

ORDINANCE NO. 4215  
Zoning Text Amendment No. 2012-04

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY ADDING A NEW SECTION 3-507 THEREBY CREATING REGULATIONS FOR ESTABLISHMENTS WITH COIN-OPERATED AMUSEMENT DEVICES TO MAINTAIN GAMEROOMS THAT ARE ACCESSIBLE DURING BUSINESS HOURS AND REQUIRING ESTABLISHMENTS WHERE SUCH DEVICES CONSTITUTE AN ACCESSORY USE TO ACTIVELY CONDUCT AND MAINTAIN THE PRIMARY USE OF THE PREMISES AS DECLARED ON THE CERTIFICATE-OF-OCCUPANCY; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

WHEREAS, the Planning and Zoning Commission did give public notice and did hold a public hearing regarding the proposed amendments to the regulations governing and has recommended amendments to the Mesquite Zoning Ordinance; and

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

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

SECTION 1. That the Mesquite Zoning ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by adding a new Section 3-507 to read as follows, said Ordinance in all other respects to remain in full force and effect:

**3-507 COIN-OPERATED AMUSEMENT DEVICES**

In addition to the requirements of Section 3-203, an establishment that includes coin-operated amusement devices, either as a primary use with an approved conditional use permit or as an accessory use permitted-by-right, shall comply with the following regulations:

**A. OPEN GAMEROOMS**

All gamerooms or other areas of an establishment where coin-operated amusement devices are located and offered for the use and enjoyment of patrons or invitees of the establishment shall be kept open and accessible during business hours. It shall be unlawful and an offense for the proprietor, operator or any on-duty manager of the establishment to close, conceal or prevent, or attempt to close, conceal or prevent, any person from entering or looking with a direct line of sight into a gameroom or other such area by the use of a human or electronic sentinel, or the use of doors, curtains, partitions, walls, counters or other physical or visual obstructions.

**B. PRIMARY USE TO BE MAINTAINED**

An establishment that includes coin-operated amusement devices as an accessory use permitted-by-right shall at all times actively conduct and maintain the primary use of the establishment as declared on the approved certificate-of-occupancy. The failure to actively conduct and maintain the primary use shall create a rebuttable presumption that the coin-operated amusement devices no longer constitute an accessory use of the premises and the certificate-of-occupancy shall be subject to revocation. For purposes of this section, "actively conduct and maintain" means to occupy not less than 50 percent of the floor space of the establishment, exclusive of restrooms and storage areas, with displays, racks or shelves stocked with goods, wares, unexpired food or other merchandise for sale to customers or with equipment or furniture necessary for producing goods or providing services to clients in accordance with the approved certificate-of-occupancy.

**C. RETROFITTING REQUIRED**

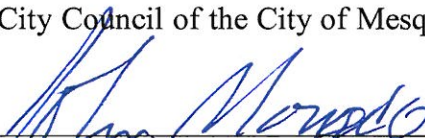
An establishment with coin-operated amusement devices in use on the effective date of this ordinance shall modify or retrofit the premises to comply with the requirements of this section no later than July 15, 2012.

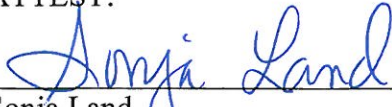
SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and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

SECTION 3. That 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 Mesquite Zoning Ordinance as a whole.

SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, 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.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 4th day of June, 2012.

  
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John Monaco  
Mayor

ATTEST:  
  
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Sonja Land  
City Secretary

APPROVED:  
  
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B. J. Smith  
City Attorney