

ORDINANCE NO. 4758

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE MESQUITE CITY CODE, BY ADDING NEW ARTICLE II-A TO BE TITLED "EXISTING BUILDING CODE" THEREBY ADOPTING THE 2018 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE (I.E.B.C.) AND PROVIDING CERTAIN LOCAL AMENDMENTS THERETO; PROVIDING A REPEALING CLAUSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

**WHEREAS**, it is the intent of the City Council of the City of Mesquite, Texas ("**City Council**") to protect the public health, safety, and welfare; and

**WHEREAS**, the City of Mesquite, Texas, ("**City**") is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, Section 51.072(a); and

**WHEREAS**, the City shall have the power to enact and enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Article III, Section 2 of the Mesquite City Charter; and

**WHEREAS**, a home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Section 54.004, as amended; and

**WHEREAS**, the City shall have the power to provide for the issuance of permits for erecting all buildings, for the inspection of the construction of buildings in respect to proper wiring for electric lights and other electrical appliances, piping for gas, flues, chimneys, plumbing, and sewer connections; and to enforce proper regulations in regard thereto; and the City shall also have the power to provide for license, permit and inspection fees, pursuant to Article III, Section 28 of the Mesquite City Charter; and

**WHEREAS**, the adoption of the 2018 Edition of the International Existing Building Code (I.E.B.C.), a publication of the International Code Council (I.C.C.), would be beneficial to the City so as to provide an additional means to support the economic viability of older and historic properties taking into consideration the unique qualities and materials associated with such older properties; and

**WHEREAS**, according to the introduction to the 2018 Edition the International Existing Building Code, the **I.E.B.C.** establishes minimum requirements for existing buildings using prescriptive and performance-related provisions. The **I.E.B.C.** is founded on broad-based principles intended to encourage the use and reuse of existing buildings while requiring reasonable upgrades and improvements; and

**WHEREAS**, on December 10, 2019, the Building Standards Board held a public hearing to discuss the adoption of the 2018 Edition of the **I.E.B.C.**, and to receive input from the general public and all persons who may be affected by the proposed adoption; and

**WHEREAS**, the Building Standards Board, by majority vote, has recommended the City Council adopt the 2018 Edition of the **I.E.B.C.**, and the additions, deletions, and amendments (“**the local amendments**”) thereto, attached hereto as **EXHIBIT “A”**; and

**WHEREAS**, upon the favorable recommendation of the Building Standards Board and upon full review and consideration of all matters attendant and related thereto, the City Council is of the opinion that the 2018 Edition of the **I.E.B.C.**, and the local amendments thereto, should be approved and adopted as the Existing Building Code of the City of Mesquite, Texas.

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

**SECTION 1. Recitals Incorporated.** The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

**SECTION 2. MESQUITE CITY CODE TEXT AMENDMENT: Adding new Article II-A to be titled “Existing Building Code” in Chapter 5 of the Mesquite City Code.** That Chapter 5 of the Mesquite City Code, as amended, is hereby amended by adding new Article II-A to be titled “Existing Building Code,” attached hereto as **EXHIBIT “A”** and incorporated herein by reference and made a part hereof, in all other respects said Code and Chapter to remain in full force and effect.

**SECTION 3. Repealing Clause.** That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

**SECTION 4. Conflicts Resolution Clause.** In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 5. Severability Clause.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.


**SECTION 6. Savings Clause.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Mesquite City Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 7. Penalty Clause. Criminal.** Any violation of the provisions or terms of this ordinance by any “person,” as defined in Mesquite City Code, Chapter 1, Section 1-2, shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine not to exceed TWO THOUSAND (\$2,000.00) dollars for each offense, as provided in Mesquite City Code, Chapter 1, Section 1-6, as amended. **Civil.** The City may also file a civil action for enforcement of this ordinance with civil penalties up to ONE THOUSAND (\$1,000.00) dollars per day for each offense as authorized by V.T.C.A. Local Government Code, Title 2, Subtitle D, Chapter 54, Subchapter B, as amended. **Maximum penalties.** If the maximum penalties provided for by this ordinance for an offense or civil action is greater than the maximum penalty provided for the same offense or civil action under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense or civil action shall be the maximum penalty provided by the laws of the State of Texas.

