

ORDINANCE NO. 4895

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE MESQUITE CITY CODE, AS AMENDED, BY ADDING A NEW ARTICLE XIV, "SUBSTANDARD, DILAPIDATED, AND DANGEROUS BUILDINGS AND OTHER STRUCTURES," AND DIVISION 1 THERETO, "MUNICIPAL COURT PROCEEDINGS REGARDING URBAN NUISANCES"; PROVIDING REPEALER, CONFLICTS RESOLUTION, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR A PENALTY NOT TO EXCEED \$1,000.00 FOR EACH VIOLATION; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City of Mesquite, Texas ("City"), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to the Texas Constitution, Article 11, Section 5 and the Texas Local Government Code, Chapter 9; 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, 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 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 Mesquite City Charter, Article III, Section 2; and

WHEREAS, the City may regulate substandard buildings in accordance with Texas Local Government Code, Title 7, Subtitle A, Chapter 214, Subchapter A; and

WHEREAS, substandard buildings have adverse effects on nearby properties, compromising the quality of life, property values and the character of surrounding neighborhoods, and are a frequent source for criminal activity; and

WHEREAS, the conditions of the buildings and the impact upon the City may constitute a public nuisance; and

WHEREAS, a nuisance determination is ultimately best made by a court; and

WHEREAS, in recognition of these deleterious effects, Texas Local Government Code, Title 7, Subtitle A, Chapter 214, Subchapter A authorizes a city to require the vacation, relocation of occupants, securing, repair, removal or demolition of substandard buildings, and assessment of penalties; and

WHEREAS, it is the intent of the City Council to ensure that there be adequate regulations to protect the public health, safety, and welfare concerning substandard buildings by rectifying and eliminating public nuisances; and

WHEREAS, upon the review and consideration of all matters attendant and related hereto, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code and adopt this ordinance under Texas Local Government Code § 214.001 as herein provided.

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

SECTION 1. The statements, facts, findings and recitals contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated herein and adopted as part of this ordinance for all purposes.

SECTION 2. Chapter 5 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by adding a new Article XIV, “Substandard, Dilapidated, and Dangerous Buildings and Other Structures,” and Division I thereto, “Municipal Court Proceedings Regarding Urban Nuisances,” as shown in Exhibit A hereto incorporated herein by reference. The Code of the City of Mesquite in all other respects shall remain in full force and effect.

SECTION 3. All ordinances, or portions thereof, of the City of Mesquite 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. 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. Should any word, sentence, clause, paragraph, phrase or section of this ordinance be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Code of the City of Mesquite as a whole.

SECTION 6. Any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) being an owner of property subject to this ordinance and violating any of the provisions or terms of this ordinance may be assessed a civil penalty at the time of an administrative hearing on violations of this ordinance in an amount not to exceed \$1,000.00 a day for each violation or, if the person shows that the property is the person’s lawful homestead, in an amount not to exceed \$10.00 a day for each violation, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws

of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.


SECTION 7. 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 7th day of September 2021.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

MESQUITE CITY CODE

* * *

Chapter 5 – BUILDINGS AND CONSTRUCTION

* * *

[Editor's Note: ADD New Article XIV as follows.]

ARTICLE XIV. - SUBSTANDARD, DILAPIDATED, AND DANGEROUS BUILDINGS AND OTHER STRUCTURES

DIVISION 1. - MUNICIPAL COURT PROCEEDINGS REGARDING URBAN NUISANCES

Sec. 5-1401. Purpose.

- (a) The purpose of this division is to protect the health, safety, and welfare of the people of the City of Mesquite by abating nuisance structures which pose risks and obtaining owner compliance with minimum property conditions as established for use and occupancy within this code.
- (b) This division does not create a private cause of action or expand existing liability against a property owner, other than that which is available within State and Local laws. This division is not a prerequisite to any suit, whether civil or criminal, and does not in any way impair the City's ability to file a lawsuit under Chapter 54 of the Texas Local Government Code, as amended, or under any other law.
- (c) This division intends to conform with Chapter 214 of the Texas Local Government Code. To the extent that any conflict arises between the material terms of that chapter and this division, it is intended that the terms of Local Government Code will control.
- (d) Any reference made in this article to any other law, statute, code, ordinance, rule, or regulation is intended to incorporate such material as it presently exists and also any future amendments, changes, revisions, repeals, or recodifications of such material, unless otherwise expressly provided.
- (e) This division intends to confirm the authority granted under section 30.00005 of the Texas Government Code as authorized by City Charter, Article IV, Section 27 and adopt procedures for the operations of such authority.

