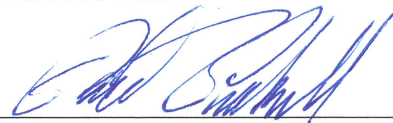
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of May 2019.

  
\_\_\_\_\_  
Stan Pickett  
Mayor

ATTEST:

\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED:

  
\_\_\_\_\_  
David L. Paschall  
City Attorney

**EXHIBIT "A"**  
**Chapter 5 – Buildings and Construction**  
**Revisions**

1. *Article V, Sec. 5-149.* Amend Chapter 5, Article V by deleting Section 5-149 in its entirety and adding a new Section 5-149 to read as follows:

**Sec. 5-149. Easements.**

Utility easements may be fenced, when done in accordance with the regulations contained in this article and in accordance with the City of Mesquite Engineering Design Manual. However, the City shall not be held liable for any damage to such fencing which results from the installation, repair, removal or maintenance of such utilities.

1. *Article III, Sec. 11-53.* Amend Chapter 11, Article III by deleting Section 11-53 in its entirety and adding a new Section 11-53 to read as follows:

**Sec. 11-53. Requirements for filling, grading, excavation, etc.**

All filling, grading and excavation shall be completed in accordance with the City of Mesquite Engineering Design Manual.

2. *Article III, Secs. 11-54(a)(3) through 11-54(a)(6).* Amend Chapter 11, Article III by deleting Sections 11-54(a)(3) through 11-54(a)(6) in their entirety.
3. *Article V, Division 1, Sec. 11-121.* Amend Chapter 11, Article V, Division 1 by deleting Section 11-121 in its entirety and adding a new Section 11-121 to read as follows:

**Sec. 11-121. Title.**

This article shall be known as the "Stormwater and Flood Protection Ordinance" of the City of Mesquite.

4. *Article V, Division 1, Secs. 11-125, 11-126, 11-127, 11-128 and 11-129.* Amend Chapter 11, Article V, Division 1 by deleting Sections 11-125, 11-126, 11-127, 11-128 and 11-129 in their entirety and adding new Sections 11-125, 11-126 and 11-127 to read as follows:

**Sec. 11-125. Related ordinances.**

In addition to this article, the City has other ordinances, regulations and specifications pertaining to drainage and storm sewer facilities. These other documents include the City of Mesquite Engineering Design Manual and the zoning and subdivision ordinances, which shall remain in full force and effect. If there is any conflict between such prior ordinance and this article, this article shall prevail.

**Sec. 11-126. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application:

*City* means the City of Mesquite, Texas, or the City Council of Mesquite.

*City Engineer* means the person appointed to the position of City Engineer by the City Manager of the City or the City Engineer's duly authorized representative.

*Commencement of construction* means the disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

*Developer/builder* means a person, partnership or corporation engaged in the development of land and/or building of structures and not excluded by exemption sections of this article.

*Development* means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, grading or clearing.

*Facility* means any building, structure, installation, process or activity from which there is or may be a discharge of pollutant.

*Federal Emergency Management Agency (FEMA)* means the federal agency which administers National Flood Insurance Program.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood insurance rate map (FIRM)* means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study* means the official report in which the Federal Emergency Management Agency has provided flood profiles, the water surface elevation of the base flood, as well as the flood boundary-floodway map.

*Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source (see definition of flooding).

*Flood protection system* means those physical structural works for which funds have been authorized, appropriated and expended, and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

*Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

*Levee system* means a flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Local jurisdiction* means the local governing body in which the construction takes place (known also as the City).

*Manufactured home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. The "manufactured home" does not include a "recreational vehicle."

*Manufactured home park or subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

*Municipal separate storm sewer system (MS4)* means the system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

*Municipal solid waste* means solid waste resulting from or incidental to municipal, community, commercial, institutional or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and other solid waste other than industrial waste.

*Natural drainage* means the dispersal of surface waters through ground absorption and by drainage channels formed by the existing surface topography which exists at the time of adoption of this article or formed by any manmade change in the surface topography.

*New construction* means structures for which the "start of construction" commenced on or after the effective date of December 19, 1977.

*Open channel* means a channel in which water flows with a free surface.

