

ORDINANCE NO. 5100

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE BY REVISING CERTAIN SECTIONS IN CHAPTER 10 (OFFENSES – MISCELLANEOUS), ARTICLE V (CONDITION OF PREMISES) FOR THE PURPOSE OF UPDATING THE PROVISIONS RELATED TO HIGH WEEDS, HIGH GRASS, AND EDGING REQUIREMENTS; LANDSCAPING AND VEGETATION MAINTENANCE REQUIREMENTS; AND TREE MAINTENANCE REQUIREMENTS; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING 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 Council desires to revise the City Code for the purpose of updating the provisions related to high weeds, high grass, and edging requirements; landscaping and vegetation maintenance requirements; and tree maintenance requirements; 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, upon 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.

Amending Chapter 10; Article V – Condition of Premises.

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, and said **EXHIBIT A** 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. 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 6. Publication.

The descriptive caption of this ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#); and Texas Local Government Code, Chapter 52, [§ 52.013](#).

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SECTION 7. 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 1st DAY OF APRIL, 2024.

DocuSigned by:

Daniel Aleman Jr.

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Daniel Alemán, Jr .
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

DocuSigned by:

Sonja Land

C2518095973F46A...

Sonja Land
City Secretary

DocuSigned by:

David L. Paschall

666E18891208434...

David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 5100

City of Mesquite, Texas
Mesquite City Code

Chapter 10 - OFFENSES – MISCELLANEOUS
ARTICLE V. – CONDITION OF PREMISES

MESQUITE CITY CODE

* * *

Chapter 10 – OFFENSES – MISCELLANEOUS

* * *

ARTICLE V – CONDITION OF PREMISES

[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. 10-126. – In general ~~Penalties for violation of article.~~

(a) Penalties. Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction, subject to a fine, and other provisions, as may be applicable, as specified in section 1-6 (General penalties) of this Code.

(b) Exclusions – Inapplicability of article. This article does not apply to Agricultural Operations.

State law references –

Agricultural Operation defined, V.T.C.A. Agriculture Code, Title 8, Chapter 251, § 251.002.

Limitations On City Governmental Requirements Applicable Within Corporate Boundaries, V.T.C.A. Agriculture Code, Title 8, Chapter 251, § 251.0055, as amended.

(Code 1960, § 19-9; Ord. No. 2946, § 1, 12-20-93)

Sec. 10-127. High weeds, high grass, and edging requirements.

(a) Definitions. The following words, terms, and phrases when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural Operation has the meaning as defined in V.T.C.A. Agriculture Code, Title 8, Chapter 251, §251.002, as amended.

Premises shall include, but not be limited to:

- (1) the rear of the property inclusive of utility easements; and
- (2) the parkway between sidewalk and the curb; and
- (3) the area between any fence, wall, or barrier and the curb or pavement (if such exists); and
- (4) the paved portion of an alley and to the centerline of an unpaved alley or utility easement; and further provided, that in instances where an alley abuts public property on the opposite side from the real property and there is no private property owner with an obligation for maintenance as described in this section, the obligation of the private real property owner on the one side of the alley shall extend to both sides of the alley; provided, however, that the obligation of the private real property owner in no case shall extend to a distance of more than thirty (30) feet from the property line of real property by reason of such ownership, occupancy, and control thereof.

(b) Offense – High weeds and high grass. Every person owning, claiming, occupying, or having supervision or control of any Premises within the city, occupied or unoccupied, commits an offense if said person permits, allows, or suffers high weeds, high grass, or other objectionable or unsightly matter to grow on the Premises to a height greater than eight (8) inches.

