

ORDINANCE NO. 5107

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE, CHAPTER 5 (BUILDINGS AND CONSTRUCTION), ARTICLE V (CONSTRUCTION OF FENCES), SECTION 5-143 (HEIGHT RESTRICTIONS) FOR THE PURPOSE OF PROVIDING UPDATED REGULATIONS FOR SIDE YARD FENCE SETBACKS; PROVIDING CONFLICTS RESOLUTION, SEVERABILITY, AND SAVINGS CLAUSES; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; 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, Chapter 5, Article V (Construction of Fences) of the Mesquite City Code is in need of revisions to [Sec. 5-143](#) (Height Restrictions) to update regulations for side yard fence setbacks to provide more opportunity for enjoyment of property while protecting 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, 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

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WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code as herein provided.

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:

Amending Chapter 5, Article V – Construction of Fences.

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, and shown as new in **EXHIBIT B**, and said exhibits are attached hereto and made a part hereof, and in all other respects, said Code, Chapters, and Articles shall remain in full force and effect.

SECTION 3. 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 4. 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 5. 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 6. Penalty Clause.

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, or any other general penalties, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended.

SECTION 7. Publication.

This Ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

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SECTION 8. Effective Date.

This ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ON THE 20th DAY OF MAY, 2024.

DocuSigned by:

Daniel Aleman Jr.

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Daniel Alemán, Jr.
Mayor

ATTEST:

DocuSigned by:

Sonja Land

C2518095973F46A...

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:

DocuSigned by:

David L. Paschall

666E18891208434...

David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 5107

City of Mesquite, Texas
Mesquite City Code

MARK-UP TO
CHAPTER 5 – BUILDINGS AND CONSTRUCTION
ARTICLE V. – CONSTRUCTION OF FENCES
Section 5-143 – Height Restrictions

MESQUITE CITY CODE

* * *

Chapter 5 – BUILDING AND CONSTRUCTION

* * *

ARTICLE V – CONSTRUCTION OF FENCES

* * *

[Editor’s Note: Where applicable, please make the following revisions with additions identified in green font and underlined, and deletions identified in ~~red font with strikethrough~~.]

Sec. 5-143. Height restrictions.

No fence shall be constructed at a height exceeding the following:

- (1) *Rear yard.* No fence shall be constructed at a height exceeding eight (8) feet along the rear yard or alley line.
- (2) *Front yard.* No fence over three and one-half (3½) feet in height shall be permitted from the front building line to the parkway or parallel with the street line. All stockade fences or other fences which do not have fifty (50) percent through vision are prohibited in any front yard.
- (3) *Side yard.* No fence shall be constructed at a height exceeding eight (8) feet on any side yard line up to the building line of the house proper; except that on all corner lots where the rear lot line directly abuts a side lot line of an adjoining lot, ~~no fence~~ fences exceeding three and one-half (3½) feet in height shall be set back a minimum of ten (10) feet from the exterior side property line. ~~constructed on any side yard line up to the building line of the house proper.~~
- (4) *Agricultural.* A fence in the front yard may be permitted with a maximum height of six feet, if all of the following conditions apply:
 - a. The property is zoned Agricultural (AG) with a primary use of single-family residence;
 - b. The property is a minimum of one acre in size;
 - c. The principal structure is setback at least 50 feet from the front property line; and
 - d. The fence shall have at least 50 percent through vision.
 - e. For all sections of a fence in the front yard that exceeds 3½ feet in height, the entire fence shall be constructed of the same material from grade to the top of the fence, and such material shall be limited to the following:
 1. Painted or vinyl rail;
 2. Wrought iron;
 3. Ornamental metal; or
 4. Livestock wire framed with a minimum 2⅜" diameter metal post on the sides and top and with a middle and bottom metal rail.
 - f. The following materials shall be prohibited:
 1. Barbed wire, except as specifically allowed in [Section 5-144 \(Materials\)](#);
 2. Chain link;
 3. Chicken wire;
 4. Electrically charged, except as specifically allowed in [Section 5-144 \(Materials\)](#); or
 5. Uncoated galvanized metal posts and/or rails.

(Code 1960, § 5-47; Ord. No. 4134, § 1, 3-21-11; Ord. No. 4586, § 1(a), 8-20-18)

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EXHIBIT B

To Ordinance No. 5107

City of Mesquite, Texas
Mesquite City Code

NEW

CHAPTER 5 – BUILDINGS AND CONSTRUCTION
ARTICLE V. – CONSTRUCTION OF FENCES
Section 5-143 – Height Restrictions

MESQUITE CITY CODE

* * *

Chapter 5 – BUILDING AND CONSTRUCTION

* * *

ARTICLE V – CONSTRUCTION OF FENCES

* * *

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 - d. The fence shall have at least 50 percent through vision.
 - e. For all sections of a fence in the front yard that exceeds 3½ feet in height, the entire fence shall be constructed of the same material from grade to the top of the fence, and such material shall be limited to the following:
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