

ORDINANCE NO. _____
Zoning Text Amendment No. 2020 - 07

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE, AS PREVIOUSLY AMENDED, BY MAKING CERTAIN DELETIONS AND ADDITIONS TO VARIOUS SECTIONS ALL PERTAINING TO THE APPLICABLE APPROVAL CRITERIA FOR SPECIAL EXCEPTIONS; SAID SECTIONS INCLUDE SECTION 1-302, NONCONFORMING USES; SECTION 1-303, NONCONFORMING STRUCTURES AND PREMISES; SECTION 1-603, SPECIAL EXCEPTIONS; SECTION 1-702, ACCESSORY TELECOMMUNICATIONS FACILITIES; SECTION 1A-403, APPLICATION TO REMOVE PROTECTED TREE; SECTION 2-201, GENERAL USE REGULATIONS; SECTION 2-305, SPECIAL EXCEPTIONS; SECTION 2-603, PERMITTED MODIFICATIONS – SPECIFIC STRUCTURES; SECTION 2-604, SPECIAL EXCEPTIONS; SECTION 3-201, GENERAL USE REGULATIONS; SECTION 3-403, SPECIAL EXCEPTIONS; SECTION 3-702, PERMITTED MODIFICATIONS – SPECIFIC STRUCTURES; SECTION 3-703, SPECIAL EXCEPTION; AND SECTION 5-206 SPECIAL EXCEPTION; PROVIDING A REPEALING CLAUSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, this Mesquite Zoning Ordinance text amendment provides for updates to the existing provisions regarding Special Exceptions to coordinate with newly revised Section 5-200; and

WHEREAS, the City of Mesquite, Texas, (“**City**”) is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to the Texas Constitution, Article 11, Section 5 and the Texas Local Government Code Chapter 9; and

WHEREAS, 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, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, Section 51.072(a); and

WHEREAS, a home-rule municipality has general enforcement authority and may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Section 54.001, as amended and pursuant to Mesquite City Code, Chapter 1, Section 1-6; and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Section 54.004, as amended; and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Mesquite City Charter, Article III, Section 2; and

WHEREAS, the City shall have the power to license any lawful business, occupation or calling that is susceptible to the control of the police power, pursuant to Article III, Section 28 of the Mesquite City Charter; and

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

WHEREAS, on **August 10, 2020**, the City of Mesquite Planning and Zoning Commission considered text amendments to the Mesquite Zoning Ordinance and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommended the City Council adopt the text amendment; and

WHEREAS, the City Council gave public notice and held a public hearing regarding the proposed Mesquite Zoning Ordinance text amendment; and

WHEREAS, 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.

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 herein the body of this ordinance as if copied in their entirety.

SECTION 2. ZONING ORDINANCE TEXT AMENDMENT: Revising various sections of the Mesquite Zoning Ordinance. The Mesquite Zoning Ordinance, as previously amended, is hereby amended by making certain additions and deletions as identified in **EXHIBIT A**. The amended sections of the Mesquite Zoning Ordinance shall now read as shown in **EXHIBIT B**. Said exhibits are attached hereto and made a part hereof, and in all other respects said Zoning Ordinance, Parts, and Sections shall remain in full force and effect.

SECTION 3. Repealing Clause. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. Conflicts Resolution Clause. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 5. Severability Clause. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, the Mesquite City Code, as hereby or previously amended, or the Mesquite Zoning Ordinance, as hereby or previously amended, which shall remain in full force and effect.

SECTION 6. Penalty Clause. Generally. Nothing in this ordinance prohibits the City from pursuing civil and criminal enforcement remedies and penalties concurrently or availing itself of any other remedy allowed by law. **Criminal.** 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 not to exceed TWO THOUSAND DOLLARS (\$2,000.00) for each offense, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended. **Civil.** The City may also file a civil action for enforcement of this ordinance. **Maximum penalties.** If the maximum penalties provided for by this ordinance for an offense or civil action is greater than the maximum penalty provided for the same offense or civil action under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense or civil action shall be the maximum penalty provided by the laws of the State of Texas.