State law references –

Municipal Regulation of Housing and Other Structures, V.T.C.A. Local Government Code, [Chapter 214](#).
Dangerous Structures, V.T.C.A. Local Government Code, [Chapter 214](#), Subchapter A.
Municipal Court of Record, Jurisdiction, V.T.C.A. Government Code, Chapter 30, Subchapter A, [Section 30.00005](#).

Sec. 5-1402. Definitions.

In this division:

- (a) *Urban nuisance* means a premises or structure that:
- (1) is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;
 - (2) regardless of its structural condition, is unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
 - (3) is boarded up, fenced, or otherwise secured in any manner if:
 - a. the structure constitutes a danger to the public even though secured from entry; or
 - b. the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (2) of this definition.

Sec. 5-1403. Municipal Court jurisdiction, powers, and duties relating to urban nuisance.

- (a) The Municipal Court of Record has the power and duty to hold a public hearing to determine whether a structure complies with the minimum standards set out in this Code.
- (b) The Municipal Court of Record has the following powers and duties:
- (1) To make a determination or finding regarding the existence of an urban nuisance.
 - (2) To require the repair of a structure found to be an urban nuisance.
 - (3) To require the demolition of a structure found to be an urban nuisance.
 - (4) To require the removal of personalty from a structure ordered vacated or demolished. Removal may be accomplished by use of City forces or a private transfer company if the owner of the personalty is not known, or the whereabouts of the owner cannot be ascertained, or the owner fails to remove the personalty. Costs of any removal and storage are the responsibility of the owner of the personalty.
 - (5) To require that an open and vacant structure or open and vacant portion of a structure be secured.
 - (6) To require or cause the correction of a dangerous condition on the land. Correction of a dangerous condition may be accomplished by City forces or a private contractor. Costs of correction are the responsibility of the owner.
 - (7) To assess a civil penalty, not to exceed \$1,000 a day per violation or, if the property is the owner's lawful homestead, \$10 a day per violation, against a property or property owner for each day or part of a day that the owner fails to repair or demolish a structure in compliance with a court order issued under this division.
 - (8) To require the reduction in occupancy load of a structure that exceeds the limits set out in state law or this code.
 - (9) To require vacation of the occupants of a structure found to be an urban nuisance or found to be overcrowded.

- (c) In addition to all criminal and/or statutory warrant authority provided to the Municipal Court of Record, the Court has the authority to issue the following:
 - (1) Search warrants for the purpose of investigating any health, safety, or nuisance issue designated in the City Code, or any other purpose authorized by law;
 - (2) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises, or for any other purpose authorized by law; and
 - (3) Orders granting entry unto land to determine compliance with any Order under this Article.

Sec. 5-1404. Initiation of proceeding; petition requirements.

- (a) A petition filed with the Municipal Court by the City Attorney initiates a civil proceeding under this division. The proceeding must be kept and organized separately from the criminal dockets of the Municipal Court.
- (b) The petition shall be styled as “The City of Mesquite v. (address of the subject property)”, and may also include other such defendants as necessary for the administration of this division and its remedies, and must include:
 - (1) an identification, which is not required to be a legal description, of the structure and the property on which it is located;
 - (2) a description of the alleged violation or violations of minimum standards that are present on the property; and
 - (3) a statement that the municipality will vacate, secure, remove, or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
- (c) The Municipal Court shall set the matter for a hearing not less than 30 days nor more than 60 days after the filing of the petition.

Any party in interest is entitled to a copy of the petition and all other filings, records, or official documents contained within the Municipal Court records regarding the proceedings within seven days of an official request to the Court.

Sec. 5-1405. Notice of hearing before the Municipal Court.