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- (c) Offense – Failure to edge. Every person owning, claiming, occupying, or having supervision or control of any Premises within the city, occupied or unoccupied, commits an offense if said person fails to maintain all ground cover on the Premises, including but not limited to grass, weeds, ivy, and other decorative groundcovers, by permitting, allowing, or suffering the ground cover to encroach over the edge of sidewalks, pedestrian ways, driveways, flatwork, curbs, and/or street pavement.
- (d) Offense – Failure to cut or remove. Every person owning, claiming, occupying, or having supervision or control of any Premises within the city, occupied or unoccupied, commits an offense if said person fails to maintain the Premises by permitting, allowing, or suffering all weeds, brush, and other objectionable or unsightly matter to grow, or to not be removed, as often as may be necessary to comply with this section.
- (e) Offense – Failure to remove visibility obstructions. Every person owning, claiming, occupying, or having supervision or control of any Premises within the city, occupied or unoccupied, commits an offense if said person fails to maintain the Premises by permitting, allowing, or suffering weeds, brush, and other objectionable or unsightly matter to grow, or to not be removed, to any height which would create a visibility obstruction or traffic hazard.
- (f) Defenses. It is an affirmative defense to criminal prosecution under this section if the person proves that at the time of the prohibited conduct, it occurred on the Premises, or any portion thereof, that is:
- (1) of such a nature that mowing, or other maintenance, is rendered impossible or unreasonably difficult by reason of rough terrain, steep slopes, or being situated across a drainage ditch; or
 - (2) five (5) acres or more, and the Premises has been maintained as described in this section no less than twenty (20) feet from a property boundary that is adjacent to a public sidewalk, street, right of way, highway, or another occupied property; or
 - (3) utilized for Agricultural Operations.

Cross reference —Trees and vegetation, [Ch. 15.5](#).

State law references –

Agricultural operation defined, V.T.C.A. Agriculture Code, Title 8, Chapter 251, [§ 251.002](#).

Limitations On City Governmental Requirements Applicable Within Corporate Boundaries, V.T.C.A. Agriculture Code, Title 8, Chapter 251, [§ 251.0055](#), as amended.

~~Sec. 10-127. Objectionable or unsightly matter growing within one hundred fifty feet of property line, between property line and curblines, etc.—Unlawful.~~

- ~~(a) It shall be unlawful for any person owning, claiming, occupying and having supervision and control of any real property to intentionally, knowingly, recklessly or with criminal negligence, permit weeds, grass, brush or other unsightly matter to grow to a height of greater than eight (8) inches upon such real property within one hundred fifty (150) feet of any property line or between such property and the curb line of a street for a distance of thirty (30) feet; or, if there be no curb line, the obligation to cut and remove weeds, grass and brush and other unsightly matter shall extend to the paved portion of street; and between said real property and the paved portion of an alley and to the centerline of an unpaved alley or utility easement; and further provided, that in instances where an alley abuts public property on the opposite side from the real property and there is no private property owner with an obligation to cut and remove weeds, grass, brush and other unsightly matter, the obligation of the private real property owner on the one (1) side of the alley shall extend to both sides of the alley; provided, however, that the obligation of the private real property owner in no case shall extend to a distance of more than thirty (30) feet from the property line of real property by reason of such ownership, occupancy and control thereof.~~

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- ~~(b) It shall be a defense hereunder if the public property abutting private real property and within thirty (30) feet thereof is of such a nature that mowing thereof is rendered impossible or unreasonably difficult by reason of rough terrain, steep slopes or being situated across a drainage ditch.~~
- ~~(c) All vegetation not regularly cultivated and which exceeds eight (8) inches in height shall be presumed to be objectionable and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right of way of any public street or easement, but shall be kept mowed the same as provided above. All vegetation not regularly cultivated and which exceeds eight (8) inches in height, excluding trees and shrubs and domesticated flowers, shall be prima facie deemed to be objectionable and unsightly, subject to rebuttal as in other cases.~~
- ~~(d) Regularly cultivated crops shall not be allowed to grow within the right of way of any public street but shall be mowed as provided herein.~~
- ~~(e) It shall be the obligation of each person having the right of control over any real property within the city to inspect same, together with those adjacent areas set forth herein, for weeds, grass, brush and other unsightly matter at least every thirty (30) days and failure to do so shall be deemed, for the purpose of the required mental state, to constitute criminal negligence absent circumstances of an unusual nature justifying such failure, and which circumstances it shall be the burden of the defendant to demonstrate to the satisfaction of the court.~~
- ~~(f) "Right of control," for the purposes of this section, means the right to possession or use of the private real property, jointly or singly, and the public property being adjacent to such private real property and designed for enjoyment of the occupant of such private property, whether said private real property is actually occupied or not. Multi-tenant real property shall be presumed to be controlled as follows, absent evidence to the contrary: Area enclosed with the premises actually occupied by a tenant such as a private patio area— by the occupant; common areas subject to use of tenants in separate units and those adjacent public areas— by the owner. Owner shall include the owner of any degree of fee title, whether through heirship, partnership or community property interest, joint venture or other circumstances, but shall not include a lien holder that has not reduced such right of title. Single family units together with adjacent public areas shall be deemed within the control of the occupant.~~