SECTION 7. Publication. This ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

SECTION 8. Effective Date. This ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,
on this the **19th day of OCTOBER 2020**.

Bruce Archer
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. _____

ZTA 2020-07

Mesquite Zoning Ordinance

Part 1. – General Provisions

* * *

1-300 – NONCONFORMING SITUATIONS.

* * *

1-302 – Nonconforming uses.

B. **Special exceptions for substitution of use.** The Board of Adjustment may authorize ~~the following a~~ special exceptions regarding nonconforming uses:

~~1. Substitution of Use: To~~ to allow the substitution of a less objectionable use for the existing nonconforming use where the Board determines that:

- (1) the substitute use will have less adverse impacts on the adjacent properties; and
- (2) the substitute use will be more compatible with the surrounding neighborhood;

Note: The special exception approval standards identified in Section 5-206 (L) are not applicable to special exceptions for substitution of use.

When a substitution has been authorized, only the substituted use retains nonconforming status.

1-303 – Nonconforming structures and premises.

* * *

B. **Special exceptions.** The Board of Adjustment may authorize the following special exceptions regarding nonconforming structures and/or premises.

1. *Major Improvements and Enlargement of a Nonconforming Structure on Nonconforming Premises.*

~~To~~The Board may grant a special exception to allow major repair, alteration, renovation, enlargement, or extension of a nonconforming structure in situations when all nonconformity in the premises will not be eliminated where the Board determines that:

The elimination of the nonconformity is not reasonably possible because it cannot be accommodated (because of one or more of the following):

- (1) without adding additional land; or
- (2) without moving a substantial structure on a permanent foundation; or
- (3) without creating an unacceptable situation regarding practical and reasonable utilization of the property, particularly in regard to access and circulation; or
- ~~(1)~~(4) _____ without creating a health or safety hazard.

Note: The special exception approval standards identified in Section 5-206 (L) are not applicable to this subsection.

2. *Major Reconstruction.*

~~To~~ The Board may grant a special exception to allow the major reconstruction of a structure with dimensional nonconformity on the existing foundation where the Board determines that:

- (1) the structure previously existed without substantial impact on the adjacent properties; and
- (2) that the reconstruction will not create more adverse impacts.

Note: The special exception approval standards identified in Section 5-206 (L) are not applicable to this subsection.

* * *

1-600 – TEMPORARY USES AND STRUCTURES

* * *

1-603 – Special Exceptions.

The Board of Adjustment may authorize the following Special Exceptions for temporary uses. ~~where it determines that such approval can be accommodated without creating adverse impacts on adjacent properties or the surrounding neighborhood. The Board may impose time limitations upon the approval of Special Exceptions for Special Exceptions for temporary uses and may set out conditions for the termination or extension of such uses.~~ In accordance with Section 5-206, the Board may require that a special exception be: (1) revocable; (2) effective for a specified time period; or (3) subject to one or more conditions.

A. Temporary classrooms buildings.

~~To~~ The Board may grant a special exception to allow the use of temporary classroom buildings by elementary and secondary schools, churches, boy/girl scouts, and similar organizations where the Board determines that the approval standards identified in Section 5-206 (L) are met. ~~Approval shall be for no more than a three-year period, provided that the Board may specify conditions under which the approval period may be extended.~~

NOTE: When considering the approval standards identified in Section 5-206 (L), ~~Such~~ such temporary classroom buildings shall be considered “compatible with the surrounding neighborhood” if the following criteria are met:

1. *Permanent Site.*

A temporary building is prohibited unless it is to be located on a site where an existing permanent building housing an authorized main use is located. For purposes of this requirement, an authorized main use is one for which a valid certificate of occupancy has been issued. The use of the temporary building shall be limited to the main use for which a certificate of occupancy has been issued or an authorized use accessory to that main use.

2. *Proposed Construction.*

The applicant shall submit a proposed schedule and a plan of construction/expansion of permanent facilities that eliminate the need for the long-term use of the temporary buildings.

