

ORDINANCE NO. 4950

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE MESQUITE CITY CODE BY REVISING ARTICLE I, DIVISION 1, MAKING CERTAIN ADDITIONS AND DELETIONS TO SEC. 5-4 “CERTAIN REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR AESTHETIC METHODS PROHIBITED” TO ALIGN WITH CHANGES IN STATE LAW; AND AMENDING DIVISION 2, BY MAKING CERTAIN ADDITIONS AND DELETIONS TO SEC. 5-6 REVISING THE TITLE TO “NATIONAL MODEL CODES – BOARD AND CITY COUNCIL REVIEW AND ADOPTION” AND TO CLARIFY THE PROCESS AND PROCEDURES FOR ADOPTION OF INTERNATIONAL MODEL CODES, AND ANY LOCAL AMENDMENTS THERETO, THEREBY ALIGNING WITH CHANGES MADE IN STATE LAW; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE WITH A FINE NOT TO EXCEED \$2,000; PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the provisions in Mesquite City Code regarding the regulation of building products, materials, or aesthetic methods being prohibited require revisions to align with changes made in State law; and

WHEREAS, the provisions in Mesquite City Code regarding National Model Codes – Board and City Council review and adoption also require revisions to align with changes made in State law; and

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, 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, upon the full review and consideration of all matters attendant and related thereto, the City Council is of the opinion this ordinance should be approved and adopted.

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: Revising Chapter 5, Articles I and II. The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, thereby revising Chapter 5 – Buildings and Construction, Article I – In General, and said Exhibit is 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.

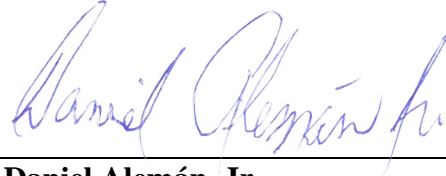
SECTION 5. Savings Clause. An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Mesquite City Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

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](#).

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 **4th day of APRIL, 2022**.



Daniel Alemán, Jr.
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 4950

MESQUITE CITY CODE

Amending Chapter 5 – Buildings and Construction, Article I – In General.

MESQUITE CITY CODE

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Chapter 5 – BUILDINGS AND CONSTRUCTION**ARTICLE I. - IN GENERAL**

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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~~.]

DIVISION 1. - GENERALLY

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Sec. 5-4. Certain regulations regarding building products, materials₁ or aesthetic methods prohibited.

- (a) *Limits on use or installation of building products or materials of a residential or commercial building prohibited.* The City shall not adopt or enforce any ordinance or other regulation that prohibits or limits, directly or indirectly, the use or installation of a building product or material, approved for use by a national model code published within the last three (3) code cycles, in the construction, renovation, maintenance or other alteration of a residential or commercial building.
- (b) *Standards for a building product, material₁ or aesthetic method of a residential or commercial building prohibited.* The City shall not adopt or enforce any ordinance or other regulation that establishes a more stringent standard for a building product, material or aesthetic method under a national model code published within the last three (3) code cycles that applies to the construction, renovation, maintenance₁ or other alteration of a residential or commercial building.
- (c) *Terms defined.* For purposes of the application and enforcement of this section, the following terms are defined:
 - (1) *Building* is defined as any roofed structure used or intended to be used for the shelter or enclosure of persons, animals₁ or property.
 - (2) *Other regulation* shall include, but not be limited to, building codes, charter provisions, manuals, orders, publications, resolutions₁ and rules.
- (d) *Exceptions.* This section does not apply to:
 - (1) A program established by a state agency that requires particular standards, incentives₁ or financing arrangements in order to comply with requirements of a state or federal funding source or housing program;
 - (2) A requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Insurance Code;
 - (3) An ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that:
 - a. Is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark Sky Association as part of the International Dark Sky Places Program; ~~or~~
 - b. Is adopted by a governmental entity that has adopted a resolution stating the entity's intent to become certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program and does not regulate outdoor lighting in

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a manner that is more restrictive than the prohibitions or limitations required to become certified as a Dark Sky Community; or

~~b-c.~~ Applies to outdoor lighting within five (5) miles of the boundary of a military base in which an active training program is conducted;