~~(Code 1960, § 19-1; Ord. No. 3913, § 1(1), 11-19-07)
Cross reference—Trees and vegetation, Ch. 15.5.~~

~~Sec. 10-128.— Same—Duty of property owner to cut or remove.~~

~~It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, as provided in Section 10-127, to cut and remove all such weeds, brush and other objectionable or unsightly matter as often as may be necessary to comply with Section 10-127.~~

~~(Code 1960, § 19-2; Ord. No. 3913, § 1(1), 11-19-07)
Cross reference—Trees and vegetation, Ch. 15.5.~~

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Sec. 10-128.5. – Landscaping and vegetation to be maintained.

[Editor’s Note: Place the defined words in this sub-section in alphabetical order, and in italics as shown below, and remove the numbers in front of the definitions that currently exist.]

(a) Definitions. The following words, terms, and phrases when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~For purposes of this section:~~

Agricultural Operation has the meaning as defined in V.T.C.A. Agriculture Code, Title 8, Chapter 251, §251.002, as amended.

~~(3)~~ *Common Vegetation* means all organic material other than lawn grass growing outside the boundaries of a Landscaped Area.

~~(2)~~ *Landscaped Area* means any and all portions of the premises defined by foundations, sidewalks, pavers, edging, ornamental grasses, timbers, railroad ties, brick, stone, or other border materials where the sod or surface of the ground has been removed, cultivated, covered, or replaced by landscaping, mulch, rock, or water features.

~~(1)~~ *Landscaping* includes, but is not limited to, trees, shrubbery, bushes, ornamental grasses, flowers, and vines planted in Landscaped Areas.

~~(4)~~ *Neat and orderly manner and healthy condition* means adequately pruned, trimmed, watered, and cultivated appropriate to the species, and maintained free of disease and parasites, as determined based upon the plant shape, color and condition of foliage, soil characteristics, and the size of plants relative to the size of the Landscaped Area or building facade.

Premises shall include, but not be limited to:

- a. the rear of the property inclusive of utility easements; and
- b. the parkway between sidewalk and the curb; and
- c. the area between any fence, wall, or barrier and the curb or pavement (if such exists);
and
- d. the paved portion of an alley and to the centerline of an unpaved alley or utility easement; and further provided, that in instances where an alley abuts public property on the opposite side from the real property and there is no private property owner with an obligation for maintenance as described in this section, the obligation of the private real property owner on the one side of the alley shall extend to both sides of the alley; provided, however, that the obligation of the private real property owner in no case shall extend to a distance of more than thirty (30) feet from the property line of real property by reason of such ownership, occupancy, and control thereof.

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- (b) Offense(s) – Failure to maintain landscaping, or common vegetation. Every person owning, claiming, occupying, or having supervision or control of any Premises within the city, occupied or unoccupied, ~~An owner, occupant or person in control of any private premises~~ commits an offense if the person:
- (1) Fails to maintain the Landscaping or Common Vegetation on the Premises in a neat and orderly manner and healthy condition.
 - (2) Allows the Landscaping or any Common Vegetation to grow unkempt on the Premises in a manner:
 - a. That physically obstructs more than ~~seventy-five (75)~~ fifty (50) percent of the area of doors or windows of any structure on the Premises so as to prevent ingress or egress from the structure;
 - b. That visually obscures more than ~~seventy-five (75)~~ fifty (50) percent of the front door, porch or stoop of the structure when viewed from the street directly in front of the structure; or
 - c. That projects across or obstructs any sidewalk or driveway on the Premises.
 - (3) Fails to edge, prune, fertilize, water (except when prohibited during city-initiated drought restrictions), weed and conduct such other activities common to the maintenance of Landscaped Areas to the degree necessary to ensure the area is kept in a neat and orderly manner and healthy condition.
 - (4) Fails to keep Landscaped Areas free of trash, litter, weeds, and other such material or plants not a part of the Landscaping.
 - (5) Replaces or covers the lawn grass, sod, or surface of the ground with artificial turf on any portion of the Premises, including a Landscaped Area, between a street facade of the structure and the curb of the street, or paves over the same except as an improved surface in conformance with [section 10-14.](#)
 - (6) Covers more than ten (10) percent of the residential Premises between a street facade of the structure and the curb of the street with water features such as ponds, pools, streams, or sunken gardens including the area covered with aquatic flora such as cattails or reeds.
 - (7) Fails to remove or replace any Landscaping or Common Vegetation that dies.
- (c) Defenses. It is an affirmative defense to criminal prosecution under this section if the person proves that at the time of the prohibited conduct, it occurred on the Premises, or any portion thereof, that is:
- (1) of such a nature that mowing, or other maintenance, is rendered impossible or unreasonably difficult by reason of rough terrain, steep slopes, or being situated across a drainage ditch; or
 - (2) utilized for Agricultural Operations.

