

ORDINANCE NO. _____
Zoning Text Amendment No. 2026 – 01

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, REVISING THE MESQUITE CITY CODE BY MAKING A MESQUITE ZONING ORDINANCE TEXT AMENDMENT, ZTA NO. 2026-01, THEREBY REVISING APPENDIX C (MESQUITE ZONING ORDINANCE), BY MAKING ADDITIONS AND DELETIONS TO CERTAIN SECTIONS IN PARTS 1, 1-A, 3, AND 6; AND AMENDING THE MESQUITE CITY CODE BY MAKING ADDITIONS AND DELETIONS TO CERTAIN SECTIONS IN CHAPTER 10 (OFFENSES – MISCELLANEOUS), UNDER ARTICLE III (NOISE), ALL FOR THE PURPOSE OF REVISING AND ESTABLISHING REGULATIONS RELATED TO AND FOR DATA CENTERS AND RELATED COMMERCIAL (NONRESIDENTIAL) USES AND INSTALLATIONS SUCH AS BATTERY ENERGY STORAGE SYSTEMS (“BESS”), AND ACCESSORY BACKUP GENERATORS, AND OTHER GENERAL UPDATES RELATED THERETO; AND PROHIBITING COMMERCIAL CRYPTOCURRENCY MINING AS A PRIMARY USE OR ACCESSORY USE IN ALL DISTRICTS; AND REVISING APPENDIX D – COMPREHENSIVE FEE SCHEDULE FOR UPDATED FEES ASSOCIATED WITH SAID AMENDMENTS; PROVIDING SEVERABILITY, CONFLICTS RESOLUTION, AND SAVINGS CLAUSES; PROVIDING A PENALTY CLAUSE WITH A FINE NOT TO EXCEED \$2,000; PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; 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, Data Centers — facilities housing computer systems, servers, telecommunications equipment, and related infrastructure — are among the fastest-growing commercial land uses in the United States. Driven by the expansion of cloud computing, artificial intelligence workloads, streaming services, and enterprise IT infrastructure, national demand for Data Center capacity has accelerated significantly since 2022; and

WHEREAS, the Dallas–Fort Worth Metroplex is one of the top-three Data Center markets in the country, with Mesquite's industrial land base and regional freeway access making it an attractive location for new investment; and

WHEREAS, Data Centers, however, are operationally unlike other industrial uses. They operate continuously — 24 hours a day, 365 days a year — and their dominant impacts are noise from cooling equipment and generators, electrical demand at scale, significant water consumption for cooling, and the need for robust emergency power systems. These characteristics require targeted land use standards that do not exist in the current City Code; and

WHEREAS, the City Council wishes to establish a comprehensive regulatory framework for Data Centers within the Mesquite City Code, including the Mesquite Zoning Ordinance (“**MZO**”); and

WHEREAS, Data Centers are a rapidly growing industry with significant potential to generate economic investment, create quality employment, and expand the City's tax base; and

WHEREAS, at the same time, Data Centers present unique land use considerations related to noise, electrical demand, water consumption, generator emissions, and visual impact that existing zoning regulations do not adequately address; and

WHEREAS, prior to this amendment, the MZO did not define or specifically regulate Data Centers as a distinct use. A Data Center proposed in Mesquite would be reviewed as a general industrial or warehouse use, with no specific standards addressing noise, generator testing schedules, cooling water systems, setbacks from residential areas, decommissioning obligations, or the building design requirements that distinguish Data Centers from other large industrial buildings. This regulatory gap creates uncertainty for applicants, neighbors, and City staff alike; and

WHEREAS, related development standards for commercial (nonresidential) uses and installations such as Battery Energy Storage Systems (“BESS”), and Accessory Backup Generators have been included in this ordinance; and

WHEREAS, internal review was conducted with the City Engineer, Fire Marshal, and Building Official to ensure coordination with applicable codes and infrastructure requirements; and

WHEREAS, Staff developed the proposed standards through a multi-step process; and

WHEREAS, Staff reviewed recently adopted Data Center ordinances from peer Texas cities as well as reviewed of standards from jurisdictions across DFW with significant Data Center activity; and

WHEREAS, Staff reviewed industry guidance, including noise standards from the Institute of Noise Control Engineers, fire and life safety standards from the National Fire Protection Association (“**NFPA**”) NFPA 855 (Battery Energy Storage Systems – “BESS”) and NFPA 72, and generator emission standards from the Environmental Protection Agency (“**EPA**”), and Texas Commission on Environmental Quality (“**TCEQ**”); and

WHEREAS, Staff made multiple presentations—May 4, 2026 and June 1, 2026—to City Council outlining the proposed framework, key development standards, and the policy rationale for the Conditional Use Permit (“**CUP**”) requirement, noise thresholds, closed-loop cooling requirement, and decommissioning provisions; and

WHEREAS, Commercial Cryptocurrency Mining is prohibited as a primary use and accessory use in all districts due to their air and noise pollution, energy-intensive consumption of resources, and other excessive natural resource usage;

WHEREAS, this ordinance will **not** create any nonconforming uses since no Data Centers or Cryptocurrency Mining facilities currently exist in Mesquite; so, the new standards are purely prospective and do not affect any existing use; and

WHEREAS, in addition to local regulation, [Section 211.019](#) of the Texas Local Government Code offers further protections to property owners and lessees impacted by zoning changes. In general, if a municipality requires the *cessation* of a legal nonconforming use, it must either (1) compensate the owner or lessee for direct costs and loss in market value, or (2) allow continued operation of the use until those losses are recovered; and

WHEREAS, this ordinance will **not** cease/stop any legal nonconforming uses; and

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WHEREAS, a consultant may be utilized by the City during the review process for any application submittals when the Director of Planning and Development Services (“**Director**”), or designee, reasonably determines that independent expert review is necessary to assist in evaluating technical aspects of an application that exceeds the routine technical expertise of City staff, or to verify the accuracy and methodology of technical studies submitted by an applicant. An impartial independent consultant shall be selected by the Director, or designee, and have extensive experience and knowledge in the field to be reviewed; and

WHEREAS, a Consultant Review Fee shall be added to the City’s Comprehensive Fee Schedule and said consultant fee shall be required in addition to the application fee. Said consultant review fee shall apply to any application review under the MZO where the Director, or designee, deems it necessary to seek expert review to assist in evaluating technical aspects of any application that exceeds the routine technical expertise of City staff; and

WHEREAS, the Consultant Review Fee, added by this ordinance, is distinguished from Third-Party Review of Development Documents and Inspection of Improvements under Texas Local Government Code, Title 7, Subtitle C, [Chapter 247](#); and

WHEREAS, the 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 and order and security of the City and its inhabitants, pursuant to Mesquite City Charter, Article III, [Section 2](#); 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, Subchapter A, [§ 54.004](#), as amended; and

WHEREAS, the City derives its municipal zoning authority for zoning regulations and districts from Texas Local Government Code, Title 7, Subtitle A, [Chapter 211](#), (Municipal Zoning Authority); 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, zoning regulations must be adopted in accordance with a comprehensive plan pursuant to Texas Local Government Code, Title 7, Subtitle A, Chapter 211, [Section 211.004](#) (Compliance with Comprehensive Plan); and

WHEREAS, on **June 22, 2026**, the City of Mesquite **PLANNING & ZONING COMMISSION** considered the herein described text amendments to the *Mesquite Zoning Ordinance* and after having given proper public notice and holding a public hearing for the receipt of public comments, the Planning and Zoning Commission *recommended* by majority vote the City Council adopt the text amendments to the Mesquite Zoning Ordinance, attached as **EXHIBITS A, and B**; and

WHEREAS, additional amendments to the City Code, Chapter 10, Article III (Noise) are attached hereto as **EXHIBIT C**, and amendments to Appendix D – Comprehensive Fee Schedule are attached hereto as **EXHIBIT D**; and

WHEREAS, after having given proper public notice and holding a public hearing, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite Zoning Ordinance as herein provided.

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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. Zoning Ordinance Text Amendment.

Amending Mesquite City Code, Appendix C – Mesquite Zoning Ordinance, Parts 1, 1-A, 3, and 6.

The Mesquite Zoning Ordinance (“MZO”) is hereby amended by making certain additions and deletions as identified in the following exhibits and said exhibits are attached hereto and made a part hereof, and in all other respects said Zoning Ordinance, and its parts, and sections shall remain in full force and effect.

EXHIBIT A. MZO – Part 3 (Nonresidential Districts)

EXHIBIT B. MZO – Part 1, Part 1-A, Part 3, and Part 6

SECTION 3. City Code Text Amendment.

Amending Mesquite City Code, Chapter 10, Article III – Noise; and Appendix D – Comprehensive Fee Schedule.

The Mesquite City Code is hereby amended by making certain additions and deletions as identified in the following exhibits and said exhibits are attached hereto and made a part hereof, and in all other respects said City Code, and its articles, divisions, and sections shall remain in full force and effect.

EXHIBIT C. City Code – Ch. 10, Art. III (Noise)

EXHIBIT D. City Code – Comprehensive Fee Schedule

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. Conflicts Resolution Clause.

5.01. 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.

5.02 Nothing in this ordinance shall be construed to regulate electric generation or transmission in a manner preempted by State law, or conflict with Electric Reliability Council of Texas (“ERCOT”) protocols, or Public Utility Commission of Texas (“PUCT”) jurisdiction, or limit the rights under applicable federal telecommunications law, and to the extent of any conflict, State, and federal law, rules, and regulations shall control; and

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 Zoning Ordinance, Part 5, 5-100, [Section 5-103](#) (General Penalties), or successor and as amended.

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 20th DAY OF JULY 2026.**

Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary

David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. _____

City of Mesquite, Texas
Mesquite City Code, Appendix C – Mesquite Zoning Ordinance
Part 3 (Nonresidential Districts)
3.500 (Supplementary Use Regulations)

Adding New Section 3.514 (Data Centers)

MESQUITE CITY CODE

* * *

APPENDIX C – MESQUITE ZONING ORDINANCE (“MZO”)

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[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~~.]

PART 3. – NONRESIDENTIAL DISTRICTS

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3.500 - SUPPLEMENTARY USE REGULATIONS

* * *

3.514 Data Centers.

Data Center development standards are consolidated, for the most part, in this Section 3.514 (Data Centers). See also the following MZO sections, including, but not limited to: Section 3.405 (Table of parking standards — Nonresidential uses); Section 3.515 (Battery Energy Storage Systems - BESS); and Section 6.102 (Definitions). See also the following City Code sections, including, but not limited to: Chapter 10, Article III (Noise), Sec. 10-75 (Maximum permissible sound levels); and Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-103 (Consultant Review Fees).

A. Purpose. The purpose of this Section 3.514 (Data Centers) is to establish a regulatory framework for Data Center development that supports economic investment and job creation while minimizing impacts on adjacent properties, public infrastructure, and community character. Data Centers are permitted only in appropriate industrial areas of the City and are subject to case-by-case review through Conditional Use Permit approval by the City Council to address noise, lighting, utilities, traffic, generators, water and wastewater, and related impacts on public health, safety, and welfare.

B. Definitions. The following terms and definitions shall apply to this Section 3.514 (Data Centers). For additional definitions, see MZO, Part 6, 6.100, Section 6.102 (Definitions):

1. Data Center. See Section 6.102 (Definitions).

2. Accessory Data Center. A subordinate data processing facility located on the same platted lot or tract as a principal use (such as a hospital, office building, manufacturing operation, or corporate campus) that is designed solely to support the internal data storage, processing, and information technology functions of that principal use, and that does not exceed twenty-five percent (25%) of the gross floor area of the principal use.

3. Battery Energy Storage System (BESS). See Section 6.102 (Definitions).

a. BESS at Data Centers. Battery Energy Storage Systems at Data Centers are governed by Section 3.514.M.(Generators and Emergency Power), Subsection 5. (Battery Energy Storage Systems – BESS).

b. BESS not associated with Data Centers. For standalone or other accessory BESS installations not associated with a Data Center, see Section 3.515 (Battery Energy Storage Systems – BESS).

4. *Cryptocurrency Mining.* See Section 6.102 (Definitions).

5. *Generator Yard.* See Section 6.102 (Definitions).

6. *Ground-Mounted Equipment.* Equipment located outside of and not on the roof of a principal building, including but not limited to generators, fuel tanks, cooling equipment, heat exchangers, Battery Energy Storage Systems (BESS), universal power supply units, transformers, and substations.

C. *Applicability.* These standards apply to all new Data Centers and to expansions of Data Centers that increase gross floor area or ground-mounted equipment area by more than ten percent (10%).

1. Commercial Cryptocurrency Mining is prohibited as a principal or accessory use on any parcel containing a Data Center and may not be combined with a Data Center use. See Section 6.102 (Definitions).

2. Where any provision of this Section 3.514 (Data Centers) conflicts with other requirements of this Zoning Ordinance, the more restrictive standard shall apply unless this section expressly provides otherwise.

3. Accessory Data Centers, as defined in Section 3.514.B.(Definitions), are subject to the development standards of this Section 3.514 (Data Centers) and are permitted in any district that allows the principal use, except as follows:

a. Accessory Data Centers that do not exceed twenty-five percent (25%) of the gross floor area of the principal use and that are fully contained within the principal use's building are exempt from the CUP approval requirement of Section 3.514.D.(Permitted Zoning Districts and Conditional Use Approval Process), and the setback requirements of Section 3.514.H.(Site Development Standards), but shall otherwise comply with all applicable noise, screening, and utility standards of this Section 3.514 (Data Centers).

b. All ground-mounted equipment associated with an accessory Data Center shall comply fully with this Section 3.514 (Data Centers).

D. *Permitted Zoning Districts and Conditional Use Approval Process.*

1. *Permitted Zoning Districts and CUP.* Data Centers shall be permitted as a principal use only upon approval of a Conditional Use Permit (CUP) by the City Council in accordance with MZO, Part 5, 5.300, Section 5.303 (Application Procedures), and Section 5.310 (Conditional Use Permit – CUP), and only in the following zoning districts:

a. I (Industrial) District; and

b. Planned Development (PD) districts where the base zoning district is Industrial, or where a Data Center use is specifically identified as a permitted use in the PD ordinance.

2. *Prohibited Zoning Districts.* Data Centers are prohibited in all Residential, Office, Commercial, Agricultural, and Mixed-Use districts.

3. CUP Approval Not Required in PD-Districts. A CUP is not required for a Data Center on a property zoned Planned Development where the approved PD ordinance specifically approves a Data Center by right.