- (a) The City Attorney shall give notice of a Municipal Court hearing on the repair, demolition, vacation, or securing of a structure, or the relocation of the occupants of a structure, to any owner, mortgagee, or lienholder of the structure. A diligent effort must be made to discover each owner, mortgagee, or lienholder of the structure and to give such persons notice of the hearing.
- (b) Notice of the hearing must include:
 - (1) the date, time, and place of the hearing;
 - (2) an identification, which is not required to be a legal description, of the structure and the property on which it is located;
 - (3) a description of the alleged violation or violations of minimum standards that are present on the property; and

- (4) a statement that the owner, mortgagee, or lienholder must submit at the hearing proof of the scope of any work that may be required to comply with this chapter and the time it will take to reasonably perform the work.
- (c) On or before the 10th day before the hearing date, notice of the hearing must be:
- (1) mailed, by certified mail, return receipt requested, to the record owners of the affected property, and each holder of a recorded lien against the property, as shown by the records in the Office of the County Clerk of the county in which the property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or any other applicable instruments on file in the Office of the County Clerk;
 - (2) posted, to all unknown owners, on the front door of each improvement situated on the affected property or as close to the front door as practicable; and
 - (3) published on one occasion in a newspaper of general circulation in the City.
- (d) The City Attorney may file in the official public records of real property in the county in which the property is located a notice of hearing that contains:
- (1) the name and address of the property owner, if that information can be determined;
 - (2) a legal description of the property; and
 - (3) a description of the hearing.
- (e) A notice issued under this section or Section 5-1407, or an order entered by the Municipal Court under this division, that is filed in accordance with Subsection (d) is binding on any subsequent grantee, lienholder, or other transferee of an interest in the property who acquires such interest after the filing of the notice or order and constitutes notice of the matter or order to any subsequent grantee, lienholder, or other transferee.
- (f) In the event of continued or further hearing(s), it shall be unnecessary for the City to provide any further notice of hearing date and time, provided:
- (1) notice for the initial hearing is established within the Court record; and
 - (2) all subsequent hearing dates are announced in open court proceedings under the pending action; and
 - (3) all subsequent hearing dates are apparent and accessible within the Court record.

Sec. 5-1406. Hearing procedures before the Municipal Court; court orders.

- (a) At the civil hearing in Municipal Court:
- (1) the City Attorney shall present evidence of notice of the hearing, the violation or violations of minimum standards that are present on the property and other relevant issues, and may cross-examine or rebut any evidence offered by an opposing party or other witness;
 - (2) an owner, lienholder, mortgagee, or other person shown to have an interest in the property has standing to present evidence of the scope of work and time required to comply with minimum

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standards under this division, present evidence on other relevant issues and cross-examine witnesses; and

- (3) an owner, lienholder, mortgagee, or other person shown to have an interest in the property has the burden of proof to demonstrate the scope of work that may be required for compliance and the time period necessary to reasonably perform the work.
- (b) At the close of evidence at the hearing, the Municipal Court judge may do one or more of the following:
- (1) Find by a preponderance of the evidence that the structure is an urban nuisance, specifically describing each minimum standard found to be violated and order one or more of the following:
 - a. demolition of the structure by the owner, lienholder, or mortgagee within 30 days, unless an extension is granted under Subsection (c);
 - b. repair of the structure by the owner, lienholder, or mortgagee as needed to correct every violation of minimum standards found by the court to exist at the structure, the repair to be accomplished within 30 days, unless an extension is granted under Subsection (c);
 - c. securing of a structure from unauthorized entry in compliance with the Mesquite Fire Code within a reasonable period of time, and continued maintenance of securing during the time period allocated for repairs or demolition;
 - d. vacation of the structure by the owner, lienholder, or mortgagee, within a specified period of time; or
 - e. the assessment of a civil penalty against the owner for each day or part of a day that the owner fails to repair or demolish the structure in compliance with a court order issued under this subsection.
 - (2) Order relocation of the occupants of a structure affected by a court order, within a specified period of time, by the owner, lienholder, or mortgagee.
 - (3) Find that the structure is overcrowded under this Code and order a reduction of occupancy load by the owner, lienholder, or mortgagee.
- (c) Time extensions for complying with an order to repair or demolish a structure.
- (1) The court may allow more than 30 days to comply with an order to repair or demolish a structure under Subsection (b)(1), if the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days. The court shall establish a specific time schedule for the commencement and performance of the work and require the owner, lienholder, or mortgagee to secure the property from unauthorized entry while the work is being performed.
 - (2) The court may not allow more than 90 days to comply with an order issued under Subsection (b)(1) unless the owner, lienholder, or mortgagee:
 - a. submits at the hearing a detailed plan and time schedule for the work; and
 - b. establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

