

ORDINANCE NO. 5070

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 8 OF THE MESQUITE CITY CODE, BY RESERVING CURRENT ARTICLE XIII, AND ADDING NEW ARTICLE XVIII “HOTEL PREMISE REGULATIONS” FOR THE PURPOSE OF MOVING THE CURRENT REGULATIONS FROM ART. XIII TO NEW ART. XVIII TO PROVIDE FOR ADDITIONAL PROVISIONS REGARDING HOTEL LICENSE REQUIREMENTS AND ASSOCIATED FEES; PROVIDING TRANSITIONAL PROVISIONS REGARDING ISSUANCE OF A LICENSE AND ENFORCEMENT PRIOR TO DECEMBER 1, 2023; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR PUBLICATION; 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, 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 has general enforcement authority and may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.001](#), as amended and pursuant to Mesquite City Code, Chapter 1, [Section 1-6](#); 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 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 is authorized to adopt ordinances to enforce general zoning regulations and may institute appropriate actions for enforcement, criminal and civil penalties, and any other available remedies under other law, pursuant to Texas Local Government Code, Title 7, Subtitle A, Chapter 211, [Section 211.012](#) and pursuant to Mesquite City Charter, Article III, [Section 27](#); and

WHEREAS, the City shall have the power to license any lawful business, occupation or calling that is susceptible to the control of the police power; 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, the adoption of the regulatory requirement for hotels, including but not limited to motels, inns, tourist or auto courts, and hostels, to obtain a license, and pay an annual fee for said license, serves a public purpose and would be beneficial to the City so as to provide a mechanism to assist the City with monitoring the hotel's compliance with the premises regulations, as well as monitoring the compliance with all other City construction, Building, Fire, Health, Safety and Property Maintenance Codes; and

WHEREAS, the total estimated amount the City will collect for the annual license fee is significantly less than the annual cost to the City to operate the regulatory program and therefore the fee amount charged per annual license is justifiable; and

WHEREAS, upon the review and consideration of all matters attendant and related hereto, the City Council is of the opinion that 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.

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SECTION 2. Mesquite City Code Text Amendment.

Reserving current Article XIII, and adding a NEW Article XVIII in Chapter 8 of the Mesquite City Code.

That Chapter 8 of the Mesquite City Code, as amended, is hereby amended by reserving current [Article XIII](#), and adding NEW Article XVIII “Hotel Premise Regulations” for the purpose of moving the current regulations from Article XIII to Article XVIII to provide for additional provisions regarding Hotel License requirements and associated fees as shown and attached hereto as **EXHIBIT “A”** and incorporated herein by reference and made a part hereof, and in all other respects said Code and Chapter to remain in full force and effect.

SECTION 3. Transitional Provisions.

That any license issued prior to or after the effective date of this ordinance until November 30, 2023, shall be issued with a December 1, 2023 issuance date. The Building Official, and his or her authorized representatives or designees, shall not enforce this ordinance until December 1, 2023. Therefore, beginning **DECEMBER 1, 2023**, the City will begin enforcement whereby the new permit will be required as of this date and shall be renewed annually.

SECTION 4. 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 5. 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 6. 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 7. 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.

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SECTION 8.

Publication.

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

SECTION 9.

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 2nd DAY OF OCTOBER 2023.

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 Paschall

666E18891208434...

David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 5070

MESQUITE CITY CODE

Amending Chapter 8 Licenses, Permits, and Business Regulations

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Mesquite City Code

* * *

Chapter 8 – Licenses, Permits and Business Regulations.

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ARTICLE XIII. – RESERVED. ~~HOTEL PREMISE REGULATIONS.~~

Sec. 8-870 – 8-879 – Reserved

ADD NEW ARTICLE XVIII. – HOTEL PREMISE REGULATIONS.

DIVISION 1. IN GENERAL.

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MESQUITE CITY CODE

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Chapter 8 – Licenses, Permits and Business Regulations

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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~~.]

Article XIII. – Reserved. ~~Hotel Premise Regulations.~~

Secs. 8-870 – 8-879 – Reserved.

[Editor's Note – Move Hotel Premise Regulations down to a NEW Article XVIII.]

ARTICLE XVIII. – HOTEL PREMISE REGULATIONS.

DIVISION 1. – IN GENERAL.

Sec. 8-1801. ~~8-870.~~ – Definitions.

In this article:

Hotel means an establishment in which lodging is offered and provided to the public for compensation classified under SIC 701 of the Mesquite Zoning Ordinance or its successor classification, including but not limited to motels, inns, tourist or auto courts, and hostels.

Inspection Official means the City's duly appointed Building Official or Health Official, or their designees.

International Building Code ("IBC") means the most recent edition of the International Building Code adopted as the official building code, as amended, by the City of Mesquite in Chapter 5, "Buildings and Construction," Article II-A, "Building Code," Division 1, Section 5-12 (Adopted) ~~Section 5-26~~ of this Code.

International Existing Building Code ("IEBC") means the most recent edition of the International Existing Building Code adopted as the official existing building code, as amended, by the City of Mesquite in Chapter 5, "Buildings and Construction," Article II-B, "Building Code," Division 1, Section 5-46 (Adopted) of this Code.