E. Conditional Use Permit Application Requirements. In addition to the standard CUP application requirements of Section 5.303 (Application Procedures), all Data Center CUP applications shall include the following:

1. Site Information.

- a. Conceptual site plan depicting building locations and orientation; ground-mounted equipment locations; setbacks from all property lines; vehicle parking layout; truck, trailer, and loading areas; driveways and on-site circulation routes; screening walls and fencing; landscape and buffer areas; retaining walls; and locations of light poles and fixtures.
- b. Conceptual landscape plan prepared by a licensed landscape architect.
- c. Conceptual building elevations for all facades, including material specifications, architectural articulation, and screening of rooftop equipment.

2. Technical Studies. The following studies shall be submitted prior to CUP application submittal, unless otherwise stated below:

- a. Noise study, in accordance with Section 3.514.L (Noise Standards).
- b. Photometric plan demonstrating compliance with Section 3.514.K (Lighting).
- c. Utility demand analysis identifying anticipated electrical, water, and wastewater demands, and written confirmation of adequate capacity from all applicable utility providers.
- d. Water and wastewater impact plan describing the cooling system type, estimated annual water consumption, and proposed wastewater discharge details.
- e. Traffic Impact Analysis (TIA), in accordance with Section O.(Traffic and Access), Subsection 1.(Traffic Impact Analysis).

3. Operations Information.

- a. Generator plan identifying the number, type, fuel type, capacity, proposed enclosure type and sound attenuation rating, and location of all on-site generators.
- b. Cooling system description identifying the cooling system type (e.g., air-cooled, closed-loop water, liquid cooling) and estimated annual water consumption.
- c. Traffic and construction management plan.
- d. Emergency operations plan describing procedures for equipment failure, fire suppression system activation, hazardous material releases, and coordination protocols with City fire and emergency services.

4. Long-Term Compliance.

- a. Decommissioning plan, in accordance with Section 3.514.S.(Decommissioning).
- b. Such additional studies or information as required by the Director of Planning and Development Services, City Engineer, Fire Marshal, or the City Council.

F. Conditional Use Permit Review Criteria. In addition to the general CUP review criteria of Section 5.310.N.(Approval standards for Issuance of Conditional Use Permits), the Planning and Zoning Commission and the City Council shall consider the following additional factors when reviewing a Data Center application:

1. Site Compatibility. The compatibility of the proposed Data Center with surrounding land uses, including proximity to residential districts and uses, adequacy of screening and buffering, and consistency with the Mesquite Comprehensive Plan.
2. Infrastructure Capacity. The adequacy of electrical, water, wastewater, and telecommunications infrastructure to support the proposed facility without adverse impacts to City systems or surrounding properties.
3. Operational Performance. The applicant's demonstrated ability to comply with the noise, lighting, water, traffic, and other operational standards of this Section 3.514 (Data Centers).
4. Long-Term Operations. The adequacy of proposed emergency operations, security, maintenance, and decommissioning plans to protect public health, safety, and welfare over the full life of the facility.

G. Consultant Review.

1. The Director, or designee, may authorize the review of any CUP application, technical study, proposed finding, or proposed condition of approval by a qualified independent consultant if the Director, or designee, reasonably determines that expert review is necessary to evaluate technical aspects of the application that exceed the routine technical expertise of City staff, or to verify the accuracy and methodology of technical studies submitted by the applicant.
2. Such technical matters include, without limitation: noise modeling and acoustical analysis; photometric studies and lighting design; utility demand and grid interconnection analysis; water and wastewater engineering; structural and electrical engineering review; environmental assessments; and any other technical matter for which the Director, or designee, determines that specialized expertise is required.
3. All actual and reasonable costs of a consultant's technical review authorized under this subsection shall be borne by the applicant and shall be listed in accordance with Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-103 (Consultant Review Fees).
4. Consultant review under this subsection is distinguished from Third-Party Review of Development Documents and Inspection of Improvements under Texas Local Government Code, Title 7, Subtitle C, Chapter 247.

H. Site Development Standards.

1. Minimum Lot Area. The minimum lot area for a Data Center shall be five (5) acres.
2. Setbacks — Adjacent to Residential Districts or Residential Uses.
 - a. Principal buildings shall be located a minimum of three hundred (300) feet from the nearest property line of any residential district boundary.
 - b. Ground-mounted equipment, including generators, cooling equipment, Battery Energy Storage Systems (BESS), transformers, substations, fuel tanks, and similar equipment, shall be located a minimum of five hundred (500) feet from the nearest property line of any residential district boundary.
 - c. Ground-mounted equipment shall not be located between the principal building and any public street.
3. Setbacks — Adjacent to Nonresidential Property.
 - a. Principal buildings shall be located a minimum of one hundred (100) feet from any nonresidential property line.
 - b. Pavement shall be set back a minimum of fifty (50) feet from any street right-of-way line. The area between the right-of-way and the pavement setback line constitutes the required landscape buffer described in Section 3.514.J.(Screening and Buffering), Subsection 1.(Landscape Buffer) and shall be fully landscaped. No pavement other than driveways and pedestrian walkways is permitted within this buffer.
4. Building Height.
 - a. Maximum building height: Seventy-five (75) feet, measured to the top of the roof deck.
 - b. Parapets, rooftop screening walls, and rooftop mechanical equipment shall not count toward maximum building height.
 - c. Accessory structures located between the principal structure and any property line shall not exceed thirty (30) feet in height.

I. Building Design Standards.

1. Facades. Any building facade visible from a public right-of-way should strive to incorporate architectural differentiation that breaks the apparent mass of the facade at intervals of no greater than one hundred (100) horizontal linear feet by including at least one change in building form and at least one design element as follows:
 - a. Change in building form. A minimum five-foot change in building height for buildings less than thirty (30) feet tall, or a minimum ten-foot change for buildings thirty (30) feet or taller; or a building step-back or recess with a minimum depth of two and one-half (2.5) feet.
 - b. Design element. A change in exterior building materials; a change in pattern, texture, or color; or architectural features such as articulated columns, pilasters, or projections with a minimum relief of twelve (12) inches from the wall plane.

2. *Main Entrance Feature.* The principal use entrance should strive to be clearly differentiated from the remainder of the building facade by a change in material, pattern, texture, color, or accent material, and should either project from or recess into the adjoining building plane.
3. *Exterior Materials.* All building facades fronting, or more than twenty percent (20%) visible from, an existing or future public right-of-way should strive to be clad in one hundred percent (100%) masonry, which for purposes of this subsection means brick, natural stone, architectural cast stone, precast concrete panels, concrete tilt wall, or three-stage stucco. Metal cladding is also permitted on any facade. All exterior building materials and screening walls should have a non-reflective finish.
4. *Service and Loading.* Truck loading docks, service entrances, generator yards, and utility equipment areas shall be oriented away from residential properties and, to the maximum extent practicable, away from public street frontages.
5. *Flexibility.* The City’s authority to enforce building design standards in this subsection are subject to Mesquite City Code Sec. 5-4 (Certain regulations regarding building products, materials or aesthetic methods prohibited). In addition, where application of the mandatory building design standards of this subsection are not feasible due to functional requirements of a specific Data Center use, the Director, or designee, may authorize minor modifications as a condition of CUP approval, provided the overall design intent is achieved.

J. Screening and Buffering.

1. *Landscape Buffer.* A minimum fifty-foot-wide landscape buffer shall be provided adjacent to all public rights-of-way and all residentially zoned districts. The buffer shall be fully landscaped and shall incorporate berming, decorative masonry walls, evergreen screening, or a combination thereof appropriate to the site context. All required landscaping shall be located between the property line and any perimeter fence or screening wall, so that the landscape buffer is exterior to and visually precedes all fencing when viewed from adjacent properties or rights-of-way. Except when adjacent to residentially zoned properties, no fence or screening wall shall be placed between the property line and any required landscape planting. The landscape buffer shall be shown on the site plan and landscape plan submitted with the CUP application.
2. *Ground-Mounted Equipment Screening.* All ground-mounted equipment shall be fully screened from public view on all sides by masonry walls, architectural screening, landscaping, berming, or a combination thereof. The following standards apply:
 - a. Masonry screening walls shall be a minimum of one (1) foot taller than the height of the tallest piece of equipment being screened and may exceed screening or fence height with the approval of the Director, or designee.
 - b. Masonry walls shall be constructed of brick, natural stone, precast concrete panel, or architectural concrete masonry units (CMU) and shall have a decorative finish on all faces abutting public rights-of-way or adjacent properties.
 - c. Perforations for ventilation are permitted in screening walls, provided that all equipment remains fully visually screened from public view.

3. *Rooftop Equipment Screening.* All rooftop mechanical equipment shall be fully screened on all sides from public view by an opaque parapet or screening wall. The screening shall be a minimum of one (1) foot taller than the tallest piece of rooftop equipment, or five (5) feet, whichever is greater. Perforations for ventilation are permitted provided all equipment remains fully screened from public view.

4. *Fencing.*

a. *Materials.* Perimeter security fencing shall consist of masonry, wrought iron, or black PVC-coated chain link. Non-PVC-coated chain link, uncoated wire, barbed wire, and wooden fences are prohibited. Masonry walls shall be constructed of brick, natural stone, precast concrete panel, or architectural CMU with a decorative finish on all faces visible from public rights-of-way or adjacent properties.

b. *Street Frontages.* Along street frontages, fencing shall consist of masonry or wrought iron only. Fencing adjacent to a public right-of-way shall have required landscaping placed between the fence and the right-of-way line; fencing shall not be placed in front of required landscaping.

c. *Residential Adjacency.* A screening wall is required along any property line adjacent to a residential district in accordance with Section 1A-303 (Nonresidential use requirements).

d. *Height.* Perimeter security fencing shall be a minimum of six (6) feet and a maximum of eight (8) feet in height, measured from finished grade. Greater fencing heights may be approved by the City Council as a condition of CUP approval.

e. *Location.* The location and extent of all fencing and perimeter walls shall be shown on the site plan submitted with the CUP application.

K. *Lighting.*

1. *Full Cutoff Required.* All exterior light fixtures shall be full-cutoff type luminaires with a cutoff angle not exceeding ninety (90) degrees, designed to minimize glare, light spillover, and sky glow.

2. *Maximum Spillover at Property Lines.* No exterior light fixture shall cause illumination levels to exceed 0.0 footcandles at any property line, as measured at grade. No light source, lamp, or beam shall cross any property line by a calibrated photometer with all on-site artificial light sources operating. The photometric plan required by this Section 3.514.K.(Lighting), Subsection 7.(Photometric Plan), shall demonstrate compliance with this requirement at all property lines.

3. *Fixture Height.* Freestanding light fixtures shall not exceed thirty (30) feet in height, measured from finished grade at the base of the support to the top of the fixture.

4. *Building-Mounted Fixtures.* Building-mounted light fixtures shall be attached to walls. The top of any wall-mounted fixture shall not exceed eighteen (18) feet above finished grade, except fixtures located directly above a building entry or exit.

5. *Color Temperature.* The maximum allowable correlated color temperature (CCT) for all outdoor luminaires is 3,000 Kelvin.

6. Security Lighting. Exterior security lighting devices shall be weather- and vandal-resistant, shall use a managed light source, and shall be directed downward to minimize glare and light trespass onto adjacent properties.
7. Photometric Plan. A photometric plan prepared by a qualified lighting professional, demonstrating compliance with this subsection, shall be submitted with the CUP application and prior to issuance of a building permit.

L. Noise Standards.

1. Maximum Sound Levels. Noise from all activities associated with a Data Center, including cooling equipment, fans, air handling units, and generators, shall not exceed the following levels when measured at the property line of the Data Center or at the exterior wall of the nearest occupied residential structure, whichever produces the higher reading:
 - a. Daytime (7:00 a.m. to 10:00 p.m.): sixty-five (65) dBA.
 - b. Nighttime (10:01 p.m. to 6:59 a.m.): sixty (60) dBA.
 - c. Where a Data Center is adjacent to a residentially zoned district, nighttime sound levels shall not exceed fifty-five (55) dBA measured at the shared property line.
2. Exemptions. The maximum sound levels in this Section 3.514.L.(Noise Standards), Subsection 1.(Maximum Sound Levels) do not apply to:
 - a. Demolition or construction activities authorized under a valid building permit; or
 - b. Emergency situations arising from sudden, reasonably unforeseen events beyond the control of the operator that require the use of emergency generators; or
 - c. Routine generator testing conducted in compliance with Section 3.514.M.(Generators and Emergency Power), Subsection 3.(Routine Testing).
3. Noise Study. As part of any initial CUP application, the applicant shall submit a sound modeling study prepared by a licensed professional engineer specializing in acoustics or an engineer Board Certified by the Institute of Noise Control Engineers. The study shall:
 - a. Be site-specific to the proposed topography, site layout, building type, scale, height, and construction; and
 - b. Establish baseline noise conditions at measurement locations determined by the Director, or designee; and
 - c. Model predicted post-development noise levels from all cooling, ventilation, and other noise-generating equipment operating simultaneously at full operational load; and
 - d. Address both the proposed phase and the ultimate buildout at full occupancy if the development will be completed in phases; and
 - e. Report all noise levels using both A-weighted decibel measurements (dBA) and C-weighted decibel measurements (dBC) for all measurement locations and equipment sources; and

- f. Include full octave band (1/1 octave) spectral analysis for all predicted and measured noise sources, using a Class 1 integrating sound level meter (per IEC 61672) with 1/1 octave band filters (per IEC 61260); and
 - g. Include one-third octave band (1/3 octave) spectral analysis for all predicted and measured noise sources, using equipment meeting the requirements of IEC 61260; and
 - h. Include a tonality assessment evaluating whether any noise source produces perceptible pure tones, conducted in accordance with ISO 1996-2 (or most current edition), or an equivalent method approved by the Director, or designee; and include recommendations for noise mitigation measures as necessary for compliance with maximum sound levels, with required mitigation measures incorporated into the site plan and building plans prior to issuance of building permits.
- 4. Noise Study – Post-Construction. Within sixty (60) days of issuance of a Certificate of Occupancy for each phase of development, and at any time requested by the Director, or designee, the operator shall submit a post-construction sound study conducted during peak cooling operations. If the study demonstrates that sound levels exceed the maximums established in this subsection, the operator shall immediately undertake all measures necessary to achieve compliance.
- 5. Low Frequency Noise. Low frequency noise shall not exceed the following octave-band sound pressure levels, evaluated in accordance with ANSI S12.9 Part 4, Annex D (or most current edition), measured at the property line nearest the noise source or at the exterior wall of the nearest occupied residential structure, whichever produces the higher reading:
 - a. 16 Hz: 55 dB
 - b. 31.5 Hz: 55 dB
 - c. 63 Hz: 55 dB
 - d. All low frequency noise measurements shall be performed by or under the direct supervision of a licensed professional engineer specializing in acoustics, or an engineer Board Certified by the Institute of Noise Control Engineers, using a Class 1 integrating sound level meter (per IEC 61672) with 1/1 octave band filters (per IEC 61260).
- 6. City Noise Ordinance.
 - a. Noise from Data Center operations shall additionally comply with all applicable provisions of the Mesquite Noise Ordinance, as amended. See Mesquite City Code, Ch. 10, Article III (Noise). In the event of a conflict, the more restrictive standard shall apply.
 - b. Vibrations from Data Center operations shall comply with all applicable provisions of the Mesquite City Code, including but not limited to, Ch. 10, Article III (Noise), Sec. 10-71 (Offenses), Subsection (c) (Vibration Offenses); and MZO, Part 1, 1.400, Section 1.407 (Vibration).