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- (3) If the court allows more than 90 days to complete any part of the work required to repair or demolish the structure under Subsection (b)(1), it shall require the owner, lienholder, or mortgagee to regularly submit progress reports to the court demonstrating compliance with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder, or mortgagee appear before the court to demonstrate compliance with the time schedules.
- (4) If the owner, lienholder, or mortgagee owns property, including structures and improvements on property, within the City boundaries that exceeds \$100,000 in total value, the court may require the owner, lienholder, or mortgagee to post a cash or surety bond in an amount adequate to cover the cost of repairing or demolishing a structure under Subsection (c)(3). In lieu of a bond, the court may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guaranty from a third party approved by the City. The bond must be posted, or the letter of credit or third party guaranty provided, not later than the 30th day after the date the court issues the order. The court shall establish rules and procedures, to be approved by the City Attorney, governing when a bond, letter of credit, or third party guaranty will be required under this paragraph.
- (d) Demolition, vacation, and securing of a structure, and the relocation of the occupants of a structure, may be accomplished by the City if not timely accomplished by the owner, lienholder, or mortgagee. Repair of a structure may be accomplished by the City if not timely accomplished by the owner, lienholder, or mortgagee, but only to the extent necessary to bring the structure into compliance with minimum standards and only if the structure is a residential structure with not more than 10 dwelling units. If, at the close of evidence at the hearing, the court orders a structure to be repaired, vacated, secured, or demolished, or orders relocation of the occupants of a structure, the court shall in its order also authorize the City of Mesquite, through its agents or contractors, to enter the property and repair, vacate, secure, or demolish the structure on the property, or relocate the occupants of the structure, whichever applies, if the ordered action is not accomplished by the owner, lienholder, or mortgagee by the deadline given by the court pursuant to Subsection (b) or (c). Performance of work by the City under this subsection does not limit the ability of the City to collect on a bond or other financial guaranty that may be required from the property owner, lienholder, or mortgagee under Subsection (c)(4) of this section.
- (e) An order entered by the court must also include a statement that any order entered by the Municipal Court, when filed in the official public real property records of the county in which the property is located, binds any subsequent grantee, lienholder, or other transferee of an interest in the property who acquires the interest after the filing of the order.
- (f) After the hearing, the City Attorney shall promptly mail by certified mail, return receipt requested, or personally deliver with proof of delivery, a copy of the order to each owner, lienholder, and mortgagee of the structure and shall file a copy of the order in the official public real property records of the county in which the property is located. Best efforts must be made to determine the identity and address of any owner, mortgagee, or lienholder and to give such persons notice of the order. If an order to repair, demolish, vacate, reduce in occupancy load, or secure a structure, or to relocate the occupants of a structure, is timely effected, the City Attorney shall, upon written request and payment of the cost by the owner, file a notice of compliance in the deed records of the county in which the property is located. Every notice given under this subsection must include an identification, which is not required to be a legal description, of the structure and property on which it is located, and a description of the violation of minimum standards that is present at the property.
- (g) Within 10 days after the date the order is issued, the City Attorney shall:
- (1) file a copy of the order in the Office of the City Secretary; and
 - (2) publish in a newspaper of general circulation in the City of Mesquite an abbreviated copy of the order

containing:

- a. the street address or legal description of the property;
- b. the date of the hearing;
- c. a brief statement indicating the results of the order; and
- d. instructions stating where a complete copy of the order may be obtained.

Sec. 5-1407. Noncompliance with court orders; civil penalties; liens.