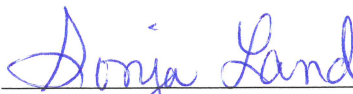
**SECTION 8. Publication.** This ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, Section 24.

**SECTION 9. Effective Date.** This ordinance after its passage and publication shall take effect on May 1, 2020, and it is accordingly so ordained.

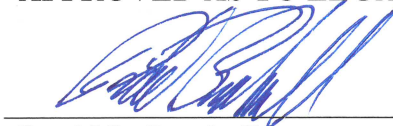
**DULY PASSED AND APPROVED** by the City Council of the City of Mesquite, Texas, on the 3rd day of February 2020.

  
\_\_\_\_\_  
**Bruce Archer**  
Mayor

ATTEST:

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

APPROVED AS TO LEGAL FORM:

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

\* \* \*

**Secs. 5-37 – 5-44. – Reserved.**

## ARTICLE II-A. EXISTING BUILDING CODE

### DIVISION 1. GENERALLY

**Sec. 5-45. Short title.**

This article shall be known and cited as the "Mesquite Existing Building Code" and may hereinafter be referred to in this article as "this code."

**Sec. 5-46. Adopted.**

The International Existing Building Code (I.E.B.C.), 2018 Edition, a publication of the International Code Council (I.C.C.), is hereby adopted by reference and incorporated herein to the same extent as if such code were copied verbatim in this Section, subject to the deletions, additions and amendments ("the local amendments") prescribed in this article. A copy of the International Existing Building Code, 2018 Edition, and the local amendments thereto shall be maintained in the Office of the City Secretary.

**Sec. 5-47. Penalties.**

1. *Criminal penalty.* Any violation of the provisions or terms of this article by any "person," as defined in Mesquite City Code Section 1-2, shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine not to exceed TWO THOUSAND (\$2,000) dollars for each offense, as provided in Mesquite City Code Section 1-6, as amended. Each day a violation continues shall constitute a separate offense.

**Charter reference** – Enforcement of ordinances, Art. III, § 28.

**Cross reference** – General penalties; applicability; continuing violations, Sec. 1-6.

**State law reference** – General Enforcement Authority of Municipalities; Penalty, V.T.C.A. Local Government Code, § 54.001.

2. *Civil penalty.* The City may file a civil action for enforcement of this article with civil penalties up to ONE THOUSAND (\$1,000.00) dollars per day for each offense as authorized by V.T.C.A. Local Government Code, Title 2, Subtitle D, Chapter 54, Subchapter B, as amended.

**Charter reference** – Enforcement of ordinances, Art. III, § 28.

**State law reference** – Civil Action, V.T.C.A. Local Government Code, § 54.012.

**State law reference** – Civil Penalty, V.T.C.A. Local Government Code, § 54.017.

**Secs. 5-48 – 5-50. – Reserved.**

**DIVISION 2. AMENDMENTS**

**Sec. 5-51. Local Amendments to the International Existing Building Code, 2018 Edition.**

1. *Specific code provisions.* Amendments included in this section are intended to be specific code provisions. If there is a conflict between a provision in the published International Existing Building Code (I.E.B.C.), 2018 Edition, and this section, the specific provisions of this section shall control.
2. *Table of the local amendments.*
  - a. The following table contains the local amendments to the I.E.B.C., 2018 Edition.
  - b. Table Legend.
    - (1) Column 1: Item Reference Number
    - (2) Column 2: Related I.E.B.C. Code Section Number and Title
    - (3) Column 3: Local Amendment to I.E.B.C.
    - (4) ( . . . ): Dots ( . . . ) (i.e. an ellipsis) indicate the omission of intact and unchanged text which has not been reproduced for efficiency purposes. It is intended that the text in the I.E.B.C., not set forth in this section and instead denoted by dots ( . . . ), shall remain intact and unchanged from the language existing prior to adoption of this section.
    - (5) ( \* \* \* ): Asterisks ( \* \* \* ) indicate the omission of intact and unchanged text which has not been reproduced for efficiency purposes. It is intended that the text in the I.E.B.C., not set forth in this section and instead denoted by asterisks ( \* \* \* ), shall remain intact and unchanged from the language existing prior to adoption of this section.