M. Generators and Emergency Power.

1. Emissions. All diesel generators shall meet or exceed EPA Tier 4 Final emission standards and shall comply with all applicable requirements of the Texas Commission on Environmental Quality (TCEQ).
2. Enclosures. Generators shall be enclosed in a Level 3 or equivalent sound-attenuating enclosure designed to limit sound output to a maximum of seventy (70) dBA measured twenty-five (25) feet from the generator. Generator enclosures shall be screened in accordance with Section 3.514.J.(Screening and Buffering), Subsection 2.(Ground-Mounted Equipment Screening).
3. Routine Testing. Routine generator exercise and maintenance testing shall comply with the following:
 - a. Days: Monday through Friday (excluding federal holidays); and
 - b. Hours: 9:00 a.m. to 4:00 p.m.; and
 - c. Maximum duration: four (4) hours per test event; and
 - d. Frequency: no more than one (1) full-load test per generator per calendar quarter, plus routine no-load or light-load monthly exercises not to exceed thirty (30) minutes per generator per month.
4. Emergency Operation. Generator operation during emergency maintenance or actual utility outages may occur outside the scheduled testing hours of Section 3.514.M.(Generators and Emergency Power), Subsection 3.(Routine Testing). The operator shall notify the Director, or designee, within seventy-two (72) hours of any such emergency operation, stating the reason, duration, and corrective action taken or planned.
5. Battery Energy Storage Systems (BESS). Battery Energy Storage Systems are permitted as an accessory use in conjunction with a Data Center. BESS installations shall comply with all applicable fire codes, building codes, and the requirements of Section 3.515 (Battery Energy Storage Systems - BESS) of this Zoning Ordinance, and shall be screened in accordance with Section 3.514.J.(Screening and Buffering), Subsection 2.(Ground-Mounted Equipment Screening).
6. Fuel Storage. On-site fuel storage tanks and associated equipment shall be located within the generator yard, shall comply with the setback requirements of Section 3.514.H.(Site Development Standards), 2.(Setbacks –Adjacent to Residential Districts or Residential Uses), Subsection b, and shall be screened in accordance with Section 3.514.J.(Screening and Buffering), Subsection 2.(Ground-Mounted Equipment Screening). All fuel storage shall comply with applicable fire codes, environmental regulations, and TCEQ requirements.

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N. Water and Wastewater.

1. Cooling Systems. Only closed-loop or recycled water cooling systems are permitted for Data Center cooling operations. The use of potable water from the City's municipal water system for open evaporative or once-through cooling that discharges to waste is prohibited.
2. Water Demand Disclosure. The applicant shall disclose anticipated monthly and annual water consumption in the utility demand analysis required by Section 3.514.E.(Conditional Use Permit Application Requirements), 2.(Technical Studies), Subsection c, at the time of CUP application and shall provide written confirmation of available capacity from the City's water utility provider prior to approval of the final site plan.
3. Wastewater Discharge. All wastewater discharges from Data Center operations shall comply with the applicable provisions of the Mesquite City Code, including Chapter 16 (Water and Liquid Waste), and all applicable state and federal environmental regulations. Information about proposed wastewater discharges shall be included in the water and wastewater impact plan required by Section 3.514.E.(Conditional Use Permit Application Requirements), 2.(Technical Studies), Subsection d.
4. Utility Coordination. As part of the CUP application, the applicant shall provide written documentation confirming that adequate electrical, water, wastewater, telecommunications, and other utility capacity exists or will be provided to serve the proposed facility, including coordination with all applicable utility providers.

O. Traffic and Access.

1. Traffic Impact Analysis. Submittal of a Traffic Impact Analysis (TIA), prepared in accordance with the Mesquite Engineering Design Manual, shall be submitted when required by the Director of Planning and Development Services, or City Engineer, or designee(s). The TIA shall identify potential traffic problems and provide effective mitigation.
2. Access. All driveways and access points shall comply with Sec. 15-111 (Compliance with City of Mesquite Engineering Design Manual required) of the City Code.
3. Truck Circulation. On-site truck circulation routes, truck and trailer staging areas, and loading and unloading areas shall be shown on the site plan. Truck and trailer areas shall be screened from view from public rights-of-way and adjacent residential properties in accordance with Section 3.514.J.(Screening and Buffering)
4. Construction Traffic. A construction traffic management plan shall address haul routes, hours of heavy vehicle operations, and measures to minimize impacts on surrounding roadways and residential areas during construction.

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P. Landscaping.

1. General. All landscaping shall comply with Part 1A (Landscaping, Buffering and Screening and Tree Preservation) of this Zoning Ordinance. A professionally designed landscape plan shall be submitted with each CUP application. Enhanced landscaping, berming, evergreen screening, decorative walls, or similar buffering may be required as a condition of CUP approval. All required landscape plantings shall be installed in accordance with the minimum size requirements of Section 1A.500 (Plant Schedules).
2. Street Frontage Landscaping. Front yard landscape areas located between the public right-of-way and the pavement setback line shall be landscaped as follows:
 - a. Along all public streets. One (1) large canopy tree with a minimum caliper of three (3) inches for every thirty-five (35) linear feet of street frontage, and one (1) ornamental tree with a minimum height of eight (8) feet for every twenty-five (25) linear feet of street frontage.
 - b. Trees may be clustered in small groups, with groups spaced a minimum of fifty (50) feet apart. Landscape design shall have a naturalistic, varied appearance rather than a purely linear arrangement.
 - c. Plantings shall be located outside of utility easements and overhead powerlines.
3. Side and Rear Yard Landscaping. A minimum twenty-five-foot-wide landscape strip shall be provided along all side and rear property lines and shall include a minimum of one (1) large canopy tree for every fifty (50) linear feet.
4. Residential Adjacency Screening. Where a Data Center site is adjacent to a residentially zoned district, a minimum of three (3) staggered rows of approved evergreen screening trees shall be planted within the fifty-foot landscape buffer required by Section 3.514.J.(Screening and Buffering), Subsection 1.(Landscape Buffer), in addition to the tree requirements of Section 3.514.P.(Landscaping), Subsection 3.(Side and Rear Yard Screening), and screening requirements of Part 1A, Section 1A.300.(Screening and Buffering Requirements).
5. Plant Species. Native and regionally adapted, drought-tolerant plant species are strongly preferred. A diversity of species is required; no single species shall exceed thirty percent (30%) of total tree or shrub plantings on a site. Thorned or security-buffer plant species may be used within perimeter screening areas but shall not be installed adjacent to pedestrian circulation routes or public access areas. All plant materials shall comply with the applicable standards, approved species lists, and installation requirements set forth in Section 1A.500 (Plant Schedules).
6. Ground Cover. All landscaped areas on nonresidential sites shall be covered with a mix of maintained turf grass, native ground cover, or an approved xeriscape alternative — including mulch, crushed rock, or decomposed granite — within and beneath tree areas. Bare soil shall not be an acceptable ground cover treatment in any required landscape area.
7. Irrigation. All required landscaping shall be served by a professionally designed automatic irrigation system. Rainwater or stormwater collection systems are encouraged and may be required as a condition of CUP approval to reduce potable water consumption for irrigation, provided such systems comply with all applicable building, plumbing, and environmental regulations and are isolated from the potable water supply.

8. Parking Area Landscaping.

- a. Interior landscaping/ trees required. When a parking area contains twenty (20) or more parking spaces, the interior of the area shall be landscaped by providing a minimum of one (1) tree for every fifteen (15) parking spaces or fraction thereof. The required trees shall be spread throughout the parking area. Parking areas shall be limited to a maximum of ten (10) contiguous parking spaces without a landscaped island separating the areas. A minimum of one (1) landscaped island shall be provided for every ten (10) parking spaces. Each tree shall be placed in a landscape area no smaller than 180 square feet, which is protected from vehicles through the use of concrete curbs, wheel stops, or other permanent barriers no less than six (6) inches in height. Required landscaped islands shall be a minimum of ten (10) feet in width and shall contain at least one (1) large canopy tree. For each landscaped island of at least ten feet by twenty feet located within a parking lot, credit for four parking spaces will be provided. Credit for parking spaces cannot reduce the overall parking requirement by more than fifteen percent or to less than ten total spaces.
 - b. Visibility. Landscaping materials, curbs, barriers or any combination thereof shall be situated so as not to create a visibility obstruction to moving vehicles or pedestrians within the parking lot. A landscape island located at an intersection of maneuvering aisles may not contain landscape material exceeding thirty (30) inches in height, except that trees trimmed so that no branch or growth is less than seven (7) feet in height above the curb level of the island may be permitted.
 - c. Nonpublic parking areas. Requirements for internal landscaping and trees shall not apply to nonpublic parking areas which are not visible from the street and are not open to public use.
 - d. Perimeter building frontage buffer. A minimum ten-foot-wide landscape buffer shall be provided between any parking area and the face of a building fronting a public street. This buffer shall be designed to accommodate required landscaping and pedestrian walkways.
- Q. Off-Street Parking. Off-street parking shall be provided as referenced in Section 3.405 (Table of parking standards—Nonresidential uses). The Director, or designee, may modify parking requirements based on operational needs analysis submitted by the applicant with the CUP application.
- R. Security. A security plan shall be submitted with the CUP application describing proposed security measures, including perimeter fencing, access control systems, on-site security personnel arrangements, surveillance camera coverage, and exterior security lighting.

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S. Decommissioning.

1. Decommissioning Plan Required. A decommissioning plan shall be submitted with each CUP application describing the procedures for decommissioning the facility upon permanent cessation of Data Center operations. The plan shall identify proposed methods for site stabilization, removal of equipment, utility disconnection, environmental remediation (if applicable), management and disposal of regulated materials in accordance with applicable federal, state, and local laws, adaptive reuse, redevelopment, or partial redevelopment of the site, and, where necessary, demolition of improvements. The plan shall also include a proposed implementation schedule and a description of any proposed or required financial assurance. The plan shall be reasonable, enforceable, and consistent with the scale and expected operational life of the facility.
2. Financial Assurance. The City Council may, as a condition of CUP approval, require the applicant to provide a performance bond, irrevocable letter of credit, or other financial assurance acceptable to the City Attorney to secure completion of all or part of the approved decommissioning plan. In determining whether financial assurance is appropriate, the City Council may consider the size of the facility, estimated decommissioning costs, potential public risk, and other relevant factors.
3. City Council Approval. The decommissioning plan, and any required financial assurance, shall be reviewed and approved by the City Council as part of the Conditional Use Permit approval process. The owner may submit minor amendments to the approved decommissioning plan for administrative approval by the Director, provided such amendments do not materially alter the approved decommissioning obligations. Major amendments shall require City Council approval.
4. Cessation of Operations.
 - a. Inactive Data Center - Decommissioning. A Data Center that has ceased operations for a continuous period of thirty-six (36) months shall be considered inactive for purposes of this subsection. Upon expiration of the thirty-six (36) month period of inactivity, the owner shall proceed in accordance with the approved decommissioning plan by one or more of the following:
 - (1) Redevelop the property for another lawful use authorized under the Mesquite Zoning Ordinance; or
 - (2) Adaptively reuse all or a portion of the existing improvements for another lawful use; or
 - (3) Decommission the facility, including removal of equipment, structures, utilities, or other improvements, to the extent required by the approved decommissioning plan.
 - b. Existing Improvements. Existing buildings and site improvements may remain if they are intended for redevelopment, adaptive reuse, or partial redevelopment as part of another lawful use authorized under the Mesquite Zoning Ordinance. If the Director determines that specific improvements are unsafe, constitute a public nuisance, contain hazardous materials requiring removal, or cannot reasonably be reused or redeveloped in a manner consistent with the Mesquite Comprehensive Plan, applicable zoning regulations, or the character of surrounding land uses, the Director may require removal of those improvements, in whole or in part, in accordance with the approved decommissioning plan.

5. Appeals. See Section 3.514.U.(Appeals).

6. Commencement of Decommissioning. Implementation of the approved decommissioning plan shall commence within one hundred eighty (180) calendar days after expiration of the thirty-six (36) month cessation period unless the Director approves an extension for good cause shown, including but not limited to active redevelopment efforts, permitting delays, financing, market conditions, or similar circumstances beyond the owner's reasonable control.

7. Completion of Decommissioning. All decommissioning activities required by the approved decommissioning plan, including completion of any required environmental remediation and the management and disposal of regulated materials in accordance with applicable federal, state, and local laws, shall be substantially completed within twelve (12) months after commencement unless otherwise approved by the Director for good cause shown.

8. Voluntary Decommissioning. The owner may voluntarily implement the approved decommissioning plan at any time.

T. Nonconforming Data Centers.

1. A Data Center use lawfully established prior to the effective date of the ordinance adding this Section 3.514 (Data Centers), or

2. A Data Center project vested prior to the effective date of the ordinance adding this Section 3.514 (Data Centers), and subsequently lawfully completed within the vesting deadlines,

shall be classified as a legal nonconforming use and shall be subject to the provisions of MZO, Part 1, Section 1.300 (Nonconforming Situations and Amortization of Nonconforming Uses). Any expansion, enlargement, or material change in the operations of a nonconforming Data Center shall require full compliance with all standards of Section 1.300, and this Section 3.514 (Data Centers).

U. Appeals.

1. Appeals to Board of Adjustment. The owner or operator may appeal the director's decision(s) in accordance with MZO, Part 5, 5.200, Section 5.210 (Appeals of Administrative Decisions to Board of Adjustment). *See also* Appendix D (Comprehensive Fee Schedule), Article XII, Sec.12-120 (Board of Adjustment Fees), Appeals of Administrative Decisions to the Board of Adjustment.