3. *Alternate Space.*

There are no reasonable alternatives for providing needed space in a functional manner.

4. *Site Adequacy.*

Parking, circulation, electrical and utility connections, drainage, fire protection and all other health and safety considerations can be accommodated and provided for with the addition of temporary buildings in an orderly and safe manner.

5. *Adjacent Properties.*

The placement of the temporary buildings on the site will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted.

6. *Setbacks.*

The placement of the temporary buildings on the site will comply with all setback requirements.

Approval of temporary classroom buildings shall be for no more than a three-year period, provided that the Board may specify conditions under which the approval period may be extended.

B. *Temporary residences.*

~~To~~ The Board may grant a special exception to permit placement and occupancy of a temporary residence, which may be a mobile home, under the following enumerated circumstances listed below: Approval may be for no more than one year, provided that the Board may specify conditions for extension. Temporary residences shall be approved only on a building site of a size sufficient to accommodate such residence and the related construction so as to meet required setbacks and which will not substantially injure the use and enjoyment of other property in the immediate area.

1. *Emergency Residence.*

A temporary residence located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by persons displaced by such disaster during the reconstruction of the permanent residence.

2. *Construction Residence – Nonresidential.*

A temporary residence located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such site.

The special exception approval standards identified in Section 5-206 (L) are not applicable for said temporary residences. A special exception for temporary residences identified in this sub-section shall be approved where the Board determines that:

1. the building site is of a size sufficient enough to accommodate such temporary residence and the related construction so as to meet required setbacks; and
2. the temporary residence will not substantially injure the use and enjoyment of other property in the immediate area.

Approval may be for no more than one (1) year, provided that the Board may specify conditions under which the approval period may be extended.

* * *

1-700 – TELECOMMUNICATIONS TOWERS AND ANTENNAS

* * *

1-702 – Accessory telecommunications facilities.

The following situations shall be classified as accessory telecommunication facility uses and shall be permitted in all zoning districts in accordance with the following conditions. All other telecommunications facilities shall be classified as principal uses and shall be regulated by subsequent sections of this regulation.

A. Amateur Radio Station Operators/Receive Only Antennas.

* * *

2. *Special Exception for oversized antenna.*

The Board of Adjustment, in accordance with the approval standards in 5-200 Section 5-206 (L), may authorize the erection of a facility which exceeds 75 feet in height, ~~where it determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.~~

* * *

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

* * *

1A-400 – TREE PRESERVATION.

* * *

1A-403 – Application to remove protected tree.

Except as otherwise provided herein, no person, corporation, or governmental agency shall remove or cause the removal of any protected tree without first submitting appropriate application and securing approval in accordance with the following procedures and criteria.

* * *

G. *Special exception for tree preservation:* Where removal of a protected tree would become unnecessary if the development standards required by zoning were modified, the application for removal shall be denied and an application to the Board of Adjustment shall be initiated at no fee. The Board shall be authorized to approve a Special Exception for Tree Preservation, which may modify the development standards required, where the Board determines that:

- (1) the approval standards for a special exception identified in Section 5-206 (L) are met; and
- (2) the Board shall consider the value and benefit of tree preservation, ~~and~~

~~may approve such modifications to development standards where it determines that such modification can be accommodated without creating adverse impacts on adjacent properties and that such modification is compatible with the surrounding neighborhood.~~

* * *

PART 2. – RESIDENTIAL DISTRICTS

2-200 – USE REGULATIONS.

* * *

2-201 – General use regulations.

No land shall hereafter be used and no structure shall hereafter be erected, altered, or converted in a residential district which is arranged, designed or used for any use other than a use specified in Section 2-203 as permitted in the district in which it is located, except as otherwise permitted herein or as specified in Section 4-1500.

* * *

C. S – Special Exceptions.

Principal or accessory uses indicated as "S" (Special Exception) in Section 2-203 may be permitted in the districts specified if expressly authorized by the Board of Adjustment in accordance with the procedures set out in ~~5-200~~ Section 5-206, or as otherwise authorized by this Zoning Ordinance.

