ORDINANCE NO. 4708
Zoning Text Amendment No. 2019-03

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 8 OF THE MESQUITE CITY CODE, AS AMENDED, BY ADDING A NEW ARTICLE XIV TO CHAPTER 8 ENTITLED "SPECIAL EVENTS AND PARADES" THEREBY ESTABLISHING REGULATIONS PERTAINING TO SPECIAL EVENTS AND PARADES; AMENDING CHAPTERS 3, 8, 9, 10 AND 10.5 OF THE MESQUITE CITY CODE, AS AMENDED, BY MAKING CERTAIN DELETIONS AND ADDITIONS PERTAINING TO SPECIAL EVENTS IN THOSE CHAPTERS; AMENDING THE MESQUITE ZONING ORDINANCE BY MAKING CERTAIN DELETIONS AND ADDITIONS IN CHAPTER 1 PERTAINING TO SPECIAL EVENTS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE NOT TO EXCEED $2,000.00; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, special events range from very small neighborhood-level events to large-scale, multi-million dollar productions; and

WHEREAS, events held in the City of Mesquite (the "City") impact public safety and impede the flow of pedestrian and vehicular traffic; and

WHEREAS, the City's public safety personnel are better able to respond to issues affecting public safety when they are alerted in advance to the timing, location and nature of events occurring in the City; and

WHEREAS, when more than one event occurs in the same general area, the occupancy level of adjacent city streets and sidewalks increases, which may create an unsafe condition and strain the City's resources and infrastructure; and

WHEREAS, the Planning and Zoning Commission gave public notice and held a public hearing regarding proposed revisions and recommended amendment of the Mesquite Zoning Ordinance; and

WHEREAS, the Mesquite City Council gave public notice and held a public hearing regarding the proposed amendment; and

WHEREAS, the Mesquite City Council finds that it is in the best interests of the citizens of the City and City government to ensure safe execution of special events and parades by adopting these regulations.

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

SECTION 1. That Chapter 8 of the Mesquite City Code, as amended, is hereby amended by adding a new Article XIV entitled "Special Events and Parades," attached hereto as Exhibit "A" and made a part thereof, in all other respects said Code and Chapter to remain in full force and effect.

SECTION 2. That Chapters 3, 8, 9, 10 and 10.5 of the Mesquite City Code, as amended, are hereby amended by making certain deletions and additions, attached hereto as Exhibit "B," incorporated herein by reference and hereby made a part of Chapters 3, 8, 10 and 10.5 of the Mesquite City Code, in all other aspects said Code and Chapters to remain in full force and effect.

SECTION 3. That Chapter 1 of the Mesquite Zoning Ordinance is hereby amended by making certain deletions and additions, attached hereto as Exhibit "C," incorporated herein by reference and hereby made a part of Chapter 1 of the Mesquite Zoning Ordinance, in all other aspects said Ordinance and Chapter to remain in full force and effect.

SECTION 4. 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 5. 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 6. 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 7. 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 September 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:

David L. Paschall
City Attorney

ARTICLE XIV – SPECIAL EVENTS AND PARADES

Sec. 8-890. Purpose.

Parades and special events, including outdoor events in the City streets, sidewalks and parks and large outdoor events on private property, create significant demands upon City resources and infrastructure. In order to conserve and allocate City resources and to adequately protect the public safety of event participants, neighboring property owners, residents and businesses, it is necessary to regulate the use of the City's parks, streets and public areas in connection with parades and special events. The intent of this article is to ensure that the City will have adequate advance notice of outdoor events and the ability to plan and allocate the City services that will be needed while recouping the City's costs associated with outdoor events, such as personnel, utilities, maintenance and administrative costs, while facilitating expressive and entertainment opportunities for the community.

Sec. 8-891. Definitions.

Except where the context clearly indicates a different meaning, in this article:

Applicant means the person who has filed a written application for a special event or parade and is responsible for conducting the event, including any responsible organization, corporation or other group on whose behalf the individual is requesting the permit.

Attendee or *attendance* means participants, spectators, speakers, performers, entertainers, exhibitors or other persons at the event.

Building Official means the Building Official or the Building Official's designee.

City Manager means the City Manager or the City Manager's designee.

City means the City of Mesquite, Texas.

Days means calendar days. In computing any period of time under this article, the day of the act, event or default after which the period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

Emergency services and fire safety plan means a written proposal providing plans for emergency services and evacuation, including fire prevention and fire suppression on public and private property used for the event, and emergency medical services to attendees.

Event means a special event or parade.

Fire Chief means the Fire Chief or the Fire Chief's designee.

First Amendment activity means all expressive and associative activity that is protected by the United States and Texas Constitutions, including speech, press, assembly and the right to petition, but not including commercial advertising.

First Amendment parade means a parade, the sole or principal object of which is First Amendment activity.

First Amendment special event means a special event in which the sole or principal object is First Amendment activity.