2. Appeals to the City Council. Appeals to the City Council regarding *development documents* or *development inspections* may be made in accordance with MZO, Part 5, 5.100, Section 5.107.P.(Appeals to City Council), and Texas Local Government Code, Chapter 247, Section 247.006 (Appeal) as amended. *Development documents* and *development inspections* are defined in MZO, Part 6, 6.100, Section 6.102 (Definitions). *See also* Appendix D (Comprehensive Fee Schedule), Article XII, Sec.12-121 (Planning and Zoning Fees), Appeals of Administrative Decisions to the City Council.

Cross references—

Mesquite City Code:

Compliance with City of Mesquite Engineering Design Manual required, Section 15-111 of the City Code.
Noise Ordinance, City Code Chapter 10, Article III, Sec. 10-71, 10-75, and 10-79.

Appendix C – Mesquite Zoning Ordinance:

Nonconforming Situations, Section 1.300 et seq.
Vibration, Section 1.407.
Landscaping Standards, Part 1A.
Schedule of Permitted Uses, Section 3.203.
Development Standards, Section 3.306.
Off-Street Parking, Sections 3.400 and 3.405.
Battery Energy Storage Systems - BESS, Section 3.515.
General Penalties, Section 5.103.
Certificate of Occupancy, Section 5.106.
Site Plan, Section 5.107.
Application Procedures, Section 5.303.
Conditional Use Permit - CUP, Section 5.310.
CUP Review Criteria, Section 5.310.N.
Definitions, Section 6.102.

Appendix D – Comprehensive Fee Schedule:

Consultant Review Fees, Article XII, Sec. 12-103.
Appeals of Administrative Decisions to the Board of Adjustment, Article XII, Section 12-120 (Board of Adjustment Fees).
Appeals of Administrative Decisions to the City Council, Article XII, Section 12-121 (Planning and Zoning Fees).

3.515 Battery Energy Storage Systems – BESS. *[See Exhibit B.]*

3.516 Accessory Backup Power Generators. *[See Exhibit B.]*

* * *

EXHIBIT B

To Ordinance No. _____

City of Mesquite, Texas
Mesquite City Code, Appendix C – Mesquite Zoning Ordinance

Revising certain sections in:

PART 1 (General Provisions)
PART 1-A (Landscaping, Buffering and Screening and Tree Preservation)
PART 3 (Nonresidential Districts)
PART 6 (Definitions)

MESQUITE CITY CODE

* * *

APPENDIX C – MESQUITE ZONING ORDINANCE (“MZO”)

* * *

[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~~.]

PART 1. – GENERAL PROVISIONS

* * *

1.400 – PERFORMANCE STANDARDS

* * *

1.408 Glare.

~~Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding [sic] property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together the light beam is controlled and not directed across any bounding [sic] property line above the height of three (3) feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 foot candles.~~

- A. General Standard. No use shall be operated so as to produce glare that is perceptible beyond the property line of the lot on which the use is located. All exterior light sources, including building-mounted fixtures, freestanding luminaires, security lighting, and canopy lighting, shall be designed, positioned, and maintained to prevent direct glare, light spillover, or sky glow onto adjacent properties, public rights-of-way, or the night sky.
- B. Full Cutoff Required. All exterior light fixtures shall be full-cutoff type luminaires with a cutoff angle not exceeding ninety (90) degrees. No light source or lamp shall be visible above the horizontal plane of the fixture.
- C. Maximum Spillover at Property Lines. No exterior light fixture shall cause contributed artificial illumination levels to exceed 0.0 footcandles at any property line, as measured at grade by a calibrated photometer with all on-site artificial light sources operating. No artificial light source, lamp, or beam shall cross any property line.
- D. Color Temperature. The maximum allowable correlated color temperature (CCT) for all outdoor luminaires is 3,000 Kelvin, except that:
 - 1. Temporary construction lighting authorized under a valid building permit is exempt from this requirement; and
 - 2. The Director of Planning and Development Services, or designee, (“Director”) may approve a higher color temperature as a condition of site plan or Conditional Use Permit (CUP) approval upon a finding that the higher temperature is operationally necessary and adequately mitigated.

E. Fixture Height.

1. Freestanding exterior light fixtures shall not exceed thirty (30) feet in height, measured from finished grade at the base of the support to the top of the fixture.
2. Building-mounted light fixtures shall be attached to walls. The top of any wall-mounted fixture shall not exceed eighteen (18) feet above finished grade, except fixtures located directly above a building entry or exit.

F. Non-Reflective Exterior Finishes. All exterior building materials, screening walls, and accessory structures should be finished in a non-reflective material to minimize glare from reflected sunlight or artificial light sources.

G. Photometric Plan. For any nonresidential use or development requiring site plan approval, the applicant shall submit a photometric plan prepared by a qualified lighting professional demonstrating compliance with this subsection. The photometric plan shall be submitted prior to issuance of a building permit and shall be approved by the Director, or designee.

H. Security Lighting. Exterior security lighting devices shall be weather- and vandal-resistant, shall use a managed light source, and shall be directed downward to minimize glare and light trespass onto adjacent properties.

I. Conflict with Use-Specific Standards. Where any use-specific provision of this Zoning Ordinance establishes more restrictive glare or lighting standards applicable to a specific use or district, those more restrictive standards shall apply in addition to and shall supersede this Section 1.408 (Glare) to the extent of any conflict.

J. Exemptions. The following are exempt from the requirements of this Section 1.408 (Glare):

1. Temporary lighting authorized under a valid building permit for construction activities.
2. Lighting operated by a governmental entity within a public right-of-way for street illumination or traffic control.
3. Decorative holiday lighting on residential properties, provided such lighting does not create a hazard or nuisance to adjacent uses.

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PART 1A. – LANDSCAPING, BUFFERING AND SCREENING AND TREE PRESERVATION

* * *

1A.200 – LANDSCAPE REQUIREMENTS

* * *

1A.201 – General Landscape Requirements.

- A. *Applicability:* Landscaping shall hereafter be provided and maintained on all building sites where development, construction, expansion, reconstruction or redevelopment occurs in accordance with the following requirements.
- B. *Landscape plan required:*
1. *Submission:* A landscape plan shall be submitted with the site plan showing the location, name, and quantity of landscaping materials and other landscape features proposed, as well as showing the location of buildings, parking areas, drives, fences, walls, alleys and adjacent streets. The landscape plan shall be drawn to scale and shall be legible. In addition to the above, where required by applicable regulations, the plan shall show buffering, screening, tree preservation, and/or tree replacement related to the landscaping.
 2. *Review and approval:* Landscape plans shall be reviewed by the City's Arborist and shall be subject to Site Plan approval.
 3. *Compliance with Form-Based Codes:* In form-based code districts, the landscaping, screening, buffering, tree preservation, and xeriscape plant standards and schedules of the form-based district shall apply.
- C. *Landscape installation:*
1. *Permitted materials:* Landscape materials shall consist of permanent turf, ground cover, seasonal color, shrubs and trees.
 - a. Trees: Trees proposed and utilized to satisfy landscaping requirements shall be approved landscape trees as indicated by an asterisk (*) in Section 1A.500 (Tree Plant Schedules), Table 1A.500-1 (Tree Schedule).
 - b. Shrubs: Shrubs proposed and utilized to satisfy landscaping requirements shall be approved landscape shrubs as listed in Section 1A.500, Table 1A.500-2, (Shrub Schedule).
 - c. Turfgrass: Turfgrass proposed and utilized to satisfy landscaping requirements shall be approved turfgrass as listed in Section 1A.500, Table 1A.500-3, (Turfgrass Schedule).
 - d. Vines and Ground Cover: Vines and ground cover proposed and utilized to satisfy landscaping requirements shall be approved vines and ground cover as listed in Section 1A.500, Table 1A.500-4, (Vine and Ground Cover Schedule).
 - e. Ornamental Grasses: Ornamental grasses proposed and utilized to satisfy landscaping requirements shall be approved ornamental grass as listed in Section 1A.500, Table 1A.500-5, (Ornamental Grass Schedule).
 - f. Equivalent alternative plant materials may be approved by the City's Arborist.
 - g. Artificial plants may not be used as landscaping.

h. All plant materials used to satisfy the landscaping requirements of Section 1A.200 (Landscape Requirements) shall comply with the applicable standards, approved species lists, and minimum installation sizes set forth in Section 1A.500 (Plant Schedules). Native and regionally adapted, drought-tolerant plant species are strongly preferred for all nonresidential development. No single tree or shrub species shall exceed thirty percent (30%) of total tree or shrub plantings on any nonresidential site. Thorned or security-buffer plant species may be used within perimeter screening areas of nonresidential sites but shall not be installed adjacent to pedestrian circulation routes or public access areas.

2. *Minimum Installation Size:* At the time of installation, all required landscape plantings shall comply with the minimum size required in 1A.500 ~~Tree~~ (Plant Schedules).
 3. *Irrigation:* Irrigation systems are required and shall be configured to provide one hundred ~~(100)~~ percent (100%) coverage on all landscape and turfgrass and to prevent over-spray of water onto streets and sidewalks. All irrigation shall be installed according to laws and regulations of the Texas Commission on Environmental Quality. The City of Mesquite Irrigation Specifications adheres to the Texas Commission on Environmental Quality laws and regulations and accepted industry practices. The installation of all irrigation shall adhere to the manufacturer recommendations and specifications. Rainwater or stormwater collection systems are encouraged and may be required as a condition of Conditional Use Permit (CUP) approval to reduce potable water consumption for irrigation, provided such systems comply with all applicable building, plumbing, and environmental regulations and are isolated from the potable water supply.
 4. *Silva Cells:* Where trees are to be planted in sidewalk wells or surrounded by other impervious surfaces, the landscaping and pavement plans shall include the installation of silva cells or equivalent systems to provide for adequate soil volume and root growth.
 5. *Traffic Visibility:* Landscaping shall not be erected so as to obstruct traffic visibility at alleys, streets, or intersections. Except as provided by code or in special districts, trees and shrubs shall be located on private property, and not on a street right-of-way, unless specifically approved by the Traffic Engineer. With the exception of street trees approved by the Traffic Engineer, landscaping within eleven (11) feet of a curb line shall not exceed thirty (30) inches in height. Trees may not be approved unless their branches are at least seven (7) feet above the curb and they do not otherwise obstruct visibility.
 6. *Completion:* All required landscaping must be in place prior to the issuance of a Certificate of Occupancy; provided however, the Director, or designee, may defer installation for a period of no more than six (6) months after issuance of a Certificate of Occupancy based on seasonal planting consideration and with written assurance from the developer stating a specific date by which landscaping will be installed. Landscaping may also be deferred during times when the City of Mesquite has established Level 3 or greater water restrictions. The method and duration of deferral shall be at the sole discretion of the City of Mesquite, based upon an evaluation of water availability and weather conditions required to increase the likelihood of survival of the landscaping.
- D. *Maintenance:* All landscaping shall be maintained in a neat and orderly manner at all times: 1) Mowing, edging, pruning, fertilizing, watering, and weeding shall occur on a regular basis appropriate to the season; 2) Trash, litter, and weeds shall be removed regularly; 3) Plant materials shall be kept in a healthy growing condition; and 4) Dead plant material shall be replaced in a timely manner. Plants shall not exceed permitted heights or be permitted to grow in restricted areas.

E. *Overhead power lines:* Trees selected for areas beneath overhead power lines shall be selected from the list of Ornamental Trees listed as Table 1A.500-1, (Tree Schedule) and shall be approved by the City's Arborist.

F. *Ground Cover:* All landscaped areas on nonresidential sites shall be covered with a mix of maintained turf grass, native ground cover, or an approved xeriscape alternative — including mulch, crushed rock, or decomposed granite — within and beneath tree areas, hedgerow or flower beds. Bare soil shall not be an acceptable ground cover treatment in any required landscape area.

G. *Alternative Landscape Design:*

1. The Director, or designee, may approve an alternative landscape design that differs from the requirements set forth within this Section 1A.201 (General Landscape Requirements) in conjunction with the submitted Site Plan when it meets the conditions below:
 - a. Complies with the purpose and intent of this Section 1A.201; and
 - b. Incorporates significant trees and natural features of the site; and
 - c. Better accommodates or improves the existing physical conditions of the site.
2. Should the Director, or designee, deny an alternative landscape design, the applicant may appeal the Director's decision in accordance with Section 5.107 P. (Appeals to City Council).

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

1A.202 – Requirements for nonresidential uses.

The following requirements shall apply to all uses in nonresidential districts and to permitted nonresidential uses in residential districts.

A. *General site requirements:*

1. *Minimum landscape area:* Landscape areas equal to a minimum of ten ~~(10)~~ percent (10%) of the site area shall be provided.
 - a. Calculation of the minimum landscape area may include internal landscaping in parking areas and a required buffer tree line.
 - b. Portions of the site area planned for development as part of a later phase may be excluded from the calculation of minimum landscape area for the portion of the site area being developed as part of the current phase.
 - c. Adjacent rights-of-way shall be landscaped with lawn or ground cover, but these areas shall not be included in the calculation of required minimum landscape area.
2. *Tree requirement:* One (1) shade tree, or one (1) evergreen tree, or three (3) ornamental trees shall be provided for each five hundred (500) square feet of required landscape area. Trees provided for internal parking area landscaping and trees in a required buffer tree line may be counted to fulfill this requirement, provided that at least fifty ~~(50)~~ percent (50%) of the required trees are located between the main building and the front and/or exterior side property lines.

3. *Credit for tree preservation:* Credit for preserving a protected size tree, as defined in 1A.500 (~~Tree~~ Plant Schedules), Table 1A.500-1 (Tree Schedule), shall be given by counting each protected tree saved as two (2) trees for the purpose of fulfilling the calculated landscape tree requirement, or by reducing the required landscape area by five hundred (500) square feet for each tree preserved.

B. *Street Frontage Landscaping for Nonresidential and Multifamily Developments.* Front yard landscaping shall include a landscape buffer located along the street right-of-way and shall meet the following requirements:

1. The minimum width front yard landscape buffer along streets, thoroughfares or other means of vehicular access shall depend on the thoroughfare classification as indicated in the table below:

<u>Thoroughfare Classification</u>	<u>Minimum Width of Buffer</u>
<u>Arterial or Secondary Arterial</u>	<u>15 feet</u>
<u>Collector or lower</u>	<u>10 feet</u>

The minimum front yard landscape buffer for warehouse or industrial developments along any public street shall be 25 feet.