- (a) If the City of Mesquite determines that the owner, lienholder, or mortgagee of a structure has not timely complied with a municipal court order issued under Section 5-1406 and the order included a provision authorizing the City to perform work upon failure of the owner, lienholder, or mortgagee to comply with the order, the City may, in addition to other remedies provided by law, repair, demolish, vacate, or secure the structure, or relocate the occupants of the structure, whichever is applicable, in accordance with the court order. Before the City begins performance of the work, the City Attorney shall issue a notice including:
- (1) an identification, which is not required to be a legal description, of the structure and the property on which it is located;
 - (2) an identification of the court order;
 - (3) a description of each violation of minimum standards found by the court to be present on the property when the court order was issued;
 - (4) a description of any work ordered by the court to correct each violation on the property;
 - (5) a statement that the owner, lienholder, or mortgagee has not timely complied with the court order and a description of the provisions of the court order that still require compliance;
 - (6) a statement of the City's intent to cause the repair, demolition, vacation, or securing of the structure, or the relocation of the occupants of the structure, whichever is applicable; and
 - (7) the date and time the City will begin performance of the work in accordance with the court order.
- (b) At least 10 days before the City of Mesquite begins the performance of work under this section, the notice required under Subsection (a) must be:
- (1) mailed by certified mail, return receipt requested, to each owner, lienholder, and mortgagee of the structure;
 - (2) posted on the front door of the structure or as close to the front door as practicable; and
 - (3) published on one occasion in a newspaper of general circulation in the City.
- (c) Any costs incurred by the City in performing work under this division may be enforced in accordance with Subsection (e) of this section and through any other remedies provided by City ordinance or state law.
- (d) Assessment of civil penalties.

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- (1) If the City Attorney determines that the owner, lienholder, or mortgagee of a structure has not timely complied with a municipal court order issued under Section 5-1506, the City Attorney may file an action in Municipal Court for the assessment of a civil penalty against the property and property owner. For notice of hearing on a civil penalty against any individual, service must comply with Rule 106 of the Texas Rules of Civil Procedure, unless the individual has made an appearance in the matter, then service must comply with Rules 21 and 21a of the Texas Rules of Civil Procedure. For notice of hearing on a civil penalty against any property, the City Attorney shall promptly give notice to each owner, lienholder, and mortgagee of the hearing to assess a civil penalty. The notice must include:
 - a. an identification, which is not required to be a legal description, of the structure and the property on which it is located;
 - b. an identification of the court order affecting the property;
 - c. a description of each violation of minimum standards found by the court to be present on the property when the court order was issued;
 - d. a description of any work ordered by the court to correct each violation on the property;
 - e. a statement that the City has determined that an owner, lienholder, or mortgagee has not timely complied with the court order and a description of the provisions of the court order that still require compliance; and
 - f. a statement that the court will conduct a hearing to consider assessment of a civil penalty against the property and/or property owner and the date, time, and place of the hearing.
 - (2) The notice required under Subsection (d)(1) for a municipal court hearing to consider the assessment of a civil penalty against the property or property owner subject to a court order must be given in compliance with the notice requirements set forth in Section 5-1405 for other hearings under this division.
 - (3) A hearing to consider the assessment of a civil penalty against the property or property owner subject to a court order must be conducted in compliance with the requirements and procedures set forth in this division for other hearings before the Municipal Court, except that, in addition to any other evidence presented, an owner, lienholder, or mortgagee may present evidence of any work performed or completed on the property to comply with the court order.
 - (4) The court, after hearing evidence from each interested person present, may assess a civil penalty against the property or property owner in a specific amount in accordance with Section 5-1406 of this division.
 - (5) Notice of a court order issued under this subsection must comply with the requirements and procedures of Section 5-1406(f) and (g).
 - (6) A civil penalty assessed under this subsection may be enforced in accordance with Subsection (e) of this section.
 - (7) A civil penalty assessment hearing may be combined with any other hearing before the Municipal Court concerning the same property.
- (e) Liens.