*Operator* means the person or persons who, either individually or taken together, meet the following two criteria:

- (1) They have operation control over the facility specifications (including the ability to make modifications in specifications; and
- (2) They have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

*Other municipal ordinances* mean ordinances such as, but not limited to, zoning, subdivision and erosion.

*Owner* means the person who owns a facility or part of a facility.

*Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

*Qualified personnel* means persons who possess the appropriate competence, skills and ability (as demonstrated by sufficient education, training, experience and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally accepted industry standards for such activity.

*Registered landscape architect (RLA)* means a person who has been duly licensed and registered to practice landscape architecture by the Texas Board of Architectural Examiners.

*Registered professional engineer (RPE)* means a person who has been duly licensed and registered by the State Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.

*Sanitary sewer (or sewers)* means the system of pipes, conduits and other conveyance which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the sewage treatment plant serving the City (and to which stormwater, surface water and groundwater are not intentionally admitted).

*Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

*Start of construction* for a structure, "start of construction" includes substantial improvement and means the date the development or building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the

first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction of a structure does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Stormwater* means stormwater runoff, snow melt runoff, surface runoff and drainage.

*Structure* means a walled and roofed building, a manufactured home, a gas or liquid storage tank, or a substation that is principally above ground.

*Substantial improvement* means any combination of repairs, reconstructions or improvements of a structure, the cumulative cost of which equals or exceeds 50 percent of the initial market value of the structure either:

- (1) Before the first improvement or repair is started, or
- (2) If the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Incremental improvements over a period of time, the cumulative cost of which equals or exceeds 50 percent of the market value at the time of the first improvement, shall be considered as a "substantial improvement."

The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

*Surety* means a corporation surety bond, cash or certificate of deposit.

*Use* means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or any activity, occupation,



business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

*Use permit* means the permit required before any use may be commenced.

*Variance* means a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article.

*Violation* means the failure of a structure or other development to be fully compliant with this article. A structure or other development without the FEMA elevation certificate prior to a certificate of occupancy, other certifications or other evidence as required by the City Manager, is presumed to be in violation until such time as that documentation is provided.

*Watershed* means the area drained by a stream or drainage system.

*Waters of the United States* means all waters which are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR 122.2; but not including any waste treatment systems, treatment ponds or lagoons designed to meet the requirements of the Federal Clean Water Act.

*Water surface elevation* means the height, in relation to the NGVD of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of riverine areas.

*Wetlands* means areas identified and designated by the U.S. Army Corps of Engineers as wetlands (Ord. 2726 - Bird Sanctuary).

**Sec. 11-127. Lands to which this article applies.**

This article shall apply to all areas of land located within the corporate limits of the City of Mesquite, Texas, and within the City's extraterritorial jurisdiction, and to all subsequent additions of land to the corporate limits or the extraterritorial jurisdiction of the City.

5. *Article V, Division 1, Secs. 11-130 through 11-133.* Amend Chapter 11, Article V, Division 1 by renumbering Sections 11-130 through 11-133 to Sections 11-128 through 11-131.

6. *Article V, Division 1, Secs. 11-134 and 11-135.* Amend Chapter 11, Article V, Division 1 by deleting Section 11-134 in its entirety and renumbering Section 11-135 to 11-132.
7. *Article V, Division 2, Sec. 146(a).* Amend Chapter 11, Article V, Division 2 by deleting the first paragraph in Section 146(a) in its entirety and adding a new first paragraph to Section 146(a) to read as follows:

**Sec. 11-146. Duties of city officials.**

- (a) *Duties of the City Manager.* The City Manager is hereby appointed to administer and implement the floodplain management portions of this article, as well as the requirements of the City of Mesquite Engineering Design Manual and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. The duties of the City Manager or his designee shall include but not be limited to:
8. *Article V, Division 2, Sec. 11-148.* Amend Chapter 11, Article V, Division 2 by deleting Section 11-148 in its entirety and adding a new Section 11-148 to read as follows:

**Sec. 11-148. Permits.**

The City has several permits related to storm drainage. Some of these permits are listed below and explained in detail in the following paragraphs. Permits required by other ordinances may also be needed.

- (1) *Development permit.* All developers, owners or builders shall obtain and submit for approval a development permit application for new construction, placement of fill, new manufactured home sites, alteration of a waterway, substantial improvements to existing structures or manufactured homes, or improvements to existing structures, or manufactured homes in the floodplain of the design flood that will result in increasing the overall outside dimensions of the structure or manufactured home. Permit applications shall comply with the City of Mesquite Engineering Design Manual.