2. Along all public streets: one (1) large canopy tree with a minimum caliper of three (3) inches at the time of installation for every thirty-five (35) linear feet, or fraction thereof, of street frontage, and one (1) ornamental tree with a minimum height of eight (8) feet at the time of installation for every twenty-five (25) linear feet of street frontage.
3. Trees may be clustered in small groups, with groups spaced a minimum of fifty (50) feet apart. Landscape design shall have a naturalistic, varied appearance rather than a purely linear arrangement.
4. Plantings shall be located outside of utility easements and overhead powerlines.
5. The front yard landscape buffer shall be fully landscaped. No pavement other than driveways and pedestrian walkways is permitted within this buffer area.

C. *Side and Rear Yard Landscaping for Nonresidential Developments.* A minimum six-foot-wide landscape strip shall be provided along all side and rear property lines adjacent to nonresidential development where no existing buffer is present. The landscape strip shall include a minimum of one (1) large canopy tree for every fifty (50) linear feet, or fraction thereof, of side or rear property line.

D. *Residential Adjacency Screening.* Where a nonresidential site is adjacent to a residentially zoned district, the following standards apply in addition to any use-specific screening requirements of this Zoning Ordinance:

1. A minimum fifteen (15) wide landscape buffer shall be provided along all property lines adjacent to a residential district boundary. The buffer shall incorporate tree buffer line, berming, decorative masonry walls, evergreen screening, or a combination thereof appropriate to the site context. No pavement other than required emergency access drives is permitted within this buffer.

2. A minimum of two (2) staggered rows of approved evergreen screening trees shall be planted within the required landscape buffer. Uses subject to Section 3.514 (Data Centers) shall provide a minimum of three (3) staggered rows in accordance with that section.
3. Minimum planting within the residential adjacency buffer shall comply with Section 1A.301 (General Screening and Buffering Requirements).

B-E. Parking area landscaping:

1. *Interior landscaping/ trees required:* When a parking area contains twenty (20) or more parking spaces, the interior of the area shall be landscaped by providing a minimum of one (1) tree for every fifteen (15) parking spaces or fraction thereof. The required trees shall be spread throughout the parking area. Public parking areas shall be limited to a maximum of fifteen (15) contiguous parking spaces without a landscaped island separating the areas. Each tree shall be placed in a landscape area no smaller than ~~nine (9) feet by eighteen (18) feet~~ 180 square feet, which is protected from vehicles through the use of concrete curbs, wheel stops, or other permanent barriers no less than six (6) inches in height. A minimum of one (1) landscaped island shall be provided for every fifteen (15) parking spaces, and each required island shall be a minimum of ten (10) feet in width and shall contain at least one (1) large canopy tree. For each landscaped island of at least ten (10) feet by twenty (20) feet located within a parking lot, credit for four (4) parking spaces will be provided. Credit for parking spaces cannot reduce the overall parking requirement by more than fifteen percent (15%) or to less than ten (10) total spaces.
2. *Visibility:* Landscaping materials, curbs, barriers or any combination thereof shall be situated so as not to create a visibility obstruction to moving vehicles or pedestrians within the parking lot. A landscape island located at an intersection of maneuvering aisles may not contain landscape material exceeding thirty (30) inches in height, except that trees trimmed so that no branch or growth is less than seven (7) feet in height above the curb level of the island may be permitted.
3. *Nonpublic parking areas:* Requirements for internal landscaping and trees shall not apply to nonpublic parking areas of industrial and commercial uses which are not visible from the street and are not open to public use.

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1A.300 – Screening and Buffering Requirements

* * *

1A.303 – Nonresidential Use Requirements.

A. *Nonresidential abutting a residential district at the rear or interior side:* When a nonresidential district backs or sides upon a residential district, the following screening/buffering requirements shall apply.

1. *Basic requirement—Minimum setbacks:* An eight (8) foot high long-span precast concrete decorative screening wall and a 15-ft wide landscaped buffer with a tree line shall be established and maintained along the property line abutting the residential district. The minimum landscaped buffer for warehouse or industrial developments abutting the residential district is thirty (30) feet. The tree line may be located on either side of the wall provided that both the wall and tree line be located on the nonresidential property.

This requirement shall apply except that alternate screening as set out below may be utilized when the following conditions are satisfied; provided however, that the alternate screening may not be utilized if a masonry screening wall exists or will be required on adjoining nonresidential lots and the utilization of alternative screening would result in screening which is not continuous or not consistent.

2. *Alternate screening—Increased building setbacks:* The height of the long-span precast concrete decorative screening wall may be reduced to six (6) feet whenever the nonresidential use provides an increased setback of at least three (3) feet for each foot in height above grade at the residential district boundary. The buffer tree line shall be required as specified under the Basic Requirement above.
3. *Alternate screening—No build setbacks and adjoining public sites:* A six (6) foot wrought iron fence and a minimum of two (2) staggered rows of approved evergreen screening trees shall be planted within the required landscape buffer~~landscape hedge~~ may be used for screening whenever one (1) of the following circumstances exists; provided however, that this modification is not permitted if the nonresidential use includes any outdoor storage or display, a loading yard or a service yard.
 - (a) The nonresidential use is separated from the nearest residential property by a permanent easement, right-of-way or other feature at least eighty (80) feet in width, assuring the nonresidential use does not directly abut the residential use. This alternative may be utilized where drainage and/or utility easements or rights-of-way lie between a nonresidential use and a residential use, regardless of the actual district zoning of the easement or right-of-way area.
 - (b) The nonresidential use sets aside a "buffer-yard" so that no active portion of the use; i.e., no buildings, parking, pavement, storage, or structure of any kind, is within eighty (80) feet of the residential district. This provision shall also allow deferment of masonry wall construction where the portion of a lot nearest the residential district is at least eighty (80) feet wide and is reserved for future development. In this situation, the interim screening (a six (6) foot wrought iron fence and landscape hedge) shall be placed either at the property line or at the edge of the developed portion of the lot. When construction occurs in the "buffer yard" area, the screening for the use must be upgraded to the Basic Requirement as outlined above.
 - (c) The nonresidential use is being constructed adjoining a public school, park or similar public site, which is located in a district zoned AG, R or D.

4. *Nonresidential uses permitted in residential districts:* Whenever a nonresidential use which is a permitted use in the AG, R or D district is being constructed in a nonresidential district and requires district screening, the screening required shall be the same screening which would be applicable to the use when constructed in the AG, R or D district, provided that all other development standards applicable to a residential district location are satisfied, i.e., lot size, setbacks, building heights, etc.
- B. *Nonresidential across street from a residential district:*
1. *Across divided boulevard:* When a nonresidential district, other than an Industrial district, is across a boulevard street with median from a residential district, the nonresidential use shall provide a parking screen along the perimeter of any parking area parallel to the street.
 2. *Across undivided street:* When a nonresidential district, other than an Industrial district, is across an undivided street from a residential district, the nonresidential use shall provide a ten (10) foot wide landscape strip along the property line parallel to the street. A buffer tree line shall be established in the landscape strip; and a parking screen shall be established along the perimeter of any parking area adjoining the landscape strip. Driveways across a landscape strip to a non-arterial street shall be prohibited except when access to a non-arterial street is required for adequate circulation or proper fire access.
 3. *Industrial district:* When an Industrial district is across either a divided boulevard or an undivided street from a residential district, the use in the Industrial district shall provide a twenty-five (25) foot wide landscape strip along the property line parallel to the street. A buffer tree line shall be established in the landscape strip; and a parking screen shall be established along the perimeter of any parking area adjoining the landscape strip. Driveways across a landscape strip to a non-arterial street shall be prohibited, except when access to a non-arterial street is required for adequate circulation or proper fire access.
- C. *Nonresidential uses adjacent to a residence within the ~~central business or mixed use~~ districts:* When a lot in the ~~CB or MU~~ district that is occupied by a nonresidential use backs or sides on a lot that is in residential use, a long-span precast concrete decorative screening wall, no less than eight (8) feet in height, shall be erected and maintained along the property line dividing the lots.
- D. *Nonresidential service areas abutting a street:* When the service area of a nonresidential use is located so as to be visible from a street, a 10-foot wide landscape strip shall be created along the street right-of-way line, in which a solid screen, eight (8) feet in height, shall be established through the use of either (i) a solid landscape hedge planted in the center of the landscape strips; or (ii) a long-span precast concrete decorative screening wall located along the inside line of the landscape strip with shrubs and trees planted in front of the wall on the street side. "Service area" shall mean loading docks, loading areas, overhead doors used for loading, staging areas, truck docks and commercial vehicle parking areas.
- E. *Permitted nonresidential uses in a residential district:* When a parking lot for a permitted nonresidential use in a residential district abuts, is across an alley, easement, or a residential street, or is otherwise within one hundred (100) feet of any single family or duplex lot, whether or not such lot is developed, a parking screen shall be provided along the perimeter of any parking area within one hundred (100) feet of such lot.
- F. *Long-Span Precast Concrete Decorative Screening Wall. The Director, or designee, may approve an alternative decorative masonry screening wall. Alternative masonry walls shall be designed by a Professional Engineer and shall be constructed of brick, natural stone, precast concrete panel, or architectural concrete masonry units (CMU) and shall have a decorative finish on all faces abutting public rights-of-way or adjacent properties.*

PART 3. – NONRESIDENTIAL DISTRICTS

* * *

3.200 – NONRESIDENTIAL DISTRICTS: USE REGULATIONS

* * *

3.203 Nonresidential Districts: Schedule of permitted uses—Contents to SIC codes.

* * *

3.203 Nonresidential Districts: Schedule of Permitted Uses													
P = Permitted (3.201A) C = Conditional use (3.201B) S = Special exception (3.201C) NEC = Not elsewhere classified							* REFER TO 4.800 - TERRA OVERLAY DISTRICT: AN ASTERISK (*) INDICATES THAT THE USE REQUIRES APPROVAL OF A CONDITIONAL USE PERMIT (<u>CUP</u>) IF LOCATED IN THE TERRA OVERLAY						
		ZONING DISTRICTS											
SIC CODE	USE DESCRIPTION	O	GR	LC		CV	MU		SS	C	I	PKNG STND	SPECIAL CONDITIONS
* * *													
E. TRANSPORTATION, UTILITIES.													
* * *													
49	ELECTRIC, GAS, SANITARY SEWER (except)									P	P	28	
* * *													
	<u>e. Large-Scale Battery Energy Storage System (BESS)</u>										<u>C</u>	28	<u>Requires compliance with Section 3.515. Large-Scale BESS is permitted in the I district only by CUP.</u>
* * *													
I. SERVICES.													
* * *													
<u>7374</u>	<u>Data Centers</u>										<u>C</u>	<u>29</u>	<u>Requires compliance with Section 3.514. Require minimum 5-acre tract.</u>
738	Miscellaneous Business Services												
* * *													
L. ACCESSORY USES AND STRUCTURES.													
* * *													
<u>13</u>	<u>Accessory Data Centers</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>				<u>P</u>	<u>P</u>		<u>Requires compliance with Section 3.514. Cannot exceed twenty-five percent (25%) of the gross floor area of the principal use.</u>
<u>14</u>	<u>Small-Scale Battery Energy Storage System (BESS)</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>		<u>Requires compliance with Section 3.515. Small-scale BESS is permitted as an accessory use where the principal use is permitted.</u>
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* * *

3.300 – DEVELOPMENT STANDARDS

* * *

3.306 Development Standards – For specific uses and/or specialized uses.

Certain development standards for specific uses and/or specialized uses are identified in 3.500 (Supplementary Use Regulations). Unless otherwise provided, the development standards in 3.500 shall govern exclusively for such uses, and the standards therein shall supersede any conflicting general development standard in Part 3, 3-300 (Development Standards), et. seq., unless expressly stated otherwise. In the event of a conflict, the more restrictive standard shall apply unless, any section in 3-500 (Supplementary Use Regulations) expressly provides otherwise.

Cross references:

Miniwarehousing, Section 3.502;

Commercial Occupancy of Frame Buildings – CB district, Section 3.503;

Refueling Stations, Section 3.504;

Alternative Financial Establishments, Section 3.505;

General Service Hotel/Motel, Section 3.506;

Coin-Operated Amusement Devices, Section 3.507;

Reception Facilities, Section 3.508;

Public and Private Schools, Section 3.509;

Variety Stores, Section 3.510;

Paraphernalia shop, Section 3.511;

Mobile Food Unit Park (“MFU-Park”), Section 3.512;

Drone Delivery, Section 3.513;

Data Centers; Section 3.514;

Battery Energy Storage Systems – BESS, Section 3.515;

Accessory Backup Power Generators, Section 3.516.

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3.400 - OFF-STREET PARKING AND LOADING REGULATIONS

* * *

3.405 Table of parking standards—Nonresidential uses.

<i>Parking Standard Group</i>	<i>Type of Use</i>	<i>Parking Spaces Required</i>
* * *	* * *	* * *
<u>29</u>	<u>Data Center</u>	<u>One (1) space per 500 square feet of office, meeting, training, and security areas; one (1) space per employee assigned to Data Center operations; and five (5) delivery vehicle spaces. The Director, or designee, may modify parking requirements based on demonstrated operational needs.</u>
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3.500 - SUPPLEMENTARY USE REGULATIONS

* * *

3.504 Refueling Stations.

Refueling stations, except the sale of aviation fuel at an airport, shall comply with the following regulations:

A. *General requirements.* All refueling stations shall conform with the following requirements:

* * *

2. *Drive Approaches.* ~~Drive approaches shall comply with Section 15-150, Access Management and Driveway Standards of the City Code.~~ All driveway approaches and access points shall comply with Sec. 15-111 (Compliance with City of Mesquite Engineering Design Manual required) of the City Code.

* * *

3.514 Data Centers. [See Exhibit A.]

3.515 Battery Energy Storage Systems – BESS.

Battery Energy Storage Systems (BESS) as defined in MZO, Part 6, 6.100, Section 6.102 (Definitions) shall comply with the following standards. BESS installed as an accessory use at a Data Center are additionally subject to Section 3.514.(Data Centers), M.(Generators and Emergency Power), Subsection 5.(Battery Energy Storage Systems – BESS).