International Property Maintenance Code ("IPMC") means the most recent edition of the International Property Maintenance Code adopted as the official property maintenance code, as amended, by the City of Mesquite in Chapter 7, "Housing and Minimum Property Standards," Article III ~~Article 4~~, "Property Maintenance Code," Division 1, Section 7-302 (Adopted) ~~Section 7-4~~ of this Code.

Nontransient means occupancy of a sleeping unit for ~~more than~~ thirty (30) consecutive days or more.

Operator means the manager, management company, managing agent, or on-site manager of a hotel.

Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Property as used within this article means real property and/or the hotel property regardless of whether under same ownership.

Transient means occupancy of a sleeping unit for twenty-nine consecutive days or less. ~~not more than thirty (30) consecutive days.~~

Transient hotel means a hotel, which:

- (i) operates pursuant to a certificate of occupancy authorizing an R-1 occupancy under Section 310 (Residential Group R) of Chapter 3, ~~"Use and~~ Occupancy Classification and Use," of the IBC; or
- (ii) maintains transient or nontransient units pursuant to a certificate of occupancy that does not assign an occupancy classification; or
- (iii) maintains nontransient sleeping units and such units are not constructed nor equipped in accordance with the standards for an R-2 occupancy under Section 310 (Residential Group R) of Chapter 3, ~~"Use and~~ Occupancy Classification and Use," of the IBC.

(Ord. No. 4449, § 1, 10-3-16)

[Editor's Note: Renumber the section, revise sub-section (b)(3)(e), and the text in the remaining sub-sections remain intact and unchanged.]

Sec. 8-1802. ~~8-871.~~ – Premises Requirements.

* * *

- (b) No hotel property owner, operator or property manager shall:
 - (1) Allow or permit any hourly charge for any room within said establishment;
 - (2) Allow or permit any room or rooms within the hotel to be rented more than twice in any twenty-four-hour period commencing at 12:01 a.m.; or
 - (3) Knowingly let, allow or permit the premises or any room on the premises to be used for any illegal purpose including but not limited to:
 - a. Prostitution;
 - b. Gambling;
 - c. Drug use, sale or manufacture of drug; or
 - d. Sale of alcoholic beverages without the required Texas Alcoholic Beverage license.
 - e. Parking of commercial vehicles without an exception approved pursuant to City Code, Chapter 9, Article VI, Division 1 (Commercial Motor Vehicles, Oversized Vehicles, Recreational Vehicles (RVs), etc. and Trailers) ~~Section 9-169.~~

* * *

[Editor's Note: Renumber the section, and revise sub-section (p), and the text in the remaining sub-sections remain intact and unchanged.]

Sec. 8-1803. ~~8-872.~~ - Health, sanitation, safety, and premises conditions.

* * *

(p) Pools. Pools must comply with Chapter 5, Article IX, "Swimming Pools and Spa Code," of this Code. In order to prevent the breeding of mosquitos and other health and safety hazards to the public, pools must either be maintained in working order and permitted by the Health Official or removed from the premises in accordance with City standards for removal.

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[Editor's Note: Renumber the section, revise the text in sub-section (a), and the remaining sub-sections are unchanged and remain intact.]

Sec. 8-1804. ~~8-873.~~ – Violations and enforcement.

- (a) A person commits an offense if the person lets or otherwise provides any room in a transient hotel to any person for ~~more than~~ thirty (30) consecutive days or more, except for sleeping units assigned to and occupied by the manager, employees, or security staff of the hotel.

* * *

Secs. 8-1805 – 8-1850. ~~8-874 – 8-879.~~ – Reserved.

DIVISION 2. LICENSE.

Sec. 8-1851. – Purpose.

The purpose of this division is to safeguard the life, health, safety, welfare, and the property of the general public, and of the occupants of hotels, as defined in this article, by requiring hotels to be licensed to assist the City with monitoring the hotel's compliance with the premises regulations of this article as well as monitoring the compliance with all other City construction, Building, Fire, Health, Safety and Property Maintenance Codes.

Sec. 8-1852. – Applicability.

This division shall apply to all hotels, as defined in this article, located in the City.

Cross reference – "Hotel" defined; Mesquite City Code, Chapter 8, Article XIII, Sec. 8-1801.

Sec. 8-1853. – Administration.

The Building Official and the Building Official's authorized representatives or designees are authorized to administer and enforce the provisions of this division.

Cross reference – "Inspection Official" and "Building Official" defined as Building Official or Health Official, or their designees; Mesquite City Code, Chapter 8, Article XIII, Sec. 8-1801.

Sec. 8-1854. – License; trade name registration required.

- (a) Hotel license required. No Owner or Operator shall maintain, conduct, operate or rent a sleeping unit in a hotel, as defined in this article, within the City, or act as agent for another who is renting sleeping units in a hotel, without first obtaining a hotel license from the Building Official.

Cross reference – "Hotel" defined; Mesquite City Code, Chapter 8, Article XIII, Sec. 8-1801.