National Night Out means the annual nationwide community-police awareness event to promote neighborhood spirit and police-community partnerships and to generate support for, and participation in, local anticrime programs.

Neighborhood block party means an outdoor event organized by the residents of a neighborhood or city block and held upon city right-of-way.

Parking plan means a written proposal for the operation and regulation of parking on private and public property.

Parade means an organized procession of people, traveling by whatever means, from one location to any other location on a street or other public right-of-way or anywhere else in the City in such a way as to impede the normal flow or regulation of pedestrian or vehicular traffic.

Person means an individual, firm, partnership, corporation, limited liability company, joint venture, organization, contractor, subcontractor, affiliate, agent, representative, association or other legal entity of any kind, any lawful trustee, successor, assignee, transferee, heir or personal representative, but shall not mean the City.

Police Chief means the Police Chief or the Police Chief's designee.

Police services plan means a written proposal providing plans for traffic, crowd and parking control, public security and service calls, including not only the street or streets to be closed but any other streets or public areas in the close proximity that may be used for alternative routes or for parking of vehicles of persons attending the event.

Private property means all property that is located within the boundaries of the City, except for property that is owned by the City, public property, as defined herein, or by another governmental entity.

Public property means dedicated or undedicated public land, outdoor park and outdoor recreational facilities, streets, highways, municipal parking lots, parkways or alleys, public spaces and rights-of-way within the City.

Special event means a single, temporary, organized, outdoor gathering or a temporary celebration or series of related consecutive outdoor gatherings or celebrations, sponsored by a person and located in the City, that:

(1) Is expected to draw 100 or more attendees at any one time held on public property; or

(2) Is expected to draw 75 or more attendees and involves any of the following on public property:

a. The sale or distribution of merchandise, food or beverages;

b. Placement of portable restrooms to support the event; or

(3) Is on public or private property that includes one or more of the following:

a. Partial or full closure of a street;

b. Blocking or restricting access to public property; or

c. In support of the event

1. Erection or installation of a stage, band shell, portable building, grandstand, bleachers, tent or canopy greater than 200 square feet.

Sidewalk means the portion of a street between the curb lines or lateral lines of the roadway and the adjacent property lines, which area is intended for the use of pedestrians and may or may not be improved with concrete, cement, asphalt or other material.

Street means the entire width between the boundary lines of every right-of-way, as defined in Article III of Chapter 15, "Streets and Sidewalks," of this Code, which is publicly maintained, when any part thereof is open to the use of the public for purposes of vehicular traffic.

Traffic control plan (TCP) means a written proposal for the operation and regulation of traffic-control devices used to facilitate vehicular and pedestrian traffic safely and efficiently through a temporary traffic control zone, stamped and approved by a licensed, professional engineer, and approved by the City.

Sec. 8-892. Exceptions.

The provisions of this article do not apply to:

(1) Property owned or controlled by the City subject to a facility use agreement, contract, lease or management or operation agreement with a person in which the agreement addresses events.

(2) Processions of vehicles operated in compliance with ordinary traffic laws.

(3) Processions of vehicles for a funeral operated in compliance with the Texas Transportation Code.

(4) Processions of pedestrians in public parks, along or upon sidewalks, or on private property provided the normal flow of traffic upon a street, sidewalk or other public right-of-way is not impeded or obstructed.

(5) First Amendment activity conducted entirely on sidewalks, on the non-paved portion of public right-of-way, in public parks or on private property if the normal flow of traffic upon a street, sidewalk or other public right-of-way is not impeded or obstructed and others are not prevented from using the public park.

(6) A neighborhood block party provided a block party petition is submitted to and approved by the Public Works Traffic Engineering Division on a form available at the Department of Public Works.

(7) Events held for National Night Out provided that the event does not involve the closure of streets or live or amplified music.

(8) Mobile medical and public health services that obtain a permit under Section 1-602.E of the Zoning Ordinance, as amended.

(9) Events conducted under the supervision of or with the permission of a governmental entity on property owned, leased or operated by a governmental entity other than the City, if the event does not require the closing or rerouting of a street, the entity employs certified peace officers to provide security for the event, and the entity adopts and provides a written plan to the City Manager addressing emergency services, crowd, traffic and parking control.

Sec. 8-893. Permit required; limits on duration and frequency.

(a) Except as provided in Section 8-892, any person conducting or commencing an event shall first obtain a permit as required by this article.

(b) No event shall exceed 15 consecutive days.

(c) No person may conduct more than four events within a 12-month period.

Sec. 8-894. Permit application.

(a) *Application requirements.* An application for an event permit must be made to the Building Official on the City's Online Permitting System, which can be accessed on the Building Inspection Division Portal of the City of Mesquite website. The application must include the application fee, an expedited review fee, if applicable, and the following:

(1) The name, address, daytime telephone number, email address and cellular number, if applicable, of the applicant.