- (1) The expense of the repair, demolition, vacation, or securing of a structure or the relocation of the occupants of a structure, when performed under contract with the City or by City forces, and any civil penalty assessed against the owner of the structure, constitute a nontransferable lien against the real property on which the structure stands or stood and runs with the land, unless it is a homestead as protected by the Texas Constitution. The City's lien attaches when notice of the lien is recorded and indexed in the Office of the County Clerk in the county in which the property is located. The notice must contain the name and address of the owner, if reasonably determinable, a legal description of the real property, the amount of expenses incurred by the City and the balance due.
- (2) The City's lien for the expenses is a privileged lien subordinate only to tax liens, if each mortgagee and lienholder is given notice and an opportunity to repair, demolish, vacate, or secure the structure, or relocate the occupants of the structure, whichever applies. Otherwise, the City's lien for expenses, or for any civil penalties imposed, is superior to all other previously recorded judgment liens except for any previously recorded bona fide mortgage lien attached to the real property, if the mortgage lien was filed for record in the County Clerk's Office of the county in which the real property is located before the date the civil penalty was assessed or the action for which the expenses were incurred was begun by the City.
- (3) A lien acquired by the City under this section for repair expenses may not be foreclosed if the structure upon which the repairs were made is occupied as a residential homestead by a person 65 years of age or older.
- (4) The City may use lawful means to collect expenses and civil penalties assessed under this division from an owner or a property. Any civil penalty or other assessment imposed under this division accrues interest at the rate of 10 percent a year from the date of the assessment until paid in full. The City may petition a court of competent jurisdiction in a civil suit for a final judgment in accordance with the assessed civil penalty. To enforce the civil penalty, the City must file with the District Clerk of a county in which the City is located a certified copy of the Municipal Court order assessing the civil penalty, stating the amount and duration of the penalty. The assessment of a civil penalty under this division is final and binding and constitutes prima facie evidence of the penalty. No other proof is required for the District Court to enter final judgment on the penalty.

Sec. 5-1408. Modification of court orders.

- (a) Within 15 days after the Municipal Court enters an order under this division, the City of Mesquite or an owner, lienholder, or mortgagee of a structure that is the subject of the order may request that the court modify its order. The request must be in writing and filed with the court.
- (b) The court shall schedule a hearing on the motion not less than five (5) days or more than ten (10) days after the request for modification is filed. The movant must promptly deliver a copy of the request and notice of the hearing date and time, in writing, to the City Attorney and each owner, lienholder, and mortgagee by either personal service or certified mail, return receipt requested.
- (c) If circumstances have changed and the court finds good cause, the court may modify the order. The City Attorney shall notify the owner, lienholder, and mortgagee of the structure of the modified order in accordance with Sections 5-1406(f) and (g).

Sec. 5-1409. Appeal of court orders.

Any owner, lienholder, or mortgagee of record who is jointly or severally aggrieved by a municipal court order

issued under this division may appeal by filing in State District Court a verified petition setting forth that the Municipal Court's decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee of record within 30 calendar days after the respective dates a copy of the municipal court order is mailed to each in compliance with Section 5-1405(f) of this chapter; otherwise, the order will become final as to each person upon expiration of each person's respective 30-calendar-day period. An appeal in State District Court is limited to a hearing under the substantial evidence rule.

Sec. 5-1410. Miscellaneous notice provisions.

- (a) Any notice required by this division to be given to the owner, lienholder, or mortgagee of any structure must also be given to any occupant of the structure, if the subject of the notice involves the demolition, vacation, or reduction of occupancy load of the structure or the relocation or ineligibility for relocation expenses of the occupants. Notice required under this subsection must be given to the occupants either:
 - (1) in the same manner required by this division for notice to the owner, lienholder, or mortgagee of the structure; or
 - (2) by personal service, using the time and procedural requirements set forth in this division for notice to the owner, lienholder, or mortgagee of the structure.

- (b) For purposes of this division, a requirement to use "best efforts" or "a diligent effort" is satisfied by a search of the following records:
 - (1) county real property records of the county in which the structure is located;
 - (2) appraisal district records of the appraisal district in which the structure is located;
 - (3) records of the Secretary of State for the State of Texas;
 - (4) assumed name records of the county in which the structure is located;
 - (5) tax records of the City of Mesquite; and
 - (6) utility records of the City of Mesquite.

- (c) If any notice, order or other document is mailed by certified mail, return receipt requested, as required by this division, and is returned by the United States Postal Service as "refused" or "unclaimed," the validity of the notice, order, or other document is not affected, and the notice, order, or other document will be deemed as delivered.