* * *

2-300. – DEVELOPMENT STANDARDS

* * *

2-305 – Special exceptions – minimum unit size.

~~The Board of Adjustment may authorize the following Special Exceptions where it determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.~~

~~A. Minimum Unit Size.~~

~~To~~ The Board of Adjustment may grant a special exception to allow construction of a single-family residence which does not comply with the required minimum unit size. This Special Exception may be considered in neighborhoods where existing residences were predominantly constructed smaller than the currently required minimum size. The special exception may be granted by the Board where the Board determines that the approval standards identified in Section 5-206 (L) are met.

* * *

2-600 – ACCESSORY STRUCTURE REGULATIONS

* * *

2-603 – Permitted modifications – Specific structures.

* * *

J. *Game courts.* Game courts with permanently installed nets, poles, other apparatus, or paving shall not be permitted in the required front yard, provided however that basketball hoops installed over an existing driveway shall be permitted. Lighted game courts shall require approval as a Special Exception in accordance with Section 5-206.

* * *

N. *Accessory dwelling units.* Accessory dwelling units may be approved by Special Exception, in accordance with Section 5-206, and shall comply with all of the following criteria, unless modified:

1. Minimum lot size shall be 21,780-square feet (one-half acre).
2. The accessory dwelling unit must share utility meter/connections with the primary structure.
3. The property must have a minimum of four off-street parking spaces that are located behind the front and exterior side building lines. All four spaces must be arranged such that four parked vehicles can exit the property without having to move another parked vehicle.
4. The property owner must live on the property.
5. The accessory dwelling unit shall not be rented or sold separately.
6. The accessory dwelling unit must meet the same setback requirements as the primary structure, provided that the rear setback requirement shall be a minimum of 10 feet.
7. The accessory dwelling unit shall not exceed the height of primary structure or 15 feet, whichever is less.
8. Maximum area of the accessory dwelling unit shall be 500-square feet, provided that on lots exceeding one acre and zoned Agriculture, the maximum area shall be 1,000 square-feet.
9. The accessory dwelling unit must be located in the rear yard and behind the rear façade of the primary structure.
10. No property shall have more than one accessory dwelling unit.

2-604 – Special exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards identified in Section 5-206 (L), and any additional criteria set forth in this section for any specific Special Exception. ~~where it determines that the exception will allow greater use and enjoyment of property without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.~~

A. Oversize Accessory Structure.

~~To~~The Board may grant a special exception to allow an oversize accessory structure, which shall be any detached structure which exceeds the height, size, or coverage limits set out in Section 2-602. An existing accessory building shall not become an oversize structure due to the attachment of a minor building with separate entrances. Buildings exceeding 10% of the lot area are generally considered to be incompatible.

* * *

C. Front or Exterior Porch Covers.

1. A porch cover encroaching into the front or exterior side yard setback may be approved as a Special Exception if the Board determines that the porch cover meets the approval standards contained in Section 5-206 (L). ~~would be compatible with the neighborhood.~~ Porch covers exceeding 1/3 of the façade width and/or having a depth of more than eight feet are generally considered to be incompatible in the absence of other beneficial characteristics. A porch cover approved by a Special Exception shall comply with the design standards prescribed in Section 2-603 (B)B.
2. The Board may approve a porch cover with a flat roof and a metal exterior if the Board determines that a flat roof and a metal exterior would be compatible with the surrounding neighborhood. When making its determination, the Board shall consider, among other things, the same characteristics enumerated in subsection 2-604 (B)(2)B.2 of this Section. If approved, the porch cover shall comply with the design standards prescribed in subsection 2-604 (B)(3)B.3 of this Section.

* * *

PART 3. – NONRESIDENTIAL DISTRICTS

* * *

3-200 – USE REGULATIONS

3-201 – General use regulations.