(2) If the event is proposed to be conducted for, on behalf of, or by an organization, the names, addresses and telephone numbers of the headquarters of the organization and of the authorized and responsible heads of such organization.

(3) The name, address, telephone number and email address of the person who will be the parade or special event chair, responsible for its conduct, and at the site during the entire event.

(4) The date(s) and times of the event, including set up or assembly and removal.

(5) A projected attendance estimate in compliance with Section 8-895.

(6) An agreement binding the person responsible for the event to pay costs accessed by the City in accordance with this article.

(7) For a parade:

a. The route to be traveled, including the exact street address of the starting point and the termination point of the parade.

b. The location of any assembly areas.

c. The interval of space to be maintained between units of the parade.

d. A map reflecting the route.

(8) For a special event:

a. A description of the special event, including any historical or promotional information.

b. The location.

c. If amplified sound is to be used, a noise mitigation plan responding to noise impacts on surrounding businesses or residences.

d. Details of how the applicant will clean up the area after the special event.

e. A statement as to whether pyrotechnics will be used.

f. A report on whether alcohol will be sold or distributed, the vendors and any license or permit required by Texas Alcoholic Beverage Code.

g. A list of contractors that the applicant will hire to provide necessary street barricading and signs in accordance with the TCP, portable rest rooms and concession facilities.

(9) A site plan detailing the electrical, street barricade and traffic needs, and the location of tents, generators, stages, booths, utility poles, stands, disbanding areas, signs, banners, vendors, portable restrooms, orientation of amplifiers and loudspeakers, lighting, disability access and viewing stands, as applicable.

(10) An estimate of the number and type of any animals that will participate, and the number and description of vehicles that will be used, and the basis for the estimate.

(11) A statement as to whether the event will occupy all or a portion of:

a. A public park or other public property; or

b. The width of the streets, sidewalks or other public rights-of-way proposed to be traversed.

(12) A public safety plan in compliance with Section 8-896.

(13) A clean-up plan.

(14) Proof that the applicant possesses or can obtain all licenses and permits required by the City or state law.

(15) Whether admission will be charged and, if so, the price of admission.

(16) Whether the event is a public or private event.

(17) Any additional information related to health and safety that the City finds reasonably necessary to determine whether a permit should be issued.

(b) *Earliest submission.* No application for an event permit may be made earlier than 365 days prior to the parade or special event.

(c) *Filing deadlines and expedited review.*

(1) An application must be filed no later than 45 days before the event, except:

a. If the expected attendance is in excess of 5,000 people, the application must be filed no later than 180 days before the event;

b. If the expected attendance is between 501 and 4,999 people, the application must be filed no later than 60 days before the event; or

c. For a First Amendment parade or First Amendment special event, the application must be filed no later than five days before the event or parade.

(2) If possible, staff will review an application not meeting the deadlines provided in this subsection as an expedited application. An expedited application fee must be paid for expedited review as required by the fee appendix of the Mesquite City Code, as amended.

Sec. 8-895. Projected attendance estimate.

Attendance estimates shall be accompanied by an affidavit stating the basis of the estimate. Each estimate shall be based upon all relevant factors known at the time, including but not limited

to past attendance at similar functions having the same and similar performers, both in the City and comparable communities, the price of admission, if applicable, and the extent of advertising and promotion planned. The City may accept the applicant's affidavit if it appears to be based on realistic and appropriate information. If the City rejects the attendance estimates, the City shall conduct an independent analysis of estimated attendance, and the application shall be returned as incomplete, informing the applicant of the City's determination. Any new application shall include and be based upon the City's revised estimate, including the costs and requirements associated with the revised estimate. If, for unforeseen reasons, an estimate did not in fact reflect the actual and necessary resources for the event, the City may seek cost recovery from the applicant.

Sec. 8-896. Public safety plan.

(a) The applicant for an event shall submit a public safety plan with the application. The public safety plan shall contain the following unless the Building Official determines that the plan, or an aspect of the plan, is not applicable to or required by the event due to its size or location:

(1) Emergency services and fire safety plan;

(2) Parking plan;

(3) Police services plan;

(4) Traffic control plan; and

(5) Plan for water safety if boating and/or swimming is part of the event.