- (b) Trade name registration required. An Owner shall register with the Building Official the trade name of his/her hotel. Any person shall not use or permit to be used more than one (1) trade name at a single location.

Sec. 8-1855. – Application.

- (a) Form. An applicant for a hotel license shall file with the Building Official an application upon a form provided for that purpose for each location.
- (b) Information required. The following correct and current information is required in the application:
 - (1) Owners and operators.
 - a. Names, current addresses, and telephone numbers of all Owners and Operators;
 - b. State-issued driver's license or identification numbers and dates of birth of all Owners and Operators; and
 - c. If any Owners and/or Operators are corporations: Names, addresses, state-issued driver's license or identification numbers, and dates of birth of all registered agents, presidents, and vice-presidents.
 - (2) Registered agents. Names, addresses, state-issued driver's license or identification numbers, and dates of birth of all registered agents, presidents, and vice-presidents, if any of the registered agents are corporations.
 - (3) Lien holders and insurance companies. Names, current addresses, and telephone numbers of all lien holders and insurance companies.
 - (4) One trade name.
 - (5) Zoning district in which the property is located.
 - (6) Telephone number, name, and address of a person responsible for paying utility bills.
 - (7) The number of hotel rooms.
- (c) Additional information may be required. The Building Official may, at any time, require additional information of the Owner or Operator to clarify items on the application.

Sec. 8-1856. – Form of license.

The form of the license may be prepared by the Building Official.

Sec. 8-1857. – Issuance.

No annual license may be issued until the applicant has met all the requisites for the license and paid all fees.

Cross reference – Sec. 12-107 Hotel/motel license fee per unit; Mesquite City Code, Appendix D – Comprehensive Fee Schedule.

Sec. 8-1858. – Fee.

- (a) Annual Fee. The annual fee for a hotel license is listed in Mesquite City Code, Appendix D – Comprehensive Fee Schedule.
- (b) Fee due at time of filing initial application and at renewal. The license fee shall be paid at the time the initial application is filed and at the time each renewal application is filed with the Building Official.

Cross reference – Sec. 12-107 Hotel/motel license fee per unit; Mesquite City Code, Appendix D – Comprehensive Fee Schedule.

Sec. 8-1859. – Expiration and renewal.

The hotel license expires on November 30th of each year and the Owner or Operator shall renew it no later than December 1st of the same year.

Sec. 8-1860. – Duty to update City with any changes to information provided.

- (a) Duty to provide current information. It is the duty of an Owner and Operator to update all information provided in the application within ten (10) calendar days of any change.
- (b) Additional information may be requested. The City may, at any time, require additional relevant information of the Owner or Operator to clarify items on the application. The Owner and Operator shall provide the information the City requires within ten (10) calendar days of the City's request.
- (c) Ownership changes requiring a new license. When more than fifty percent (50%) of the ownership changes or there is a change of a general partner, the new Owners and partners shall obtain a new license within thirty (30) calendar days of the change. There is no fee for such a new license.
- (d) Duty to notify City of ownership change. The Owner or Operator shall notify the City in writing of each change in ownership and each change in Operator and individual responsible for compliance with this article, and any information required in this division within ten (10) calendar days of the change.

Sec. 8-1861. – Display of license.

Each license issued pursuant to this article must be posted and prominently displayed in a conspicuous publicly accessible area on the premises during hours of operation.

Sec. 8-1862. – Replacement or duplicate license.

A replacement license may be issued for one lost, destroyed, or mutilated upon application on the form provided by the Building Official. A replacement license may have the word "replacement" stamped across its face and may bear the same number as the one it replaces.

Sec. 8-1863. – License not assignable or transferrable.

A license pursuant to this article is not assignable or transferable from one person to another or from one place to another.

Sec. 8-1864. – Certificate of occupancy required.

- (a) Certificate of occupancy required for hotel. All hotels licensed by this section shall maintain a current Certificate of Occupancy in compliance with the Mesquite Zoning Ordinance.
- (b) Certificate of occupancy required for other uses on the same premises. All other uses located on the same premise as the hotel shall maintain a current Certificate of Occupancy for that use in compliance with the Mesquite Zoning Ordinance.

Cross reference – Sec. 5-106, Certificate of Occupancy; Mesquite Zoning Ordinance, Part 5, Section 5-100.

Sec. 8-1865. – Offenses.

An Owner or Operator commits an offense if the Owner or Operator:

- (1) Operates a hotel which is not currently licensed with the Building Official as required by this article; or
- (2) Fails to pay the annual license fee by the renewal date as required by this article; or
- (3) Fails to update information in any application filed with the City associated with obtaining the license; or
- (4) Fails to display the license required by this article; or
- (5) Commits any other violation of this article.

Sec. 8-1866. - Enforcement.

- (a) A violation of this article is a Class C Misdemeanor punishable as stated in [Section 1-6](#) of this Code.
- (b) Nothing in this article prohibits the City from enforcing civil and criminal enforcement remedies and penalties concurrently or availing itself of any other remedy allowed by law.

Secs. 8-1867 – 8-1900. – Reserved.

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