The City Engineer will determine whether the review of a flood study will be completed by City staff or if, due to complexity or time constraints or resource limitations, an engineering consulting firm will be required to assist City staff in the review. The cost of this review shall be borne by the developer, engineer or property owner submitting the flood study.

The City shall first obtain a cost estimate for the City staff review time or if review is being completed by an engineering consultant, a cost

estimate from the engineering consultant will be obtained. Before the review begins, the developer, engineer or property owner submitting the flood study shall deposit with the City funds equal to the cost estimate. If applicable, the City shall disburse the funds to the consulting engineer as the review progresses. Should the review fees exceed the initial estimate, the developer, engineer or property owner submitting the flood study shall be informed of the shortage and a new estimate shall be made by the City staff or consultant engineer to complete the flood study review. Additional funds will then be deposited with the City by the developer, engineer or property owner submitting the flood study to cover the estimated shortfall before the review of the study resumes.

If an existing non-residential structure is proposed for flood-proofing, then a certificate sealed by a registered professional engineer in the State of Texas shall be submitted stating that all of the flood-proofing criteria listed in the City of Mesquite Engineering Design Manual will be met. Construction or renovation projects cannot begin until the City issues the development permit.

- (2) *Elevation certificate.* Developers, owners or builders adjacent to the design floodplain, other existing creeks, swales or ditches, or other flood prone areas as designated by the City Engineer shall complete an elevation certificate prior to issuance of a certificate of occupancy by the City. Elevation certificate forms can be obtained at the office of the City Engineer.
- (3) *Proceeding without the applicable permits.* Any developer, owner or builder who fails to obtain the applicable development or other necessary permits before beginning the subject project is in violation of this article. Furthermore, any act or omission of any owner or developer of land subject to the provisions herein which has as its effect the circumventing of the intent and purpose of this article shall be considered in violation of same. In addition to the penalties outlined in Section 11-128, no building permit, plat, site plan or certificate of occupancy shall be issued for any construction, reconstruction or development upon any land where such construction, reconstruction or development is not in conformity with the requirements and intent of this article. Anyone who violates any of the terms and provisions of this article shall be denied a building permit, etc., until the violation is corrected.
- (4) *Deviations from permit terms.* Permits may be revoked by the City Engineer if, upon periodic inspection, he determines that the work is not progressing in accordance with specifications of the approved plan and permit.

Field changes to storm sewer plans can be made only upon approval by the City Engineer. Record drawings shall be submitted to the City Engineer at the completion of the project.

9. *Article V, Division 2, Secs. 11-149 and 11-150.* Amend Chapter 11, Article V, Division 2 by deleting Sections 11-149 and 11-150 in their entirety and adding a new Section 11-149 to read as follows:

**Sec. 11-149. Plan requirements.**

Plans for improvements and/or alterations to drainage and floodplain facilities and appurtenances, including inlets, pipes, culverts, channels, lakes, dams, levees, detention/retention ponds and stormwater conveyance within alleys, streets and rights-of-way shall comply with the City of Mesquite Engineering Design Manual requirements.

10. *Article V, Division 3.* Amend Chapter 11, Article V, Division 3 by deleting the title of Division 3 in its entirety and adding a new title to Division 3 to read as follows:

DIVISION 3. DESIGN AND CONSTRUCTION

11. *Article V, Division 3, Secs. 11-161, 11-162 and 11-163.* Amend Chapter 11, Article V, Division 3 by deleting Sections 11-161, 11-162 and 11-163 in their entirety and adding new Sections 11-161 and 11-162 to read as follows:

**Sec. 11-161. Generally.**

Design and construction of drainage and floodplain facilities and appurtenances, including inlets, pipes, culverts, channels, lakes, dams, levees, detention/retention ponds and stormwater conveyance within alleys, streets and rights-of-way shall comply with the City of Mesquite Engineering Design Manual.

