

ORDINANCE NO. 4905
Zoning Text Amendment No. 2021-05

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE, AS AMENDED, BY AMENDING SECTION 5-207 BY MAKING REVISIONS AND DELETIONS TO VARIOUS PARTS AND SECTIONS REGARDING THE APPROVAL STANDARDS FOR VARIANCES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS; AND DECLARING AN EFFECTIVE DATE.

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

WHEREAS, the City may regulate the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes pursuant to Texas Local Government Code, Title 7, Subtitle A, Chapter 211, Section 211.003; and

WHEREAS, on September 27, 2021, the City’s Planning and Zoning Commission considered text amendments to the Mesquite Zoning Ordinance (“**MZO**”) and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommended the City Council adopt the text amendments to the MZO as was first presented to the City Council on October 18, 2021; and

WHEREAS, the City Council gave public notice and held a public hearing regarding the proposed MZO text amendments on October 18, 2021; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the MZO 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. That the MZO, as amended, be and the same is hereby amended by making certain deletions and additions as identified in Exhibit A. The amended sections of the MZO shall now read as shown in Exhibit B. Said exhibits are attached hereto and made a part hereof, and in all other respects said MZO, parts, and sections 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 not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. 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 MZO as a whole.

SECTION 5. 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 \$2,000.00 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.

SECTION 6. 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 18th day of October 2021.



Bruce Archer
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

MESQUITE CITY CODE

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APPENDIX C – MESQUITE ZONING ORDINANCE

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PART 5. – ADMINISTRATION

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5-200 – Special Exceptions, Variances, and Appeals of Administrative Decisions.

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[Editor's Note: Make the following revisions with additions identified in green font and underlined and deletions identified in ~~red font with strikethrough~~.]

5-207 – Variance.

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K. Approval Standards.

1. In order to grant a zoning variance from the terms of this Zoning Ordinance the Board ~~must~~shall find that:

~~1. a.~~ The variance is not contrary to the public interest; and

~~2. b.~~ Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship (See K.2. below); and

~~3. The unnecessary hardship, if any, is neither self-created nor personal to the owner of the parcel of land; and~~

~~4. The requested variance is not needed merely to promote economic gain or to prevent economic loss; and~~

~~5. c.~~ The spirit of this Zoning Ordinance is observed and substantial justice is done.

2. If special conditions exist, then the Board may consider the following as grounds to make a determination whether compliance with the Mesquite Zoning Ordinance ("MZO"), as applied to a structure that is the subject of the variance, would result in unnecessary hardship:

(1) if the financial cost of compliance with the MZO is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the City under Section 26.01, Tax Code, or successor and as amended, then the Board may find that to be an unnecessary hardship; or

(2) if compliance with the MZO would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur, then the Board may find that to be an unnecessary hardship; or

(3) if compliance with the MZO would result in the structure not being in compliance with a requirement of a City ordinance, building code, or other requirement, then the Board may find that to be an unnecessary hardship; or

(4) if compliance with the MZO would result in the unreasonable encroachment on an adjacent property or easement, then the Board may find that to be an unnecessary hardship, or

(5) if compliance with the MZO would result in the City considering the structure to be a nonconforming structure, then the Board may find that to be an unnecessary hardship.

State Law reference – Authority of Board, V.T.C.A. Local Government Code, [§ 211.009](#).

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MESQUITE CITY CODE

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 - b. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship (See K.2. below); and
 - c. The spirit of this Zoning Ordinance is observed and substantial justice is done.
2. If special conditions exist, then the Board may consider the following as grounds to make a determination whether compliance with the Mesquite Zoning Ordinance (“MZO”), as applied to a structure that is the subject of the variance, would result in unnecessary hardship:
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 - b. if compliance with the MZO would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur, then the Board may find that to be an unnecessary hardship; or
 - c. if compliance with the MZO would result in the structure not being in compliance with a requirement of a City ordinance, building code, or other requirement, then the Board may find that to be an unnecessary hardship; or
 - d. if compliance with the MZO would result in the unreasonable encroachment on an adjacent property or easement, then the Board may find that to be an unnecessary hardship, or
 - e. if compliance with the MZO would result in the City considering the structure to be a nonconforming structure, then the Board may find that to be an unnecessary hardship.

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