(b) The applicant is required to provide and pay for emergency medical services, in accordance with Subsection (d) and the following schedule:

Type of Emergency Medical Personnel or Vehicle Required	1—500 attendees	501—2,500 attendees	2,501—5,000 attendees	5,001—10,000 attendees	10,001—25,000 attendees	Over 25,000 attendees
Medic/EMT	0	2	2	4	8	8
EMS Supervisors	0	0	0	1	1	1
Emergency Medical Vehicles	0	0	0	1	1	2

(c) The applicant is required to provide and pay for law enforcement services for security, crowd control, and traffic, in accordance with Subsection (d) and the following schedule:

Number of attendees	Minimum Number of Law Enforcement Officers Required
100 to 200	1
200 to 1,500	2
1,501 to 3,000	4
3,001 to 5,000	6
over 5,000	6 plus 1 law enforcement officer for every 1,000 participants and spectators over 5,000 at the event

(d) The Building Official, upon recommendation of the Fire Chief, may require a number of emergency medical personnel and emergency medical vehicles, or upon recommendation of the Police Chief, may require a number of law enforcement officers, in addition to those required in Subsections (b) and (c), if:

(1) Any alcoholic beverage is sold, served or otherwise made available at the event;

(2) Special needs for increased security, crowd control or traffic control are created by:

a. The topography or size of the event location;

b. Weather conditions at the event; or

c. The time of day during which the event is conducted.

(3) The event requires street closures or rerouting of vehicular or pedestrian traffic; or

(4) The history of the event indicates a need for more law enforcement officers or medical personnel to protect the public health, safety and welfare.

(e) The applicant is required to provide and pay for any law enforcement officer, medic/EMT, lifeguard or other personnel needed for the event.

(f) The Building Official, in consultation with the Police, Fire and Public Works Departments, shall be responsible for determining whether to approve, modify or deny the respective plan. None of the factors set forth in Section 8-900(a) shall be considered in evaluating plans.

(g) *Compliance with the public safety plan and traffic control plan.*

(1) If the Building Official, Police Chief or Fire Chief determines that the services provided at the event do not comply with the approved plans, for a first violation, the Building Official shall contact and provide the applicant with one hour in which to bring the services into full compliance with the approved plans. The Building Official may allow additional time for compliance provided health and safety is not compromised. As soon as possible after this contact, the Building Official shall prepare written detailed documentation of the name of the event contact, the time of the conversation and the corrective action required.

(2) If the applicant does not comply in a timely manner, the City may either cancel the event or provide the necessary services and will include the full cost of providing these services in a supplemental services fee.

(3) If a violation is a second or more violation of the approved plans, the City may either cancel the event or provide the necessary services without giving the applicant an opportunity to take corrective action, and the City will include the full cost of providing these services in a supplemental services fee. As soon as possible after finding the violation, the Building Official shall prepare written detailed documentation of the nature of the violation and the corrective action taken by the City.

(4) If the Police Chief or Fire Chief determine that the services provided at the event are insufficient, given the actual circumstances of the event, the applicant shall be notified of such determination. The Police Chief or Fire Chief, using their sole judgment regarding the immediacy of the need to have additional emergency services, shall determine whether to allow the applicant to provide additional emergency services or whether to have the City provide those services. As soon as possible after the contact with the applicant, the Police Chief or Fire Chief shall prepare written detailed documentation of the name of the event contact, the time of the conversation, the findings of the Police Chief or the Fire Chief regarding the need for additional emergency services, the corrective action required and who will provide the corrective action. This written documentation shall be provided to the Building Official within five business days after the conclusion of the event. Where the City provides the additional emergency services, the City will include the full cost of providing these services in a supplemental services fee.

Sec. 8-897. Notification requirements; response to concerns.

(a) For events with a projected attendance of 200 or more, as determined by Section 8-895, "Projected Attendance Estimate," or if live or amplified music will be provided at the event, the following apply:

(1) No later than 15 days before the event, the applicant shall provide written notice, at applicant's expense, to all owners of property, as shown by the current tax roll, along all the block faces of the special event or parade. Notice shall also be sent to the Building Official. Notice shall include the special event or parade hours,

location or route, date and street closures. Notice may be provided by U.S. mail, a door hanger or hand delivery.

(2) The applicant shall file an affidavit with the Building Official not later than 10 days before the event showing that notice was provided as required above. Submittal of the affidavit to the Building Official shall be proof of notification required in this article. The Building Official shall not be responsible for verifying the information submitted by the applicant.

(b) For all events, at the request of the Building Official, any questions or concerns from residents, business or property owners shall be timely addressed by the applicant.

Sec. 8-898. Fees and costs.

(a) The applicant is required to pay all applicable fees as required by the fee appendix of the Mesquite City Code, as amended, for all City services for the event in excess of what the City would provide to the general public in the ordinary course of its daily operations, including but not limited to litter and garbage pickup, street sweeping, as well as a security deposit and supplemental service fees, if applicable. The security deposit shall be returned to the applicant within 30 days after the event after the deduction of the actual cost of repair of damage, beyond normal wear and tear, resulting from the event. The assessed reimbursement amount shall be subject to the procedures for appeal contained in this article.

(b) A schedule of charges, fees and deposits are provided in the fee appendix of the Mesquite City Code and can be accessed on Municode.com.

(c) Not less than 15 days before the event, the Building Official shall provide the applicant an estimate of all City costs.