- (4) An ordinance or order that:
 - a. Regulates outdoor lighting; and
 - b. Is adopted under Subchapter B, Chapter 229, Local Government Code, or Subchapter B, Chapter 240, Local Government Code;
- (5) A building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:
 - a. Is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or
 - b. Has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission.
 - c. If the City is not a municipality described by Subsections (5)a. or (5)b., the City may adopt or enforce a regulation described by Subsections 5-4(a) and (b) that applies to a building located in a place or area designated on or after April 1, 2019, by the City for its historical, cultural, or architectural importance and significance, if the City has the voluntary consent from the building owner;
- (6) A building located in a place or area designated for its historical, cultural, or architectural importance and significance by a governmental entity, if designated before April 1, 2019;
- (7) A building located in an area designated as a historic district on the National Register of Historic Places;
- (8) A building designated as a Recorded Texas Historic Landmark;
- (9) A building designated as a State Archeological Landmark or State Antiquities Landmark;
- (10) A building listed on the National Register of Historic Places or designated as a landmark by a governmental entity;
- (11) A building located in a World Heritage Buffer Zone;
- (12) A building located in an area designated for development, restoration, or preservation in a main street city under the main street program established under Section 442.014, Texas Government Code; ~~and~~
- ~~(13)~~ A standard for a plumbing product required by an ordinance or other regulation implementing a water conservation plan or program described by Section 11.1271 or 13.146, Water Code;
- ~~(14)~~ A standard for a plumbing product imposed by the Texas Water Development Board as a condition of applying for or receiving financial assistance under a program administered by the board;
- ~~(15)~~ Provisions regarding the installation of a fire sprinkler protection system under Section 1301.551(i), Occupations Code, or Section 775.045(a)(1), Health and Safety Code; ~~and~~
- ~~(13)~~ (16) The enforcement of land use restrictions contained in plats and other instruments under Subchapter F, Chapter 212, Local Government Code.

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- (e) *Amendments to adopted building codes shall not conflict with this section.* City amendments made to an adopted building code amending a provision governing the construction, renovation, maintenance, or other alteration of a residential or commercial building are permissible only if the amendment does not conflict with this section.
- (f) *Conflicts of law.* In the event of a conflict between any provision of the Mesquite City Code, Mesquite Zoning Ordinance or any other regulation adopted by the City of Mesquite and applicable federal or State law, federal or State law shall control.

(Ord. No. 4699, § 1, 8-19-19; Ord. No. 4801, § 2(Exh. B), 9-21-20)

State law reference(s)—Governmental action affecting residential and commercial construction, V.T.C.A. Government Code, Chapter 3000, § 3000.00001 et seq.**DIVISION 2. - BUILDING STANDARDS BOARD**

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Sec. 5-6. National model codes – Board and City Council review and adoption.

- (a) *Procedures for review and/or adoption of international model codes and local amendments.*
- (1) *Building Standards Board.* Unless otherwise excepted under State law, ~~The~~the Building Standards Board shall (1) review, (2) conduct a public hearing to obtain public comment on, and (3) submit recommendations to the City Council on the proposed adoption of, or local amendment to, any international and/or national model building code(s) and fire code(s) adopted by reference, or otherwise, into the Mesquite City Code.
- (2) *City Council.* Unless otherwise excepted under State law, the City Council shall conduct a public hearing to obtain public comment on the proposed adoption of, or local amendment to, any international and/or national model building code(s) and fire code(s) adopted by reference, or otherwise, into the Mesquite City Code.
- (b) *Request for a code text amendment.* The Building Standards Board shall hear from any person requesting a change to the building codes or fire code as adopted by the City. Any request for a code text amendment shall follow the procedures for review and/or adoption as identified in sub-section (a) of this Sec. 5-6.

State Law reference— Building and Rehabilitation Codes, V.T.C.A. Local Government Code, Chapter 214, Subchapter G, § 214.211 et seq.**Similar State law provisions –**International Residential Code, V.T.C.A. Local Government Code, Chapter 214, Subchapter G, § 214.212.International Building Code, V.T.C.A. Local Government Code, Chapter 214, Subchapter G, § 214.216.**Cross references –**Building Standards Board, Chapter 20, Article IV, Division 4.Building Code, Chapter 5, Article II-A.Existing Building Code, Chapter 5, Article II-B.Plumbing Code, Chapter 5, Article VI.Mechanical Code, Chapter 5, Article VII.Electrical Code, Chapter 5, Article VIII.Swimming Pool and Spa Code, Chapter 5, Article IX.Fuel Gas Code, Chapter 5, Article X.Residential Code, Chapter 5, Article XI.Energy Conservation Code, Chapter 5, Article XII.Fire Code, Chapter 6, Article II.Property Maintenance Code, Chapter 7, Article I.**Secs. 5-7 – 5-10. – Reserved.**

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