<b>TABLE OF LOCAL AMENDMENTS TO THE 2018 INTERNATIONAL EXISTING BUILDING CODE</b>		
<b>No.</b>	<b>IEBC Code Section No. Title</b>	<b>Local Amendment to IEBC</b>
01	IEBC 101.1 Title.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>101.1 Title.</b>                      These regulations shall be known as the Existing Building Code of the City of Mesquite, Texas, hereinafter referred to as "this code."</p>
02	IEBC 102.4 Referenced codes and standards.	<p><i>Amend by adding a sentence [after the first sentence of the section and prior to the exception] to read as follows:</i></p> <p><b>102.4 Referenced codes and standards.</b></p> <p style="text-align: center;">* * *</p> <p>The provisions of the National Electrical Code as adopted shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.</p> <p><b>Exception:</b> Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall govern.</p> <p style="text-align: center;">* * *</p>
03	IEBC 105.1.1 Annual permit.	<i>Delete this section.</i>
04	IEBC 105.1.2 Annual permit records.	<i>Delete this section.</i>
05	IEBC 105.2.2 Repairs.	<i>Amend by deleting number 1 [the remainder of the section is unchanged].</i>
06	IEBC 105.3.2 Time limitation of application.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>105.3.2. Time limitation of application.</b>                      An application for a permit for any proposed work shall be deemed to have been abandoned 45-days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one or more extensions of time for additional periods not exceeding 45-days each. The extension shall be requested in writing and justifiable cause demonstrated.</p>

07	IEBC 105.5 Expiration.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>105.5. Expiration.</b>                      Every permit issued shall expire and become null and void if (i) the permittee fails to commence work on the site authorized by such permit within 30-days after its issuance, or (ii) the permittee fails to have the work authorized on the site by such permit inspected during any 90-day period after the work has commenced. It shall be unlawful to commence or recommence work after a permit expires without obtaining a new permit or receiving an extension from the Building Official. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 90-days each. The extension shall be requested in writing and justifiable cause demonstrated.</p>
08	IEBC 108.2 Schedule of permit fees.	<p><i>Amend by adding a sentence [after the first and only sentence of the section] to read as follows:</i></p> <p><b>108.2 Schedule of permit fees.</b>                      * * *</p> <p>See Mesquite City Code, Appendix D, for applicable fees.</p>
09	IEBC 108.6 Refunds.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>108.6 Refunds.</b>                      In the case where a fee was paid or collected erroneously, the Building Official shall authorize a one hundred (100) percent refund of said fee. In the case where a fee was paid or collected and when no work was performed under a permit issued in accordance with this Code, the Building Official may authorize a partial refund, of not more than eighty (80) percent of the permit fee, in accordance with this Section. The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180-days from the date of fee payment.</p>
10	IEBC 109.3.10 Final inspection.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>109.3.10. Final Inspection.</b>                      Every permit required by this Code shall pass a final inspection.</p>
11	IEBC SECTION 112 Board of Appeals.	<p><i>Amend section in its entirety to read as follows:</i></p> <p style="text-align: center;"><b>Section 112 APPEALS</b></p> <p><b>112.1 General.</b>                      Any person shall have the right to appeal a decision of the Building Official to the Building Standards Board established in Mesquite City Code <a href="#">Section 5-25</a> according to the appeal procedures and time for filing set forth therein.</p>