- A. *Purpose.* The purpose of this Section 3.515 (Battery Energy Storage Systems – BESS) is to establish standards for the siting, design, and operation of commercial (nonresidential) Battery Energy Storage Systems that protect public health, safety, and welfare by addressing fire risk, thermal runaway hazards, noise, visual impacts, and long-term site management, while recognizing the role of energy storage in supporting grid reliability, renewable energy integration, and Data Center operations.
- B. *Definitions.* The following terms and definitions apply to this Section 3.515 (Battery Energy Storage Systems – BESS). For additional definitions, see MZO, Part 6, 6.100, Section 6.102 (Definitions):
 1. *Battery Energy Storage System (BESS).* See Section 6.102 (Definitions).
 2. *BESS — Small-Scale BESS.* A Small-Scale BESS installation has a total aggregate energy capacity of less than six hundred (600) kilowatt-hours (kWh) on a single nonresidential parcel.
 3. *BESS — Large-Scale BESS.* A Large-Scale BESS installation has a total aggregate energy capacity of six hundred (600) kWh or greater on a single parcel, or any nonresidential BESS installation that is the principal use of the site.

4. *BESS — Portable BESS.* A Portable BESS is a self-contained battery energy storage unit that is:
 - a. mounted on wheels or a skid and not affixed to a permanent foundation; and
 - b. deployed on a site for a temporary period not to exceed ninety (90) calendar days, subject to the extension provisions of Section 3.515.(Battery Energy Storage Systems – BESS), E.(Application Requirements), Subsection 3.(Portable BESS). A Portable BESS unit that is affixed to a permanent foundation at any time, that remains on-site beyond the authorized temporary period without an approved extension, or that is used as a permanent rather than temporary power supply shall be reclassified as a Small-Scale BESS or Large-Scale BESS installation, as applicable based on aggregate energy capacity, and shall be subject to all requirements of this Section 3.515 (Battery Energy Storage Systems – BESS).
5. *Battery Management System (BMS).* An electronic system that monitors and manages the charging, discharging, temperature, and state of charge of a Battery Energy Storage System (BESS) to ensure safe and efficient operation.
6. *Thermal Runaway.* An uncontrolled self-heating condition in a battery cell that can lead to fire, explosion, or the release of toxic gases, caused by internal or external factors including physical damage, overcharging, or elevated temperature.
7. *Authority Having Jurisdiction (AHJ).* The organization, office, or individual responsible for enforcing applicable fire and building codes, or its designated representative.

C. Applicability.

These standards apply to all new commercial (nonresidential) BESS installations and to expansions of commercial (nonresidential) installations that increase aggregate energy capacity by more than twenty-five percent (25%).

1. *Small-Scale BESS.* Small-Scale BESS that are fully enclosed within a principal building and that do not exceed the thresholds in NFPA 855 for indoor installations are exempt from the setback, screening, and fencing requirements of this Section 3.515 (Battery Energy Storage Systems – BESS) but shall comply with all applicable fire codes, building codes, and Section 3.515.G.(Fire and Life Safety).
2. *BESS Installed as an Accessory Use at a Data Center.* BESS installed as an accessory use at a Data Center shall comply with Section 3.514.(Data Centers), M.(Generators and Emergency Power), Subsection 5.(Battery Energy Storage Systems – BESS), and the fire and life safety requirements of this Section 3.515 (Battery Energy Storage Systems – BESS). The setback and screening standards of Section 3.514 (Data Centers) shall govern for such installations.
3. *Portable BESS.* Portable BESS units are exempt from the setback, screening, fencing, photometric, decommissioning, noise assessment, and Conditional Use Permit (CUP) requirements of this Section 3.515 (Battery Energy Storage Systems – BESS), provided all conditions of Section 3.515.E.(Application Requirements), Subsection 3.(Portable BESS) are satisfied. Portable BESS units that are reclassified under Section 3.515.B.(Definitions), Subsection 4.(BESS – Portable) shall immediately become subject to all requirements of this Section 3.515 (Battery Energy Storage Systems – BESS) applicable to the installation's aggregate energy capacity

4. Fire Code and Building Codes. Nothing in this Section 3.515 (Battery Energy Storage Systems – BESS) shall be construed to supersede or limit the application of the International Fire Code, NFPA 855, or any other fire or building codes adopted by the City of Mesquite.
5. Conflicts resolution. Where any provision of this Section 3.515 (Battery Energy Storage Systems – BESS) conflicts with other requirements of this Zoning Ordinance, the more restrictive standard shall apply unless this section expressly provides otherwise.

D. Permitted Zoning Districts.

1. Small-Scale BESS (below 600 kWh). Permitted as an accessory use by right in any zoning district that allows the principal use it supports, subject to the applicable standards of this Section 3.515 (Battery Energy Storage Systems – BESS). Small-Scale BESS that are the principal use of a site require a Conditional Use Permit (CUP) in the I (Industrial) District.
2. Large-Scale BESS (600 kWh and above). Permitted as a principal or accessory use only by Conditional Use Permit (CUP) in the I (Industrial) District and in qualifying Planned Development (PD) districts, subject to all standards of this Section 3.515 (Battery Energy Storage Systems – BESS). Commercial (nonresidential) Large-Scale BESS is prohibited in all Residential, Office, Commercial, Agricultural, and Mixed-Use districts.
3. Planned Development (PD) Districts. BESS may be permitted in Planned Development districts where the base zoning is Industrial or where BESS is specifically authorized in the approved PD ordinance.
4. Portable BESS. Portable BESS units are permitted on a temporary basis in any zoning district in which the principal use being supported is a permitted use, subject to the following restrictions:
 - a. Prohibited Districts. Commercial (nonresidential) Portable BESS units are prohibited in all Residential zoning districts, regardless of the principal use being supported.
 - b. Large-Scale Threshold. Multiple Portable BESS units deployed on the same parcel at the same time shall be aggregated for purposes of determining whether the Large-Scale BESS threshold of six hundred (600) kWh is met. A Portable BESS deployment whose aggregate capacity equals or exceeds six hundred (600) kWh shall be subject to the district restrictions and Conditional Use Permit (CUP) requirements applicable to Large-Scale BESS under Section 3.515.D.(Permitted Zoning Districts, Subsection 2.(Large-Scale BESS (600 kWh and above))), notwithstanding the portable character of the individual units.
 - c. Permit Required. A building permit and electrical permit shall be obtained in accordance with Section 3.515.E.(Application Requirements), Subsection 3.(Portable BESS), prior to deployment of a portable BESS.

E. Application Requirements. The type of application required depends on the scale and permanence of the BESS installation, as set forth below.

1. Small-Scale BESS. A Small-Scale BESS installation shall require a building permit and electrical permit issued by the Building Official prior to installation. The following shall be submitted with the permit application:
 - a. Site plan depicting BESS unit locations, dimensions, setbacks, access, fencing, screening, drainage, and utility connections.
 - b. Manufacturer's specifications for all BESS units, including energy capacity (kWh), chemistry type, Battery Management System description, and UL listing or equivalent certification.
 - c. Documentation of compliance with NFPA 855 (or most current edition adopted by the City) and the International Fire Code, as required by the Fire Marshal.
 - d. Such additional information as may be required by the Building Official or Fire Marshal.
2. Large-Scale BESS. A Large-Scale BESS installation shall require approval of a Conditional Use Permit (CUP) by City Council in accordance with Section 5.303 (Application Procedures), and Section 5.310 (Conditional Use Permit – CUP), in addition to building and electrical permits issued by the Building Official. The following shall be submitted with the CUP application, in addition to the standard CUP application requirements of Section 5.303 (Application Procedures):
 - a. All materials listed in Sections 3.515.E.(Application Requirements), 1.(Small-Scale BESS), Subsections a through d.
 - b. Fire and Life Safety Plan as required by Section 3.515.G.(Fire and Life Safety).
 - c. Noise assessment as required by Section 3.515.S.(Noise Standards).
 - d. Decommissioning plan as required by Section 3.515.W.(Decommissioning).
 - e. Utility coordination letter from the applicable grid operator or electric utility confirming available interconnection capacity.
 - f. Such additional information as may be required by the Director of Planning and Development Services, Building Official, or Fire Marshal.
3. Portable BESS. A Portable BESS unit shall require a building permit and electrical permit issued by the Building Official prior to deployment. No Conditional Use Permit (CUP) is required for a Portable BESS deployment whose aggregate capacity on the parcel is less than six hundred (600) kWh.
 - a. Application requirements. The following shall be submitted with the permit application:
 - (1) Site plan depicting the proposed location of all Portable BESS units on the parcel, dimensions, setbacks from all property lines and residential district boundaries, on-site circulation, and utility connections.

- (2) Manufacturer's specifications for all units to be deployed, including energy capacity (kWh), chemistry type, Battery Management System description, and UL 9540 listing or equivalent certification approved by the Authority Having Jurisdiction.
- (3) Documentation of compliance with the International Fire Code, NFPA 855, and NFPA 70 as adopted and amended by the City of Mesquite, as required by the Fire Marshal.
- (4) Anticipated deployment start and end dates, and the total aggregate energy capacity of all Portable BESS units to be deployed on the parcel simultaneously.
- (5) Emergency and maintenance contact information for the operator and the equipment owner, if different.
- (6) Such additional information as may be required by the Building Official or Fire Marshal.

b. *Permit expiration.* The building permit shall expire upon the earlier of:

- (1) the end of the authorized temporary period, including any approved extension under Section 3.515.E.(Application Requirements), 3.(Portable BESS), Subsection d.(Extension); or
- (2) removal of all units from the site.

Submission of the building permit application shall constitute notice to the Fire Marshal for purposes of emergency pre-incident planning, and no separate Fire Marshal notification is required provided the permit is approved and the Fire Marshal has received a copy of the approved permit and site plan no fewer than seventy-two (72) hours prior to deployment.

- c. *Maximum Temporary Period.* A Portable BESS unit may remain on a single site for a continuous period not to exceed ninety (90) calendar days from the date of initial deployment as authorized by the building permit.
- d. *Extension.* One (1) extension of up to ninety (90) additional calendar days may be granted upon written application to and approval by the Director, or designee. The application shall be submitted no fewer than ten (10) business days prior to expiration of the initial ninety-day period and shall include a written explanation of the operational necessity for the extension and confirmation of continued compliance with all conditions of the original building permit. The Director, or designee, may impose additional conditions on any approved extension. The building permit shall be amended to reflect the approved extension period.
- e. *Reclassification Upon Noncompliance.* A Portable BESS unit that exceeds the authorized temporary period without an approved extension, that is affixed to a permanent foundation at any time, or that is used as a permanent rather than temporary power supply shall be immediately reclassified as a Small-Scale BESS or Large-Scale BESS installation as applicable, and shall be subject to all permitting, development, and operational requirements of this Section 3.515 (Battery Energy Storage Systems – BESS). The operator shall have thirty (30) calendar days from the date of reclassification to obtain all required approvals or remove the unit from the site.

F. Consultant Review.

1. The Director, or designee, may authorize review of any CUP application, technical study, proposed finding, or proposed condition of approval by a qualified independent consultant if the Director, or designee, reasonably determines that expert review is necessary to evaluate technical aspects of the application that exceed the routine technical expertise of City staff, or to verify the accuracy and methodology of technical studies submitted by the applicant.
2. All actual and reasonable costs of a consultant’s technical review authorized under this subsection shall be listed in accordance with Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-103 (Consultant Review Fees).
3. Consultant review under this subsection is distinguished from Third-Party Review of Development Documents and Inspection of Improvements under Texas Local Government Code, Title 7, Subtitle C, Chapter 247.

G. Fire and Life Safety. All BESS installations shall comply with NFPA 855, the International Fire Code as adopted and amended by the City of Mesquite.

H. Code Compliance. All BESS installations shall comply with the International Building Codes as adopted and amended by the City of Mesquite, the National Electrical Code (NFPA 70), and all applicable manufacturer installation requirements.

I. Equipment Certification. All BESS units shall be listed and labeled by a nationally recognized testing laboratory (e.g., UL 9540) and shall have undergone large-scale fire testing in accordance with UL 9540A or an equivalent method approved by the Authority Having Jurisdiction (AHJ).

J. Battery Management System. All BESS installations shall be equipped with a Battery Management System (BMS) that continuously monitors cell temperature, voltage, state of charge, and state of health, and that provides audible and visual alarms and automatic shutdown capability upon detection of abnormal conditions.

K. Thermal Runaway Protection. All BESS installations shall incorporate thermal runaway propagation prevention (TRPP) measures in accordance with NFPA 855 (or most current adopted edition), including thermal barriers, gas detection, venting provisions, and separation distances between battery modules.

L. Fire Detection and Suppression.

1. All BESS enclosures shall be equipped with an automatic early warning fire detection system, including smoke detection, thermal imaging detection, or radiant-energy detection, in accordance with NFPA 72 and NFPA 855.
2. All Large-Scale BESS installations shall be equipped with an automatic fire suppression system appropriate to the battery chemistry in use, installed in accordance with NFPA 855 and approved by the Authority Having Jurisdiction (AHJ).
3. All fire suppression systems shall be connected to a twenty-four-hour monitored alarm system and shall provide automatic notification to the Mesquite Fire Department.

M. *Emergency Operations Plan.* All permanent BESS installations shall have a written Emergency Operations Plan that includes:

1. Safe shutdown procedures for emergency responders; and
2. Thermal runaway response protocols; and
3. Evacuation procedures for adjacent uses; and
4. Identification of on-site and off-site water supply sources for fire suppression; and
5. Emergency contact information for the facility operator; and
6. Annual coordination with the Mesquite Fire Department, including on-site familiarization training for emergency responders.

N. *Gas Detection and Ventilation.* All BESS enclosures shall be equipped with gas detection systems capable of detecting hydrogen, carbon monoxide, and other gases associated with battery failure. Adequate ventilation shall be provided to prevent accumulation of flammable gases above the lower explosive limit (LEL).

O. *Electrical Safety.* All BESS installations shall be equipped with emergency power-off (EPO) systems accessible to emergency responders, and shall comply with all applicable provisions of the National Electrical Code.

P. *Setbacks.*

1. *Small-Scale BESS.* Small-Scale BESS installations shall meet the principal structure setback requirements for the district in which they are located.
2. *Large-Scale BESS.* Large-Scale BESS installations shall comply with the following minimum setbacks, measured from the nearest component of the BESS installation to the nearest property line or feature:
 - a. *From any residential district boundary:* five hundred (500) feet.
 - b. *From any public school, licensed childcare facility, or public park:* five hundred (500) feet.
 - c. *From any public street right-of-way:* one hundred (100) feet.
 - d. *From all other property lines:* fifty (50) feet.
 - e. *Between individual BESS units or enclosures:* as required by NFPA 855 and the Authority Having Jurisdiction (AHJ), but not less than ten (10) feet.

Q. *Portable BESS.* Portable BESS units shall not be located within five hundred (500) feet of any residential district boundary, measured from the nearest component of the unit to the nearest such property line. Where a Portable BESS deployment is reclassified as Large-Scale under Section 3.515.D.(Permitted Zoning Districts), 4.(Portable BESS), Subsection b.(Large-Scale Threshold), the setback requirements of Section 3.515.P.(Setbacks), Subsection 2.(Large-Scale BESS), shall apply.