**Sec. 11-162. Development within ultimate floodplain.**

All floodplain alterations, floodplain improvements and construction permitted in the ultimate floodplain shall comply with all floodplain regulations of the City of Mesquite Engineering Design Manual. The ultimate floodplain is the entire geographic area that must be reserved in order to discharge the design flood without cumulatively increasing the water surface elevation. The ultimate floodplain shall refer to the area subject to flooding resulting from the ultimate 100-year design flood (based on fully developed watershed conditions). The ultimate floodplain shall encompass all areas identified in FEMA floodplain.

12. *Article V, Division 4, Secs. 11-171 through 11-176.* Amend Chapter 11, Article V, Division 4 by deleting Division 4, Sections 11-171 through 11-176 in their entirety.

13. *Article V, Division 5, Secs. 11-186 through 11-191.* Amend Chapter 11, Article V, Division 5 by deleting Division 5, Sections 11-186 through 11-191 in their entirety.
  
14. *Article V, Division 6, Secs. 11-206 through 11-209.* Amend Chapter 11, Article V, Division 6 by deleting Division 6, Sections 11-206 through 11-209 in their entirety.

1. *Article I, Secs. 15-1 and 15-2.* Amend Chapter 15, Article I by deleting Sections 15-1 and 15-2 in their entirety and adding a new Section 15-1 to read as follows:

**Sec. 15-1. Median improvements.**

- (a) Medians improvements shall be designed and constructed in accordance with the City of Mesquite Engineering Design Manual.
  - (b) Maintenance responsibility of the private developer.
    - (1) Maintenance of median improvements of private developers shall be the responsibility of the private developer for a period of two years following the acceptance of the improvements by the Parks and Recreation Department. The maintenance to be provided shall include mowing and edging the grass on a regular basis, watering the trees sufficiently to maintain vigor, replacement of dead or dying trees, litter control, weed control and any other maintenance necessary for the upkeep of the median in an attractive manner.
    - (2) In order to guarantee performance of the median maintenance, the private developer shall be required to establish an escrow account with the City for such purpose. The amount placed in escrow shall be equal to the cost of the maintenance of the median improvements for two years. Such cost shall be determined by the Parks and Recreation Department based upon current maintenance costs. If satisfactory maintenance is accomplished by the developer during the first year of the two-year required maintenance, one-half of the amount in escrow shall be released at the end of the first year. The remainder of the escrow amount shall be returned to the developer at the close of the second year of satisfactory maintenance. If at any time during the required two-year maintenance period the developer shall fail to maintain the median, the City Park and Recreation Department shall utilize funds from the escrow account to accomplish the maintenance and such amount shall be deducted from any amount returned to the developer at the end of the two-year maintenance period. If satisfactory maintenance is not accomplished for any period during the first year of the two-year maintenance period, no funds shall be returned to the developer until the end of the entire two-year period, at which time remaining funds, if any, shall be returned to the developer. Any interest accrued on the escrow account shall be the property of the City.
2. *Article II, Division 1, Sec. 15-26(b).* Amend Chapter 15, Article II, Division 1 by deleting Section 15-26(b) in its entirety and adding a new Section 15-26(b) to read as follows:

(b) The following words when used in this chapter are defined as follows:

*A.S.T.M. (American Society for Testing and Materials)* means any publication, pamphlet, booklet, book or document referred to by number, letter or other designation in this article in connection with this definition and any amendment thereto shall be a part of this article as if attached hereto. Where an A.S.T.M. designation is used herein, it shall be the latest revision of that A.S.T.M. designation.

*Angle parking* means parking where the longitudinal axis of a vehicle forms an angle with the alignment of the roadway.

*Building Official* means the Building Official of the City of Mesquite or the Building Official's designee.

*Contractor* means any person, firm or corporation engaged in the business of installing or altering walks, drives, curbs, gutters, pavements or appurtenances on public property. This term also includes those who represent themselves to be engaged in the business whether actually doing the work or not and includes any person who subcontracts to do such work.

*Curb* means the vertical or sloping member along the edge of a pavement forming part of a gutter, strengthening or protecting the pavement edge and clearly defining the pavement edge to vehicle operators. The surface at the curb facing the general direction of the pavement is called the "face."

*Director of Public Works* means the Director of Public Works of the City of Mesquite or the Director's designee.

*Driveway approach* means the area, construction or facility between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to private property.