(d) The applicant shall pay any additional fees owed the City for the event within 60 days after the event ends. The applicant may, upon written request to the Building Official, obtain a refund of any fee paid for a service that the City did not provide for the event.

(e) First Amendment parades and First Amendment special events are exempt from the payment of the application fee, except that an applicant for a First Amendment parade or First Amendment special event shall be required to pay fees for street closures required for the event. No security deposit is required for First Amendment parades and First Amendment special events.

(f) An applicant shall be required to pay all fees for permits and licenses required by other City ordinances to conduct specific activities in conjunction with or as part of an event.

Sec. 8-899. Agreement for use of City property.

(a) The applicant for an event that involves the use of City property shall enter into a user agreement with the City prior to the event, in which the applicant agrees to bear all costs

of clean up and restoration of the public property upon the conclusion of the event and to reimburse the City for costs related to any damage or use beyond normal wear and tear on the public property. The agreement shall require the applicant to provide full reimbursement to the City within 60 calendar days of the conclusion of the permitted event. The assessed reimbursement amount shall be subject to the procedures for appeal contained in this article.

(b) The user agreement shall include the following:

(1) *Indemnification.* Applicant shall assume full responsibility and liability for and indemnify, defend and hold the City harmless against:

a. All liability, claims for damages and suits for or by reason of any injury to any person, including death, and damage to any property for every cause in any way connected with the holding of the event, including the preparation, set-up, teardown and cleanup; and

b. All expenses incurred by the City for public safety, sanitation and transportation personnel and resources required to preserve public order and protect public health, safety and welfare, together with any other expenses or costs that may be incurred by the City as a result of the event. The applicant shall indemnify the City against all charges, expenses and costs, including the City's legal department services and attorneys' fees incurred on account of or by reason of any such injuries, damages, liability, claims, suits or losses and all damages growing out of the same.

(2) *Insurance.*

a. Insurance must be provided for any special event at which the attendance is estimated at 500 or more. For events at which attendance is estimated at 499 or fewer, the City's Risk Manager shall review the application and may require insurance if necessary for the protection of the City or for the public health, safety and welfare. Examples of smaller events that may warrant insurance include but are not limited to events where food or alcohol is sold or given away or where activities are of a physical nature.

b. An applicant must provide a certificate of general liability insurance to the Building Official in the following amounts:

Type	Amount
Workers' Compensation (If the applicant has no employees, this requirement may be waived by the Building Official upon receipt of an affidavit to that effect.)	Statutory

Employer's Liability	$1,000,000.00
General Liability Including: • Contractual Liability • Injury Liability	Bodily Injury $250,000.00 per occurrence; $500,000.00 aggregate Property Damage $100,000.00 per occurrence; $100,000.00 aggregate
Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles	Bodily Injury $250,000.00 per occurrence; $500,000.00 aggregate Property Damage $100,000.00 per occurrence; $100,000.00 aggregate

c. An applicant for a permit to hold an event where alcohol is to be sold must provide to the Building Official a certificate of insurance in the amount of $1,000,000.00 as liquor liability insurance, in addition to the general liability insurance requirements.

d. An applicant for a permit to hold an event where any fireworks or other special effects are displayed at the event must provide separate, additional general liability insurance for the pyrotechnics company in an amount of not less than $3,000,000.00 for each claim.

e. In addition to the insurance requirements provided herein, the Building Official may require additional insurance for an event if such additional insurance is recommended by the City's Risk Manager as being necessary for the protection of the City or the public health, safety and welfare.

f. At least 10 days before the event, the applicant must submit to the Building Official certificates or copies of the insurance policy. All required insurance must:

1. Be effective for the entirety of the event;

2. Be issued by a company authorized to conduct business in the state of Texas;

3. Name the City of Mesquite, its officers, officials, volunteers and employees as additional named insureds (except for Workers' Compensation Coverage); and

4. Shall not be subject to subrogation under any circumstances against the City of Mesquite, its officers, officials, volunteers and employees.

g. Federal, state and local government agencies may submit a statement of self-insurance which shall be acceptable in place of insurance requirements of this section.

(c) Execution of an agreement under this section shall be waived for First Amendment special events that do not involve:

(1) The use of motor vehicles;

(2) Road closures;

(3) Rental of City facilities;

(4) Alcohol; or

(5) Fireworks.

Sec. 8-900. Permit application review and rules.

(a) This section shall apply to all aspects of permitting events in the City.

(1) No permit shall be denied, nor shall the applicant be given less favorable treatment as to time, place or manner, based upon:

a. Race, color, religion, national origin, sex, gender or any other protected class as interpreted by the United States Supreme Court, or political affiliation of the applicant and/or the participants of the event;

b. The message of the event, nor based on the identity or associational relationships of the applicant and/or participants; or

c. Any assumption or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event, provided that reasonable accommodation as to time, place or manner may be required for the City to provide the resources necessary for police, fire and emergency services protection.