R. *Setback Modification.* Greater setback distances may be required by the City Council as a condition of CUP approval based on site-specific fire risk, proximity to sensitive uses, or other factors identified in the CUP review.

S. *Noise Standards.*

1. BESS installations shall not generate noise exceeding fifty-five (55) dBA measured at the nearest property line of a nonparticipating residential property, or sixty (60) dBA at any other property line.
2. A noise assessment prepared by a qualified acoustical professional shall be submitted with any Large-Scale BESS CUP application, demonstrating compliance with the limits of this Section 3.515 (Battery Energy Storage Systems – BESS) during normal operation. Cooling systems, inverters, and other mechanical equipment shall be included in the assessment.
3. Noise mitigation measures, such as sound barriers or acoustically treated enclosures, shall be incorporated into the installation design where necessary to achieve compliance.
4. *City Noise Ordinance.*
 - a. Noise from BESS installations shall additionally comply with all applicable provisions of the Mesquite Noise Ordinance, as amended. See Mesquite City Code, Ch. 10, Article III (Noise). In the event of a conflict, the more restrictive standard shall apply.
 - b. Vibrations from BESS installations shall comply with all applicable provisions of the Mesquite City Code, including but not limited to, Ch. 10, Article III (Noise), Sec. 10-71 (Offenses), Subsection (c) (Vibration Offenses); and MZO, Part 1, 1.400, Section 1.407 (Vibration).

T. *Screening and Fencing.*

1. All permanent BESS enclosures and associated equipment shall be screened from public view by masonry walls, solid fencing, landscaping, berming, or a combination thereof. Screening shall be a minimum of one (1) foot taller than the equipment being screened.
2. Perimeter security fencing of a minimum six (6) feet in height shall be provided around all Large-Scale BESS installations. Fencing materials shall comply with Section 3.514.(Data Centers), J.(Screening and Buffering), 4.(Fencing), Subsection a.(Materials), except that chain-link fencing with privacy slats may be used in interior yards not visible from a public right-of-way.
3. Solid masonry walls in accordance with district screening requirements are required along any property line adjacent to a residential district.
4. Access gates shall be lockable and shall remain locked except during authorized access by operations personnel or emergency responders. Emergency access shall be provided as required by the Fire Marshal.

5. Portable BESS units are exempt from the screening and fencing requirements of this Section 3.515 (Battery Energy Storage Systems – BESS), provided all units remain fully within the interior of the site and are not visible from a public right-of-way. Where a Portable BESS deployment is or becomes visible from a public right-of-way, temporary screening shall be required as a condition of the building permit.

U. Lighting. Lighting for BESS installations shall comply with Section 3.514.(Data Centers), K.(Lighting), and Part I, Section 1.408(Glare). Security lighting shall be directed downward and inward to minimize light trespass onto adjacent properties.

V. Signage and Hazard Communication.

1. All permanent BESS enclosures and perimeter fencing shall display hazard identification placards in accordance with NFPA 704 and NFPA 855, including identification of battery chemistry, electrical hazard warnings, and emergency contact information.
2. All Portable BESS units shall display hazard identification placards in accordance with NFPA 704 and NFPA 855 on all exterior faces of the unit visible from the site perimeter or from adjacent uses.
3. Signs shall be posted at all access points indicating the presence of high-voltage equipment, battery hazards, and emergency shutdown locations.
4. Hazardous material inventory information shall be maintained on site and provided to the Mesquite Fire Department in accordance with applicable Fire Code requirements.

W. Decommissioning.

1. Decommissioning Plan Required. All Large-Scale BESS and Small-Scale BESS applications shall include a decommissioning plan describing removal of all equipment, recycling or disposal of battery materials in compliance with applicable environmental regulations, and restoration of the site.
2. Disposal of battery modules, electrolytes, and other hazardous components. Battery modules, electrolytes, and other hazardous components shall be disposed of in accordance with applicable federal, state, and local environmental regulations. Documentation of proper disposal shall be maintained on file with the Department of Planning and Development Services.
3. Removal of Portable BESS. Upon removal of a Portable BESS unit from a site, the operator shall confirm in writing to the Building Official within ten (10) business days that all units have been removed and that the site has been restored to its pre-deployment condition.
4. Financial Assurance – Large-Scale BESS. City Council may, as a condition of CUP approval, require the applicant to provide a performance bond, irrevocable letter of credit, or other financial assurance mechanism acceptable to the City Attorney to guarantee completion of decommissioning obligations for Large-Scale BESS installations.

X. Operations and Maintenance. All permanent BESS installations shall be maintained in good working order at all times in accordance with manufacturer requirements and applicable codes.

1. The operator shall conduct and document regular inspections of all BESS components, fire detection and suppression systems, gas detection systems, and electrical systems. Inspection records shall be maintained on site and available for review by the Building Official or Fire Marshal upon request.
2. The Emergency Operations Plan required by Section 3.515.M.(Emergency Operations Plan), Subsection 6, shall be reviewed and updated annually and coordinated with the Mesquite Fire Department.
3. Any physical modification that increases the total energy capacity or power rating of a permanent BESS installation shall require re-approval under this Section 3.515 (Battery Energy Storage Systems – BESS). Like-kind replacement of components that does not increase capacity shall not require re-approval but shall be documented and available for inspection.

Y. Nonconforming BESS Installations.

1. A BESS installation lawfully established prior to the effective date of the ordinance adding this Section 3.515 (Battery Energy Storage Systems – BESS), or
2. A BESS project vested prior to the effective date of the ordinance adding this Section 3.515 (Battery Energy Storage Systems – BESS), and subsequently lawfully completed within the vesting deadlines,

shall be classified as a legal nonconforming installation and shall be subject to the provisions of MZO, Part 1, Section 1.300 (Nonconforming Situations and Amortization of Nonconforming Uses). Any expansion, enlargement, or material modification or change in the operations of a nonconforming BESS installation shall require full compliance with all standards of Section 1.300, and this Section 3.515 (Battery Energy Storage Systems – BESS).

Z. Appeals.

1. Appeals to Board of Adjustment. The owner or operator may appeal the director’s decision(s) in accordance with MZO, Part 5, 5.200, Section 5.210 (Appeals of Administrative Decisions to Board of Adjustment). See also Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-120 (Board of Adjustment Fees), Appeals of Administrative Decisions to the Board of Adjustment.
2. Appeals to the City Council. Appeals to the City Council regarding development documents or development inspections may be made in accordance with MZO, Part 5, 5.100, Section 5.107.P.(Appeals to City Council), and Texas Local Government Code, Chapter 247, Section 247.006 (Appeal) as amended. Development documents and development inspections are defined in MZO, Part 6, 6.100, Section 6.102 (Definitions). See also Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-121 (Planning and Zoning Fees), Appeals of Administrative Decisions to the City Council.

Cross references—

Mesquite City Code:

Noise Ordinance, City Code Chapter 10, Article III, Sec. 10-71, 10-75, and 10-79.

Appendix C – Mesquite Zoning Ordinance:

Nonconforming Situations and Amortization of Nonconforming Uses, Section 1.300.

Vibration, Section 1.407.

Glare and Lighting Standards, Section 1.408.

Off-Street Parking, Section 3.405.

Data Centers, Section 3.514.

General Penalties, Section 5.103.

Site Plan, Section 5.107.

Application Procedures, Section 5.303.

Conditional Use Permit – CUP, Section 5.310.

Definitions, Section 6.102.

Appendix D – Comprehensive Fee Schedule:

Consultant Review Fees, Article XII, Sec. 12-103.

Appeals of Administrative Decisions to the Board of Adjustment, Article XII, Section 12-120 (Board of Adjustment Fees).

Appeals of Administrative Decisions to the City Council, Article XII, Section 12-121 (Planning and Zoning Fees).

3.516 Accessory Backup Power Generators.

Permanent standby and emergency Backup Power Generators installed as an accessory use at any nonresidential property shall comply with the following standards. Backup Power Generators at Data Centers are governed by Section 3.514.(Data Centers), Subsection M.(Generators and Emergency Power), and are not subject to this Section 3.516 (Accessory Backup Power Generators), except where Section 3.514.M. expressly incorporates these standards by reference.

A. Purpose. These regulations govern the placement, installation, screening, and operation of permanently installed commercial Backup Power Generators on nonresidential properties within the City of Mesquite. These regulations apply to all commercial, industrial, institutional, and mixed-use properties, including but not limited to retail establishments, restaurants, medical facilities, warehouse and distribution facilities, Data Centers, and drone delivery staging areas. These regulations are in addition to all applicable requirements of the currently adopted International Building Code, International Fire Code, International Mechanical Code, National Electrical Code, and any other adopted technical code.

B. Definitions. See Section 6-102 (Definitions) for the definition of Backup Power Generator – Commercial.

C. Permit Requirements.

1. A building permit shall be required for the installation of any Backup Power Generator on a nonresidential property, regardless of the generator’s rated capacity.
2. The permit application shall include:
 - a. a site plan or plot plan showing the proposed location of the generator, fuel storage tank (if any), transfer switch, exhaust outlet, and screening enclosure relative to all property lines, buildings, rights-of-way, easements, and adjacent uses; and
 - b. manufacturer’s specifications, including rated sound level; and
 - c. fuel system specifications and applicable fire code compliance documentation; and
 - d. electrical permit application; and
 - e. mechanical permit application, where applicable.

D. Location and Setback Standards.

1. General. A Backup Power Generator shall not be located: (a) in any required front setback or within any required landscape buffer adjacent to a public right-of-way; (b) in any required fire lane, access easement, or utility easement, unless written approval is obtained from the easement holder; or (c) at any location that obstructs required vehicular sight lines, fire access, or emergency egress.
2. Setback from Residential Uses. A Backup Power Generator shall be located a minimum of fifty (50) feet from the property line of any residentially zoned property or any property used for residential care, nursing home, or similar sensitive use, measured from the outermost edge of the generator unit or its required operational clearance zone, whichever is greater; or such greater distance as may be required to achieve compliance with the noise standards of Subsection F.(Noise Standards).

3. Minimum Setback from Nonresidential Property Lines. A Backup Power Generator shall be set back a minimum of ten (10) feet from any nonresidential property line, unless a greater setback is required by the noise standards of Subsection F.(Noise Standards), or by the applicable building or fire code.
4. Manufacturer clearance distances shall constitute minimum clearances. City setback requirements apply in addition to, not in lieu of, manufacturer clearances.

E. Screening and Enclosure.

1. All Backup Power Generators shall be screened from public rights-of-way and from any residentially zoned or used property by one or more of the following:
 - a. Any wall of sufficient height to screen the generator from view at the property line or right-of-way line;
 - b. A manufacturer-supplied or custom-fabricated acoustic enclosure or housing consistent in material and color with the principal building on the site; or
 - c. Evergreen landscaping of sufficient initial height and density to achieve visual screening within two (2) years of installation, in combination with a decorative fence or wall.
2. Screening shall be designed to not impair required maintenance access, ventilation, or combustion air supply to the generator.
3. Screening materials shall be compatible in design and color with the primary structure on the site, as determined by the Director, or designee.
4. A Backup Power Generator installed within an enclosed building or mechanical room that fully conceals the unit from exterior view satisfies the screening requirement of this subsection.

F. Noise Standards.

1. No Backup Power Generator shall produce sound levels exceeding the following limits, measured at the receiving property line:
 - a. Sixty-five (65) dB(A) at the property line of any residentially zoned or used property
 - b. Seventy (70) dB(A) at the property line of any nonresidential property
2. The applicant shall demonstrate compliance with noise standards by providing:
 - a. Manufacturer-published sound data at the distances relevant to the site's setback configuration.
 - b. A third-party acoustical analysis prepared by a qualified acoustical engineer, where manufacturer's data is insufficient to confirm compliance at required setback distances.

3. Generator testing and maintenance operations shall be limited to the hours of 7:00 a.m. to 9:00 p.m., Monday through Saturday. Generator testing shall not exceed thirty (30) minutes per test cycle, and no more than two (2) test cycles per calendar month, except as required by law or by the rules of an applicable accreditation or licensing body.
4. Operation of a Backup Power Generator during an actual utility power outage is not subject to the testing hour restrictions of Subsection F.3, but remains subject to the noise level limits of Subsection F.1.
5. City Noise Ordinance.
 - a. Noise from Backup Power Generators shall additionally comply with all applicable provisions of the Mesquite Noise Ordinance, as amended. See Mesquite City Code, Ch. 10, Article III (Noise). In the event of a conflict, the more restrictive standard shall apply.
 - b. Vibrations from Backup Power Generators shall comply with all applicable provisions of the Mesquite City Code, including but not limited to, Ch. 10, Article III (Noise), Sec. 10-71 (Offenses), Subsection (c) (Vibration Offenses); and MZO, Part 1, 1.400, Section 1.407 (Vibration).

G. Fuel Storage.

1. All fuel storage associated with a Backup Power Generator shall comply with the currently adopted International Fire Code and applicable NFPA standards for the fuel type.
2. Above-ground fuel storage tanks shall not be located in any required setback, required landscape area, or between the primary building and the public right-of-way.
3. Underground fuel storage tanks require separate permitting in accordance with all applicable state and local regulations.

H. Structural Standards.

1. All Backup Power Generators shall be mounted on a concrete pad or engineered foundation designed in accordance with the currently adopted IBC and the manufacturer’s specifications.
2. Where a generator is located in an area subject to vehicular traffic or loading, protective bollards or barriers shall be installed to prevent collision damage.

I. *Nonconforming Generators.*

1. Any Backup Power Generator lawfully installed prior to the effective date of the ordinance adding this Section 3.516 (Accessory Backup Power Generators), or
2. A backup power generator project vested prior to the effective date of the ordinance adding this Section 3.516 (Accessory Backup Power Generators), and subsequently lawfully completed within the vesting deadlines.

shall be classified as a legal nonconforming installation and shall be subject to the provisions of MZO, Part 1, Section 1.300 (Nonconforming Situations and Amortization of Nonconforming Uses). Such installations shall not be expanded, relocated, or replaced with a generator of greater capacity without full compliance with this Section 3.516 (Accessory Backup Power Generators). Normal maintenance and like-for-like replacement of a non-conforming generator shall not require compliance with these standards, provided the replacement unit does not increase rated capacity by more than ten percent (10%), or increase noise output beyond the pre-existing level.