*Gutter* means the artificially surfaced and generally shallow waterway provided usually at the side of the street adjacent to and part of the curb for the drainage of surface water. For concrete streets with a curb, the gutter width is 18 inches measured from the back of the curb perpendicular into the pavement. For asphalt streets with a curb, the gutter width is 30 inches measured from the back of the curb perpendicular into the pavement.

*Intersection* means:

- (1) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles,

or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

- (2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highway shall be regarded as a separate intersection.
- (3) The junction of an alley with a street or highway shall not constitute an intersection.

*Off-street parking* means that type of parking wherein the maneuvering of the vehicle while parking and unparking as well as the actual parking itself is done entirely on private property.

*Person* means a human being, his heirs, executors, administrators or assigns, and where the context permits, it also includes a firm, partnership, association or corporation, its successors or assigns or the agent of any of the aforesaid.

*Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG)* means the technical requirements issued by the U.S. Architectural and Transportation Barriers Compliance Board, as amended.

*Sidewalk* or *walk* means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

*Street* means a public way for purposes of vehicular travel, including the entire area within the right-of-way. This term shall also be used in urban areas to denote a highway or street.

*Texas Accessibility Standards (TAS)* means the technical requirements issued by the Texas Department of Licensing and Regulation under the authority of the Texas Government Code, Chapter 469.

*Traffic island* or *median strip* means a barrier within a roadway to exclude vehicles, designed for the purpose of separating or directing streams of vehicular traffic.

3. *Article II, Division 1, Sec. 15-30.* Amend Chapter 15, Article II, Division 1 by deleting Section 15-30 in its entirety and adding a new Section 15-30 to read as follows:

**Sec. 15-30. Building Official—To administer and enforce article.**



The provisions of this article shall be administered and enforced by the Building Official and Director of Public Works of the City or such other person as may be designated by the City Manager, and for this purpose, he shall have police power.

4. *Article II, Division 1, Sec. 15-32.* Amend Chapter 15, Article II, Division 1 by deleting Section 15-32 in its entirety and adding a new Section 15-32 to read as follows:

**Sec. 15-32. Same—Authority generally.**

- (a) The Building Official and Director of Public Works shall have authority to take the legal steps necessary to secure compliance with the provisions of this article.
  - (b) The Building Official and Director of Public Works shall have the right to enter any premises in the discharge of his official duties or for the purpose of making any inspection, reinspection or test or otherwise to ensure compliance with this article.
  - (c) The Building Official and Director of Public Works shall have the power to inspect or reinspect surfacing, the laying of surfacing materials and issue notices or affix them to premises or to reject surfacing materials not meeting the standards provided herein and shall have such other powers as are provided in this article. The Building Official and Director of Public Works shall have the power to control and regulate improvements and facilities placed upon public property and the power to cause to be removed all obstructions and encroachments not in conformance with a valid permit and the requirements herein.
5. *Article II, Division 1, Secs. 15-34 through 15-49.* Amend Chapter 15, Article II, Division 1 by deleting Sections 15-34 through 15-42 and Sections 15-46 through 15-49 in their entirety and renumbering Sections 15-43 through 15-45 to Sections 15-34 through 15-36.
6. *Article II, Division 2, Sec. 15-66.* Amend Chapter 15, Article II, Division 2 by deleting Section 15-66 in its entirety and adding a new Section 15-66 to read as follows:

**Sec. 15-66. Required.**

No person shall construct, reconstruct, alter, repair, remove, replace, pave, repave, surface or resurface any walk, drive, curb, gutter, paved area or appurtenance on public property in the City unless the person is the City, a City contractor or has first obtained all required permits including, but not limited to, a right-of-way permit.

7. *Article II, Division 3.* Amend Chapter 15, Article II by deleting Division 3 in its entirety.

8. *Article II, Division 4, Subdivision 1.* Amend Chapter 15, Article II by renumbering Division 4, Subdivision 1 as Division 3 and adding new Sections 15-111 and 15-113 to read as follows:

DIVISION 3. MATERIAL SPECIFICATIONS AND CONSTRUCTION METHODS

**Sec. 15-111. Compliance with City of Mesquite Engineering Design Manual required.**

Sidewalks, curb, gutters, drives, driveways and pavements shall be constructed in accordance with the City of Mesquite Engineering General Design Manual, as amended.