(b) The Building Official is responsible for the processing and management of all permits. The Building Official shall consult with any department necessary for complete review of the permit, including individuals from the following departments or sections:

(1) Police;

(2) Fire, including emergency management;

(3) Public Works;

(4) Parks and Recreation;

(5) Health; and

(6) Risk Management.

For example, if the event involves food, the Building Official shall consult with the Health Division. If the event involves street closures, the Building Official shall consult with the Public Works Department.

(c) After consultation with the affected departments, the Building Official shall submit the collected application materials and staff's recommendation to the City Manager for consideration. The City Manager may approve or deny the permit or approve the permit subject to restrictions, conditions or modifications as to time, place and manner. Restrictions or conditions imposed, and well as modifications, shall be imposed only when, based upon review of the application, compelling reasons exist, based upon public safety, health or the environment, or to scheduling conflicts with other permitted uses at the time or place requested.

Sec. 8-901. Permit issuance.

(a) After consideration of the application and other applicable information as may be otherwise required, an event application will be approved and a permit issued if, upon review, the City Manager finds that:

(1) The application contains all of the information required by Section 8-894;

(2) The application fee and expedited review fee, if applicable, have been paid;

(3) The user agreement has been executed;

(4) The applicant has complied with the requirements of this article;

(5) The event complies with the provisions of this article and all other laws;

(6) The event does not:

a. Conflict with an event for which a prior application for a permit for the same time and place has been received and the permit has been or will be granted

and the applicant did not accept alternative dates, times and location offered by the City Manager;

b. Conflict with previously planned programs conducted by the City at the same time and place as determined by the City Manager;

c. Present an unreasonable danger to the health or safety of the applicant, participants, residents or visitors to the City;

d. Interfere with proper fire and police protection or ambulance service to the area contiguous to the event and alternative means of service acceptable to the City are not available;

e. Place such a burden on the police, fire or emergency services that they would be unable to provide normal services to the remainder of the City; or

f. Substantially interrupt the safe and orderly movement of pedestrian and vehicular traffic near the event location or route;

(7) There will be adequate sanitation and other required health facilities made available in or adjacent to the event; and

(8) The event is not being conducted for an unlawful purpose or involve an illegal activity.

(b) For a First Amendment parade or First Amendment special event that is filed within five days of the event, the City Manager shall act upon an application within three days after the filing of the application. For all other events, the City Manager must act upon the application for an event permit within 10 business days after the filing of the complete application.

(c) The applicant must have the permit, and all other required permits and approvals, if any, present during the entire duration of the event, including but not limited to set-up, teardown and clean up. Failure to abide by this provision may result in the revocation of the event permit.

Sec. 8-902. Notice of decision.

Written notice of the decision of the City Manager shall be provided to the applicant. If the application for a permit is denied, the notice shall state the reasons for denial. The notice shall be in writing and sent to the applicant by certified mail, return receipt requested, through the United States Postal Service or hand delivered.

Sec. 8-903. Revocation.

The Building Official may revoke an event permit if:

(1) The applicant violates the rules set forth in this article after the applicant has received the permit;

(2) The event poses an immediate threat to health or safety;

(3) The applicant has failed to obtain any permit required by the City or state law; or

(4) When by reason of disaster, public calamity, riot or other emergency, it is determined that the safety of the public or property requires revocation.

Sec. 8-904. Appeal of a denial, modification or revocation of the permit or refund of deposit.

(a) An applicant or permittee (appellant) may appeal a denial, modification or revocation of a permit or a refund of a deposit no later than 10 days after the action being appealed. The notice of appeal must be in writing and state the grounds for the appeal and why the determination should be reversed or modified. The notice of appeal must be delivered to the office of the Building Official. If no appeal is received by the Building Official within 10 days of the decision, the decision shall be deemed final. If a timely appeal is received by the Building Official, the appeal shall be heard as provided herein.

(b) If the appellant makes a timely, written request for appeal, then the Building Official shall, within 10 days after the submission of the request, send a notice to the appellant indicating the date, time, and place of the hearing. The hearing shall be conducted by the City Council not less than 10 days nor more than 20 days after the date that the hearing notice is issued.

(c) At the hearing, the appellant shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City's witnesses. The City shall also be represented by counsel. The hearing shall take no longer than one day, unless extended at the request of the appellant to meet the requirements of due process and proper administration of justice.

(d) Within five days after the hearing, the City Council shall issue a final written decision ("the decision") by certified mail to the appellant. The decision which shall include specific reasons for the decision pursuant to this article and the right of either party to appeal the decision to a court of competent jurisdiction as provided herein.

(e) Any appeal of the decision to a court of competent jurisdiction must be filed within 30 days of the date the decision was postmarked.

(f) If the City Council finds that no grounds exist for denial, modification or revocation of the permit or refund of all or part the deposit and the City does not appeal the decision within the 30-day deadline, the Building Official shall issue the permit or make the refund to the appellant.