J. *Appeals.*

1. *Appeals to Board of Adjustment.* The owner or operator may appeal the director’s decision(s) in accordance with MZO, Part 5, 5.200, Section 5.210 (Appeals of Administrative Decisions to Board of Adjustment). See also Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-120 (Board of Adjustment Fees), Appeals of Administrative Decisions to the Board of Adjustment.
2. *Appeals to the City Council.* Appeals to the City Council regarding *development documents* or *development inspections* may be made in accordance with MZO, Part 5, 5.100, Section 5.107.P.(Appeals to City Council), and Texas Local Government Code, Chapter 247, Section 247.006 (Appeal) as amended. *Development documents* and *development inspections* are defined in MZO, Part 6, 6.100, Section 6.102 (Definitions). See also Appendix D (Comprehensive Fee Schedule), Article XII, Sec. 12-121 (Planning and Zoning Fees), Appeals of Administrative Decisions to the City Council.

Cross references—

Mesquite City Code:

Noise Ordinance, City Code Chapter 10, Article III, Sec. 10-71, 10-75, and 10-79.

Appendix C – Mesquite Zoning Ordinance:

Nonconforming Situations and Amortization of Nonconforming Uses, Section 1.300.

Vibration, Section 1.407.

General Penalties, Section 5.103.

Site Plan, Section 5.107.

Application Procedures, Section 5.303.

Definitions, Section 6.102.

Appendix D – Comprehensive Fee Schedule:

Consultant Review Fees, Article XII, Sec. 12-103.

Appeals of Administrative Decisions to the Board of Adjustment, Article XII, Section 12-120 (Board of Adjustment Fees).

Appeals of Administrative Decisions to the City Council, Article XII, Section 12-121 (Planning and Zoning Fees).

* * *

PART 6. – DEFINITIONS

* * *

6.100 – DEFINITIONS AND INTERPRETATION OF TERMS

* * *

6.102 - Definitions.

* * *

Backup Power Generator – Commercial. Any permanently installed engine-driven, gas-turbine, or battery-inverter generating unit, together with its associated fuel storage, transfer switch, exhaust system, and enclosure, installed on a nonresidential property to supply electrical power during a utility outage or as a supplemental power source for operational continuity. A generator is “permanent” for purposes of this definition if it is affixed to a foundation, pad, or mounting structure and is not readily moved by a single person without mechanical assistance. Portable generators used temporarily during construction are excluded. See Section 3.516 (Accessory Backup Power Generators).

* * *

Battery Energy Storage System (BESS) – Commercial. A system comprised of one or more rechargeable battery units installed on a nonresidential property that stores electrical energy from the power grid or renewable energy sources for later use, including to manage peak demand, provide backup power, stabilize the power grid, or support facility operations. The term includes associated battery modules, battery management systems, inverters, thermal management equipment, enclosures, and electrical interconnection equipment. See Section 3.514 (Data Centers) for BESS at Data Centers, and Section 3.515 (Battery Energy Storage Systems – BESS) for standalone or other accessory BESS installations.

Small-Scale BESS. See Part 3, 3.500, Section 3.515.(Battery Energy Storage Systems – BESS), Subsection B.(Definitions).

Large-Scale BESS. See Part 3, 3.500, Section 3.515 (Battery Energy Storage Systems – BESS), Subsection B.(Definitions).

Portable BESS. See Part 3, 3.500, Section 3.515 (Battery Energy Storage Systems – BESS), Subsection B.(Definitions).

* * *

Cryptocurrency Mining – Commercial. Cryptocurrency Mining is the process of validating cryptocurrency transactions on a blockchain network and creating new digital currency coins or tokens through the use of high-powered computers to solve complex mathematical problems, including but not limited to Bitcoin mining and other proof-of-work blockchain validation activities. Commercial (nonresidential) Cryptocurrency Mining is not a Data Center use as defined in this ordinance. Commercial (nonresidential) Cryptocurrency Mining is prohibited in all zoning districts as a principal or accessory use. See Section 3.514.(Data Centers), C.(Applicability), Subsection 1.

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Data Center. A building or group of buildings used primarily for the housing, operation, or support of computer systems, servers, data storage equipment, telecommunications equipment, and related infrastructure for the processing, storage, management, or distribution of digital data. The term includes associated mechanical, electrical, cooling, backup power, and security equipment that is integral to the operation of the facility. The term does not include Cryptocurrency Mining facilities. See Section 3.514 (Data Centers) for permitting, development standards, and operational requirements.

Accessory Data Center.

See Part 3, 3.500, Section 3.514 (Data Centers), Subsection B.(Definitions).

* * *

Generator Yard. An area, which may be enclosed by a screening wall, used to place and operate electrical power generating equipment, fuel storage tanks and regulators, and associated appurtenances in support of a principal use on the same parcel. Generator yards at Data Centers are subject to the standards of Section 3.514 (Data Centers).

* * *

EXHIBIT C

To Ordinance No. _____

City of Mesquite, Texas
Mesquite City Code
Chapter 10 (Offenses – Miscellaneous)

Revising certain sections in:
Article III (Noise)

MESQUITE CITY CODE

* * *

CHAPTER 10 – OFFENSES AND MISCELLANEOUS PROVISIONS

* * *

[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~~.]

ARTICLE III. – NOISE

* * *

Sec. 10-75. - Maximum permissible sound levels.

* * *

(e) Use-Specific Maximum Sound Levels. In the event of a conflict regarding noise regulations in any section of the Mesquite City Code, including the MZO, the more restrictive standard shall apply.

(1) Data Centers – See Sec. 10-79 (Use-Specific Maximum Sound Levels for Data Centers and Battery Energy Storage Systems). See also MZO Part 3, Section 3.514.(Data Centers), Subsection L.(Noise Standards).

(2) Battery Energy Storage Systems – See Sec. 10-79 (Use-Specific Maximum Sound Levels for Data Centers and Battery Energy Storage Systems). See also MZO Part 3, Section 3.515.(Battery Energy Storage Systems – BESS), Subsection S.(Noise Standards).

* * *

Cross references—

Offenses, Section 10-71.

Designated Noise Zones, Section 10-74.

Method of sound measurement utilizing sound level meter, Section 10-76.

Use-Specific Maximum Sound Levels for Data Centers and Battery Energy Storage Systems, Section 10-79.

Temporary Noise Permit, [Chapter 8](#), Article XVII, Division 2—Temporary Noise Permit.

Noise Variance, [Chapter 8](#), Article XVII, Division 3—Noise Variance.

Data Centers, Mesquite Zoning Ordinance, Part 3, Section 3.514.

Battery Energy Storage Systems - BESS, Mesquite Zoning Ordinance, Part 3, Section 3.515.

* * *

Sec. 10-79. – Use-Specific Maximum Sound Levels for Data Centers and Battery Energy Storage Systems.

- (a) *Applicability.* Notwithstanding TABLE 02 (Maximum Permissible Sound Levels) of Sec. 10-75, subsection (a), the maximum permissible sound levels in this Sec. 10-79 apply to all Data Center facilities regulated under Mesquite Zoning Ordinance (MZO) Section 3.514 (Data Centers), and to BESS facilities regulated under MZO Section 3.515 (Battery Energy Storage Systems – BESS). For such facilities, the sound levels in this Sec. 10-79 supersede TABLE 02 for the noise zone in which the Data Center or BESS is located. All other provisions of this Article — including definitions, measurement methodology, affirmative defenses, abatement study requirements, and variance procedures — apply to Data Centers and BESS.
- (b) *Data Centers — Maximum Permissible Sound Levels.* Noise from all activities associated with a Data Center, including cooling equipment, fans, air handling units, and generators, shall not exceed the following levels, measured at the property line of the Data Center or at the exterior wall of the nearest occupied residential structure, whichever produces the higher reading:

<u>Measurement Location</u>	<u>Daytime 7:00 a.m. – 10:00 p.m.</u>	<u>Nighttime 10:01 p.m. – 6:59 a.m.</u>
<u>At any nonresidential property line</u>	<u>65 dB(A)</u>	<u>60 dB(A)</u>
<u>At any residential property line or residential district boundary</u>	<u>65 dB(A)</u>	<u>55 dB(A)</u>

- (c) *Battery Energy Storage Systems — Maximum Permissible Sound Levels.* Noise from all BESS operational equipment, including cooling systems, inverters, and fans, shall not exceed the following levels, measured at the property line or at the exterior wall of the nearest occupied residential structure, whichever produces the higher reading:

<u>Measurement Location</u>	<u>Daytime 7:00 a.m. – 10:00 p.m.</u>	<u>Nighttime 10:01 p.m. – 6:59 a.m.</u>
<u>At any nonresidential property line</u>	<u>60 dB(A)</u>	<u>55 dB(A)</u>
<u>At any residential property line or residential district boundary</u>	<u>55 dB(A)</u>	<u>50 dB(A)</u>

- (d) *Low Frequency Noise.* In addition to the A-weighted limits in this subsection, low frequency noise from Data Center and BESS operations shall not exceed the following octave-band sound pressure levels, evaluated in accordance with ANSI S12.9 Part 4, Annex D (or most current edition), at the property line nearest the noise source or the exterior wall of the nearest occupied residential structure, whichever produces the higher reading:

<u>Octave Band Center Frequency</u>	<u>Maximum (dB re 20 µPa)</u>
<u>16 Hz</u>	<u>55 dB</u>
<u>31.5 Hz</u>	<u>55 dB</u>
<u>63 Hz</u>	<u>55 dB</u>

Low frequency noise measurements shall be performed using a Class 1 integrating sound level meter (per IEC 61672) with 1/1 octave band filters (per IEC 61260) and 1/3 octave band filters (per IEC 61260), by or under the direct supervision of a licensed professional engineer specializing in acoustics or an engineer Board Certified by the Institute of Noise Control Engineers.

(e) *Measurement Methodology.* All noise measurements conducted for purposes of demonstrating compliance with or enforcing the sound levels in this subsection (e) shall comply with the following requirements:

- (1) All measurements shall report both A-weighted decibel levels (dBA) and C-weighted decibel levels (dBC).
- (2) All measurements shall include full octave band (1/1 octave) spectral analysis using a Class 1 integrating sound level meter (per IEC 61672) with 1/1 octave band filters (per IEC 61260).
- (3) All measurements shall include one-third octave band (1/3 octave) spectral analysis using equipment meeting the requirements of IEC 61260.
- (4) All measurements shall include a tonality assessment evaluating whether any noise source produces perceptible pure tones, conducted in accordance with ISO 1996-2 (or most current edition) or an equivalent method.
- (5) All measurements shall be performed by or under the direct supervision of a licensed professional engineer specializing in acoustics or an engineer Board Certified by the Institute of Noise Control Engineers.
- (6) These measurement requirements apply to pre-construction noise studies, post-construction compliance studies, and any enforcement measurements taken by or on behalf of the City.

(f) *Background Level Exception.* The background sound level exception in subsection (b) applies to measurements taken under this subsection (e).

(g) *Exemptions.* The maximum permissible sound levels of this subsection do not apply to:

- (1) Demolition or construction activities authorized under a valid building permit; or
- (2) Emergency situations arising from sudden, reasonably unforeseen events beyond the control of the facility operator requiring emergency generator use; or
- (3) Routine generator testing conducted in compliance with the testing schedule established as a condition of CUP approval under Section 3.514.(Data Centers), M.3 of the Mesquite Zoning Ordinance.

(h) *Enforcement.* Violation of the sound levels in this subsection constitutes a noise disturbance under Section 10-71(a)(3). A Data Center or BESS facility that exceeds these limits shall be subject to the noise abatement study requirements of Section 10-77. A Data Center or BESS operator seeking relief from these limits may apply for a noise variance to the Board of Adjustment in accordance with Section 10-78(b). Approval of a noise variance does not modify any Conditional Use Permit condition established under the Mesquite Zoning Ordinance.

- (i) Coordination with Mesquite Zoning Ordinance. The use-specific sound levels in this subsection are consistent with and implement the noise standards in MZO Section 3.514.(Data Centers), Subsection L.(Noise Standards); and 3.515.(Battery Energy Storage Systems – BESS), Subsection S.(Noise Standards). In the event of a conflict regarding noise regulations in any section of the Mesquite City Code, including the MZO, the more restrictive standard shall apply.

Cross references—

Offenses, Section 10-71;

Maximum permissible sound levels, Section 10-75;

Vibration, Mesquite Zoning Ordinance, Part 1, 1-400, Section 1-407;

Data Centers, Mesquite Zoning Ordinance, Part 3, Section 3.514; and

Battery Energy Storage Systems - BESS, Mesquite Zoning Ordinance, Part 3, Section 3.515.

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MESQUITE CITY CODE

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CHAPTER 10 – OFFENSES AND MISCELLANEOUS PROVISIONS

* * *

[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.]

ARTICLE I. – IN GENERAL

* * *

Sec. 10-14. - Parking on unimproved surfaces prohibited.

* * *

(b) *Definitions.* For purposes of this section:

* * *

(2) *Improved surface* shall mean:

* * *

- d. Specifications for driveways and approaches, including requirements and limitations on the placement, size and number thereof, shall conform to ~~sections 15-147 and 15-150~~ Sec. 15-111 (Compliance with City of Mesquite Engineering Design Manual required) of this Code. In the event of a conflict between the terms of this subsection and any other provision of this Code or any ordinance of the City of Mesquite, the more restrictive provision shall apply.

* * *

EXHIBIT D

To Ordinance No. _____

City of Mesquite, Texas
Mesquite City Code, Appendix D – Comprehensive Fee Schedule
ARTICLE XII – Planning and Development Services.

Adding New Section 12-103 (Consultant Review Fees)

MESQUITE CITY CODE

* * *

APPENDIX D – COMPREHENSIVE FEE SCHEDULE

* * *

ARTICLE XII. – PLANNING AND DEVELOPMENT SERVICES

* * *

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

Sec. 12-103. ~~Reserved~~ Consultant Review Fees.

Consultant review (in addition to the application fee) plus associated shipping or courier cost Cost

Note:

- (1) A consultant may be utilized by the City during the review process for any application submittal when the Director of Planning and Development Services, or designee, reasonably determines that independent expert review is necessary to assist in evaluating technical aspects of the application that exceed the routine technical expertise of City staff, or to verify the accuracy and methodology of technical studies submitted by the applicant.
- (2) An impartial independent consultant shall be selected by the Director of Planning and Development Services, or designee, and have extensive experience and knowledge in the field to be reviewed.
- (3) Consultant review under this section is distinguished from Third-Party Review of Development Documents and Inspection of Improvements under Texas Local Government Code, Title 7, Subtitle C, Chapter 247.

* * *