12	IEBC SECTION 202 General Definitions	<p><i>Amend section by changing the definition for “Code Official” to read as follows:</i></p> <p><b>CODE OFFICIAL.</b> The Building Official, or other authority designated by the Building Official, charged with the administration and enforcement of this Code.</p>
13	IEBC SECTION 202 General Definitions	<p><i>Amend section by changing the definition for “Existing Building” to read as follows:</i></p> <p><b>EXISTING BUILDING.</b> A building, structure or space with an approved final inspection issued under a code edition which is at least two published code editions preceding the currently adopted building code; or a change of occupancy.</p>
14	IEBC SECTION 202 General Definitions	<p><i>Amend section by changing the definition for “Existing Structure” to read as follows:</i></p> <p><b>EXISTING STRUCTURE.</b> A building, structure or space with an approved final inspection issued under a code edition which is at least two published code editions preceding the currently adopted building code; or a change of occupancy.</p>
15	IEBC 302.3 Additional codes.	<p><i>Amend by deleting the last sentence of the section and adding the following sentence in its place to read as follows:</i></p> <p><b>302.3 Additional codes.</b></p> <p style="text-align: center;">* * *</p> <p>Where provisions of the other codes conflict with provisions of this code, the Building Official shall determine which provision shall take precedence.</p>
16	IEBC 305.1 Scope.	<p><i>Amend by adding a paragraph titled “Exception” [after the first and only sentence of the section] to read as follows:</i></p> <p><b>Section 305.1 Scope.</b></p> <p style="text-align: center;">* * *</p> <p><b>Exception:</b> Components of projects regulated by and registered with Architectural Barriers Division of Texas Department of Licensing and Regulation shall be deemed to be in compliance with the requirements of this chapter [IEBC Chapter 3].</p>
17	IEBC 305.4.2 Complete change of occupancy.	<p><i>Amend by adding a number 7 to Section 305.4.2 to read as follows:</i></p> <p><b>305.4.2 Complete change of occupancy.</b></p> <p style="text-align: center;">* * *</p> <p>7. At least one accessible family or assisted use toilet room shall be provided in accordance with Chapter 11 of the International Building Code.</p> <p style="text-align: center;">* * *</p>



18	IEBC 502.7 Carbon monoxide alarms in existing portions of a building.	<p><i>Amend by deleting the exceptions in their entirety and adding new exceptions to read as follows:</i></p> <p><b>Section 502.7 Carbon monoxide alarms in existing portions of a building.</b></p> <p style="text-align: center;">* * *</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Work involving the exterior vertical surfaces of dwellings, such as the replacement of brick or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, is exempt from the requirements of this section.</li> <li>2. Work involving concrete, retaining walls or other elements located on the site and entirely outside of the dwelling or structure is exempt from the requirements of this section.</li> <li>3. Installation, alteration or repairs of plumbing or mechanical systems located entirely on the exterior or outside of the dwelling or structure are exempt from the requirements of this section.</li> </ol>
19	IEBC 503.3 Existing structural elements carrying gravity load.	<p><i>Amend by deleting the exception numbered two (2.) in its entirety.</i></p>
20	IEBC 503.15 Carbon monoxide alarms.	<p><i>Amend by deleting the exceptions in their entirety and adding new exceptions to read as follows:</i></p> <p><b>Section 503.15 Carbon monoxide alarms.</b></p> <p style="text-align: center;">* * *</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Work involving the exterior vertical surfaces of dwellings, such as the replacement of brick or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, is exempt from the requirements of this section.</li> <li>2. Work involving concrete, retaining walls or other elements located on the site and entirely outside of the dwelling or structure is exempt from the requirements of this section.</li> <li>3. Installation, alteration or repairs of plumbing or mechanical systems located entirely on the exterior or outside of the dwelling or structure are exempt from the requirements of this section.</li> </ol>