Cross reference —Trees and vegetation, [Ch. 15.5.](#)

State law references –

[Agricultural operation defined, V.T.C.A. Agriculture Code, Title 8, Chapter 251, § 251.002.](#)

[Limitations On City Governmental Requirements Applicable Within Corporate Boundaries, V.T.C.A. Agriculture Code, Title 8, Chapter 251, § 251.0055, as amended.](#)

(Ord. No. 3975, § 1, 8-4-08)

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Sec. 10-133. Trees – Failure to maintain.

- (a) Definitions. The following words, terms, and phrases when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Premises shall include, but not be limited to:

- (1) the rear of the property inclusive of utility easements; and
- (2) the parkway between sidewalk and the curb; and
- (3) the area between any fence, wall, or barrier and the curb or pavement (if such exists); and
- (4) the paved portion of an alley and to the centerline of an unpaved alley or utility easement; and further provided, that in instances where an alley abuts public property on the opposite side from the real property and there is no private property owner with an obligation for maintenance as described in this section, the obligation of the private real property owner on the one side of the alley shall extend to both sides of the alley; provided, however, that the obligation of the private real property owner in no case shall extend to a distance of more than thirty (30) feet from the property line of real property by reason of such ownership, occupancy and control thereof.

- (b) Offense(s) – Failure to maintain trees. Every person owning, claiming, occupying, or having supervision or control of any Premises within the city, occupied or unoccupied, commits an offense if said person has failed to maintain the Premises by permitting, allowing, or suffering any trees located on said Premises in such a manner that the tree(s):

- (1) Obstruct or shade the streetlights; or
- (2) Obstruct the passage of pedestrians; or
- (3) Obstruct vision of traffic signs; or
- (4) Obstruct the view of any street or alley intersection; or
- (5) Have less than a ten (10) foot minimum clearance over sidewalks; or
- (6) Have less than a fourteen (14) foot minimum clearance over all streets and alleys.

- (c) Emergency abatement. In any location in the city where an overhanging tree or trees have not been pruned or maintained as required herein, and are obstructing the view of a stop sign or other traffic-control device, or obstructing visibility at an intersection, the city may, without notice to the person owning or occupying the property on which the tree or trees are located, prune such trees so as to eliminate the obstruction. In such case, the city shall assume the cost of the pruning and may impose a lien against the real property to which such service was delivered.

- (d) Defense. It is an affirmative defense to criminal prosecution under this section if the person proves that at the time of the prohibited conduct, it occurred on the Premises, or any portion thereof, that is of such a nature that mowing, or other maintenance, is rendered impossible or unreasonably difficult by reason of rough terrain, steep slopes, or being situated across a drainage ditch.

Cross references –

Obstructions to solid waste collection: Chapter 14, Article II, Sec. 14-36.

Pruning to prevent obstructions: Chapter 15.5, Sec. 15.5-9.

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~~Sec. 10-133. – Cutting, removing grass, weeds, brush or unsightly matter from tract of land which is unfenced or adjacent to improved property; extension of obligation to cut and remove.~~

~~(a) — In addition to the provisions contained in this article, any person required hereunder to cut and remove grass and weeds, brush and other unsightly matter, shall be required to cut and remove same on all of any tract of land not exceeding five (5) acres where such tract is unfenced or is adjacent to improved property. Provided, however, that lands dedicated to agricultural use and actually so used shall not be subject to the requirement of cutting and removal of vegetation.~~

~~(b) — The obligation to cut and remove grass, weeds, brush and other unsightly matter shall extend to the rear property inclusive of utility easements and from the property line to the edge of pavement of alleys. In the event an alley is unpaved, the obligation shall extend to the center of the alley.~~

~~(Code 1960, § 19-8; Ord. No. 3913, § 1(2), 11-19-07)~~

Sec. 10-134 – 10-155. - Reserved.

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