Sec. 8-905. Restrictions on parades and special events that involve street closures or obstructions.

(a) No parade or special event that involves the partial or full closure of a street or obstruction of the flow of traffic upon a street, sidewalk or other public right-of-way may occur between the hours of midnight and 6:00 a.m.

(b) No parade or special event that involves the partial or full closure of a street or obstruction of the flow of traffic upon a street, sidewalk or other public right-of-way shall cross or use as a route or location or a portion thereof any of the following:

(1) The following streets, including all street intersections, frontage roads and ramps:

a. Lyndon B. Johnson Expressway (Interstate Highway 635);

b. Interstate Highway 30;

c. Interstate Highway 20; and

d. US Highway 80.

(2) Military Parkway from Carmack Street to Town East Boulevard/Masters Drive.

(3) Galloway Avenue from New Market Road to La Prada Drive.

(4) Town East Boulevard from Via Del Norte to Military Parkway.

(5) Gross Road from Hillcrest Street to Sybil Drive.

(6) Oates Drive from Gus Thomasson Road to Northwest Drive.

(7) Hudson Airport Boulevard from E. Scyene Road to southern end.

(8) The following intersections within the City limits, including boundary intersections on the streets listed in Paragraphs (1) through (7):

a. Childress Avenue at Emporium Circle;

b. Towne Crossing Boulevard at Driftwood Drive;

c. Clay Mathis Road at Faithon P. Lucas Boulevard;

d. Belt Line Road at Barnes Bridge Road; and

e. Belt Line Road at Northwest Drive.

Sec. 8-906. General conduct of parades or special events.

(a) *Portable restrooms.*

(1) All events that provide portable restrooms must indicate on the special event or parade site plan the exact location where the portable restroom(s) shall be placed.

(2) If the portable restrooms are not placed at the location designated on the event site plan, the Building Official or his or her designee shall give the applicant oral or written notice to move the portable restroom(s) to the proper location. The applicant must have the portable restroom(s) moved immediately, but in no case later than four hours after notice. Should the applicant fail to meet this requirement, the applicant shall be subject to the penalties set forth in this article.

(3) The event site plan shall state the time that the portable restroom(s) shall be removed. In the event that the portable restrooms are not removed by the time set forth in site plan, the applicant shall be subject to the penalties set forth in this article. Where the applicant provides evidence of a good faith effort to have the portable restroom owner remove the portable restrooms in a timely manner, the City shall not subject the applicant to the penalties but shall instead provide written notice to the portable restroom owner requiring removal of the portable restrooms within 24 hours of receiving the City's written notice. Should the owner fail to meet this requirement, the owner shall be subject to the penalties set forth in this article.

(4) If portable restrooms are placed on public property for an event that is not permitted, the Building Official shall require the owner of the portable restrooms to remove the portable restrooms within 24 hours of receiving the written notice. Should the owner fail to meet this requirement, the owner shall be subject to the penalties set forth in this article.

(5) The provisions of Subsection (a) shall not apply to events held entirely on private property, providing placement and use of the portable restrooms are not affecting adjacent property owners or tenants and it meets the requirements of the City Code.

(b) *Alcohol permit.* No alcohol may be sold at any event unless the applicant receives an alcohol permit as required by the Texas Alcoholic Beverage Commission. If the Texas Alcoholic Beverage Commission otherwise requires a permit, e.g. when alcohol is made available only to paying guests or only to guests who bought a ticket to the event, then no alcohol may be served at the event unless the applicant receives an alcohol permit. Permits must be posted and visible to the public. The applicant shall comply with all applicable requirements of the Texas Alcoholic Beverage Code, as amended.

(c) *City permits.* It will be the responsibility of the applicant to contact the appropriate City department to obtain any necessary permits and information, including but not limited to the following:

(1) Health permits related to the proper dispensing and handling procedures for any food that is being provided or served at the event.

(2) A permit for fireworks or pyrotechnic displays.

(d) *Trash and recycling.*

(1) Trash and littering are prohibited at an event. Timely compliance with the approved clean-up plan for the event is mandatory and failure to comply shall be strictly enforced pursuant to Section 8-908, "Offenses and Penalties."

(2) Recycling at events is strongly encouraged but is not mandatory.

(e) *Noise.* No loud, excessive or unusual noise is allowed between the hours of 10:00 p.m. and 7:00 a.m. during setup, operation or teardown of an event. Excess noise shall only be allowed if approved in connection with the event permit. The City Manager shall consider the impact of the excess noise on the environment and other public health and safety concerns. Failure to comply with a request from a police officer may result in the immediate revocation of the permit. Outdoor music must be provided at a volume level that is not distracting or disturbing to those nearby, including drivers, residents and businesses.