**Sec. 15-112. Nonconforming multifamily and nonresidential land use driveways.**

- (a) Nonconforming multifamily and nonresidential land use driveways not conforming to this section serving a lot, parcel or tract of land may remain in service until the occurrence of one or more of the following events:
- (1) A change in the land use that requires, pursuant to the zoning ordinance, five or more additional parking spaces.
  - (2) The addition or expansion of required stacking spaces due to a change in the land use.
  - (3) Any modifications that change the original design of the existing driveway.
  - (4) The construction of a median opening on the public street by private interests. All driveways that are served by the new median opening shall comply with the provisions of this section. It shall be the responsibility of the private entity requesting the median opening to obtain the necessary permission for driveway modifications that may be required to driveways on other properties.
  - (5) A finding by the Manager of Traffic Engineering that one or more driveways serving the land use are a traffic hazard due to deficiencies that may be corrected by compliance with this section.
- (b) Upon the occurrence of any of the events described, the nonconforming status shall cease, and the site shall be required to meet the requirements of this section.
- (c) When any single nonconforming driveway is reconstructed, that driveway shall conform to this section in all respects.

**Sec. 15-113. Penalties.**

Any person or corporation violating any term or provision of this section, including the owner or owners of any premises, or part thereof, where a violation occurs or exists, or any architect, builder or contractor who participates in or permits construction in violation of the terms and provisions of this section, shall each be deemed guilty of a misdemeanor and punished in accordance with Section 1-6 of this Code. Each day in which a violation continues shall constitute a separate offense.

9. *Article II, Division 3, Subdivisions II, III and IV.* Amend Chapter 15, Article II, Division 3 by deleting Subdivisions II, III and IV in their entirety.

1. *Article II, Division 1, Sec. 16-31.* Amend Chapter 16, Article II, Division 1 by deleting the definition for “general design standards” in Section 16-31 in its entirety and adding a new definition for “general design standards” to read as follows:

*General design standards* means the design specifications designated by the City of Mesquite as standards for construction on all public infrastructure constructed in the City including the City of Mesquite Engineering Design Manual, City Standard Construction Details and the City of Mesquite Special Provisions.

2. *Article II, Division 2, Secs. 16-33(d) and 16-33(e).* Amend Chapter 16, Article II, Division 2 by deleting Sections 16-33(d) and 16-33(e) in their entirety and adding new Sections 16-33(d) and 16-33(e) to read as follows:

(d) *Location of facilities.* The location of all water and wastewater mains necessary to serve a proposed development shall be in accordance with the City's master plan(s) for water and wastewater facilities and in accordance with the City's subdivision regulations and the City of Mesquite Engineering Design Manual.

(e) *Construction standards.* All water and wastewater facilities required by these regulations shall be designed and constructed in accordance with the requirements and specifications contained in the City of Mesquite Engineering Design Manual.

3. *Article II, Division 2, Secs. 16-34(a) and 16-34(b).* Amend Chapter 16, Article II, Division 2 by deleting Sections 16-34(a) and 16-34(b) in their entirety and adding new Sections 16-34(a) and 16-34(b) to read as follows:

(a) *Size of mains.* Water and wastewater mains shall be sized and designed in accordance with the City of Mesquite Engineering Design Manual.

(b) *Extensions with property to be developed.* All water and wastewater mains shall be extended through and/or across the frontage of the property to be developed in streets, alleys or in easements to the tract or addition in order to provide service to adjacent property where applicable. Developments that are permitted to construct an onsite sewerage facility in accordance with the provisions of the City of Mesquite Engineering Design Manual shall be exempt from the requirement to extend wastewater mains through and/or across frontage of property.

4. *Article III, Division 1, Sec. 16-56.* Amend Chapter 16, Article III, Division 1 by deleting 16-56 in its entirety and adding a new Section 16-56 to read as follows:

**Sec. 16-56. Sanitary sewer system generally.**

The sanitary sewer system of the City shall consist of main and lateral conduits designed and constructed in accordance with the City of Mesquite Engineering Design Manual. They are designed to carry off all liquid house waste and are known herein as

sanitary sewers. The sewers in the streets passing in front of the various lots are called main or lateral sewers. The sewers leading from the main or lateral sewers to the property on either side are called house sewers. Porous drains laid for removing subsurface water are called subsoil drains.

5. *Articles V and VI.* Amend Chapter 16 by deleting Article V in its entirety and renumbering Article VI to V.