21	IEBC 705.3.1 Roof recover.	<p><i>Amend by deleting the first sentence, adding a new first sentence to read as follows, and delete the first condition numbered one (1.) in its entirety [the remainder of the section is unchanged].</i></p> <p><b>705.3.1 Roof recover.</b>                  The installation of a new roof covering over an existing roof covering shall be permitted only where any of the following conditions occur:</p> <p style="padding-left: 40px;">2. Complete and separate roofing systems, . . . .</p> <p style="text-align: center;">* * *</p>
22	IEBC 705.3.1.1 Exceptions.	<p><i>Amend by deleting the exception numbered three (3.) in its entirety [the remainder of the section is unchanged].</i></p>
23	IEBC 802.5.1 Minimum requirement.	<p><i>Amend by adding a sentence [after the first and only sentence of the section] to read as follows:</i></p> <p><b>802.5.1 Minimum requirement.</b></p> <p style="text-align: center;">* * *</p> <p>Insect screening shall not be considered as a guard. Required guards shall not be constructed with horizontal rails or other ornamental pattern that results in a ladder effect.</p>
24	IEBC 804.1 Carbon monoxide alarms.	<p><i>Amend by deleting the exceptions in their entirety and adding new exceptions to read as follows:</i></p> <p><b>804.1 Carbon monoxide alarms.</b></p> <p style="text-align: center;">* * *</p> <p><b>Exceptions:</b></p> <ol style="list-style-type: none"> <li>1. Work involving the exterior vertical surfaces of dwellings, such as the replacement of brick or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, is exempt from the requirements of this section.</li> <li>2. Work involving concrete, retaining walls or other elements located on the site and entirely outside of the dwelling or structure is exempt from the requirements of this section.</li> <li>3. Installation, alteration or repairs of plumbing or mechanical systems located entirely on the exterior or outside of the dwelling or structure are exempt from the requirements of this section.</li> </ol>

**EXHIBIT “A” TO ORDINANCE NO. 4758**  
**MESQUITE CITY CODE, CHAPTER 5, ARTICLE II-A. – EXISTING BUILDING CODE**  
International Existing Building Code (I.E.B.C.), 2018 Edition  
Page 8 of 9

25	IEBC 805.11.1 Minimum requirement.	<p><i>Amend by adding a sentence [after the first and only sentence of the section] to read as follows:</i></p> <p><b>805.11.1 Minimum requirement.</b>  * * *</p> <p>Insect screening shall not be considered as a guard. Required guards shall not be constructed with horizontal rails or other ornamental pattern that results in a ladder effect.</p>
26	IEBC 806.2 Existing structural elements carrying gravity loads.	<p><i>Amend by deleting the exception numbered two (2.) in its entirety.</i></p>
27	IEBC 807.3 Residential occupancies.	<p><i>Amend by adding the following sentence to the end of the section to read as follows:</i></p> <p><b>807.3 Residential occupancies.</b>  * * *</p> <p>Reconfigured or converted spaces shall comply with the requirements of NFPA 70.</p>
28	IEBC 1011.2 Fire protection systems.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>1011.2 Fire protection systems.</b>  Where a change in Occupancy Classification or Group occurs, fire protection systems shall be provided in accordance with the International Fire Code and International Building Code.</p>
29	IEBC 1101.2 Creation or extension of nonconformity.	<p><i>Amend section in its entirety to read as follows:</i></p> <p><b>1101.2 Creation or extension on nonconformity.</b>  An addition shall not create or extend any nonconformity in the existing building to which the addition is being made.</p>
30	IEBC 1106.1.1 Required occupant capacity	<p><i>Amend by adding a new exception numbered three (3.) to read as follows:</i></p> <p><b>1106.1.1 Required occupant capacity.</b>  * * *</p> <p>Exceptions:  * * *</p> <p>3. The Building Official, upon application of the owner or the owner’s representative, shall have the authority to grant modifications to the size of storm shelters in Group E occupancies based upon the practical capacity of educational space and subject to Peer Review in Section 106 of ICC 500. The approved capacity of the storm shelter shall be noted on the facility certificate-of-occupancy.</p>
31	IEBC 1204.2 Building area.	<p><i>Delete this section.</i></p>
32	IEBC 1204.4 Occupancy separation.	<p><i>Delete this section.</i></p>

**Secs. 5-52 – 5-55. – Reserved.**

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