(f) *Use of City logo or name.* An applicant may not use or allow its event to use the words "City of Mesquite," "The City of Mesquite" or the City's logo or a combination thereof in any manner that would imply an official endorsement of the event by the City without written authorization from the City Manager as required by Section 2-4 of Chapter 2, "Administration," of this code.

(g) *Placement of tents or structures on the non-paved portion of public right-of-way.* No tent or structure may be placed on the non-paved portion of the public right-of-way that is adjacent to private property without the permission of the owner or occupant of the private property.

(h) *Releases prohibited.* Release of lanterns and balloons is prohibited. Release of other items shall only be allowed if approved in connection with the event permit. In reviewing a proposed release, the City Manager shall consider the impact of the release on the environment and other public health and safety concerns.

Sec. 8-907. Public conduct during parades.

(a) *Interference.* It shall be unlawful for a person to unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade or any other permitted activity.

(b) *Driving through parades.* It shall be unlawful for a driver of a vehicle to drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and the parade has been authorized pursuant to this article.

(c) *Parking on parade route.* The Police Chief or the Traffic Engineer shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or part thereof constituting a part of the parade route. The Traffic Engineering Division shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

Sec. 8-908. Offenses and penalties.

(a) A person commits an offense if he or she commences or conducts an event:

(1) Without a permit;

(2) Knowingly makes a false statement in connection with an application; or

(3) In violation of any provision of a permit, this article or any other City ordinance or applicable law.

(b) Except as otherwise provided in this article, a culpable mental state is not required for the commission of an offense under this article.

(c) Each offense is punishable by a fine not to exceed:

(1) Two thousand dollars ($2,000.00) for a violation of a provision of this article or a requirement of a permit governing fire safety, zoning or public health and sanitation, including dumping or refuse; or

(2) Five hundred dollars ($500.00) for all other violations of this article or requirements of a permit.

I. *Chapter 3.* Amend Chapter 3 of the Mesquite City Code, as amended, by deleting Section 3-101(n) in its entirety and adding a new Section 3-101(n) to read as follows:

(n) *Skydiving/parachuting.* Due to safety considerations, parachuting/skydiving activities will not be allowed at the airport except during special events, such as air shows, open houses, etc. In addition to compliance with Chapter 8, Article XIV, "Special Events and Parades," written permission of the Airport Manager is required. Proof of liability insurance will also be required prior to written approval.

II. *Chapter 8.* Amend Chapter 8 of the Mesquite City Code, as amended, by deleting Sections 8-211(d)(2) and 8-303(b) in their entirety and adding new Sections 8-211(d)(2) and 8-303(b) to read as follows:

A. *Sec. 8-211(d)(2).* Amend Chapter 8 by deleting Section 8-211(d)(2) in its entirety and adding a new Section 8-211(d)(2) to read as follows:

(2) The provisions of this article shall not apply to a person, group or entity that obtains a special event permit from the City.

B. *Sec. 8-303(b).* Amend Chapter 8 by deleting Section 8-303(b) in its entirety and adding a new Section 8-303(b) to read as follows:

(b) Except as otherwise provided in Subsection (c) for machines placed in connection with special events, payment of such tax shall be made to the Manager, Division of Collections, of the City.

III. *Chapter 9.* Amend Chapter 9 of the Mesquite City Code, as amended, by deleting Article VIII, Sections 9-266 through 9-270 in their entirety.

IV. *Chapter 10.* Amend Chapter 10 of the Mesquite City Code, as amended, by deleting Sections 10-45(a), 10-74(a), 10-74(b)(5) in their entirety and renumbering Section 10-74(b) to Section 10-74(a) and adding a new Section 10-45(a) to read as follows:

(a) The provisions of this article shall not apply to a person, group or entity that obtains a special event permit from the City.

V. *Chapter 10.5.* Amend Chapter 10.5 of the Mesquite City Code, as amended, by deleting Section 10.5-35(d) in its entirety and adding a new Section 10.5-35(d) to read as follows:

(d) The Director of Parks and Recreation or the Director's designee may authorize special events activities prohibited herein where such activities are sponsored by the City.

I. *Chapter 1.* Amend Chapter 1 of the Mesquite Zoning Ordinance by deleting Section 1-602.D.3 in its entirety and adding a new Section 1-602.D.3 to read as follows:

3. *Other outdoor sales:* All other temporary outdoor sales events may be classified as special events and permitted under the regulations set out in Chapter 8, Article XIV, "Special Events and Parades," of the Mesquite City Code, as amended.

II. *Chapter 1.* Amend Chapter 1 of the Mesquite Zoning Ordinance by deleting Section 1-602.E in its entirety and renumbering the remaining letters under Section 1-602 from Sections 1-602.F and 1-602.G to Sections 1-602.E and 1-602.F.

III. *Chapter 1.* Amend Chapter 1 of the Mesquite Zoning Ordinance by deleting Section 1-603.C in its entirety.