No land shall hereafter be used and no structure shall hereafter be erected, altered, or converted in a nonresidential district which is arranged, designed or used for any use other than a use specified in [Section 3-203](#) as permitted in the district in which it is located, except as otherwise permitted herein.

* * *

C. **S – Special exceptions.** Principal or accessory uses indicated as "S" (Special Exception) in [Section 3-203](#) may be permitted in the districts specified if expressly authorized by the Board of Adjustment in accordance with the procedures set out in ~~5-200~~ [Section 5-206, or as otherwise authorized by this Zoning Ordinance.](#)

* * *

3-400 – OFF-STREET PARKING AND LOADING REGULATIONS

* * *

3-403 – Special Exceptions.

The Board of Adjustment may authorize the following Special Exceptions [in accordance with the approval standards contained in Section 5-206 \(L\)](#); and where it finds that the peculiar nature of the use, the shape or size of the property, or other exceptional conditions would justify such action, ~~and could be accommodated without adverse impacts on adjacent properties or the surrounding neighborhood.~~

A. **Off-site parking.** ~~To~~ [A special exception may be granted by the Board to](#) allow required parking spaces to be provided on a building site other than that of the use for which the spaces are required. In general, such exception may be considered for employee parking or for institutional type uses such as hospitals, churches, or other uses where longer term parking is common. A permanent and irrevocable easement of the parking facilities in favor of the premises to be benefited thereby shall be dedicated and recorded in Dallas County records as a condition of such use.

B. **Joint use parking.** ~~To~~ [A special exception may be granted by the Board to](#) allow joint use or collective parking. Joint use parking shall mean that required spaces provided for one use may also be credited as required spaces for a complementary use. A permanent and irrevocable easement of the parking facilities in favor of the use to be benefited thereby shall be dedicated and recorded in Dallas county records as a condition of such use.

The following definitions and examples shall be used as guidelines in considering requests for [special exceptions for joint use parking](#):

* * *

C. Parking reduction. The Board may approve a reduction in required parking if the use meets the approval criteria for a special exception, as contained in Section 5-206 (L) 5-203(A), and the Board finds that the reduction in parking will not adversely impact parking on adjacent properties, the provision of public safety, or unreasonably impede the public right-of-way. As a guideline for evaluating a mixed-use development, the Board may consider the ~~Shared Parking Factors~~ shared parking benefit identified in Section 4-954 (A)(8) and the availability of public parking within proximity of the site.

* * *

3-700. – Accessory Structure Regulations

* * *

3-702 – Permitted modifications – Specific structures.

* * *

D. Antenna, Aerials, Flagpoles.

Antenna, aerials and associated masts shall comply with the requirements of Section 1-700. Flagpoles shall comply with the requirements of 3-701, except as otherwise permitted herein, provided however, that a total maximum height of 75 feet shall be permitted. When flagpole is taller than 30 feet, the required setbacks from the side and rear property lines shall be increased by one foot for each foot in height over 30 feet. Flagpoles over 75 feet in height shall require approval as a Special Exception in accordance with the approval standards contained in Section 5-206 (L).

3-703 – Special exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards contained in Section 5-206(L), and any additional criteria set forth in this section for any Special Exception. ~~where it determines that the exception can be accommodated without creating adverse impact on adjacent properties and that it will be compatible with the general character of development in the area.~~

A. Oversize Accessory Buildings.

~~The Board may grant a special exception to~~ allow an oversize accessory building, which shall be an accessory structure which exceeds the height and/or size limits set out in Section 3-701. This provision shall apply only to structures which are clearly accessory and shall not be used to exclude a principal structure from the requirements for exterior fire-resistant construction.

B. Oversize Flagpoles.

~~The Board may grant a special exception to~~ allow a flagpole which exceeds 75 feet in height.

C. Reverse Vending Machines.

~~The Board may grant a special exception to~~ allow placement of reverse vending machines which are totally enclosed and self-contained when operated for recycling purposes.

PART 5. – ADMINISTRATION

* * *

5-200 – SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS OF ADMINISTRATIVE DECISIONS

* * *

5-206 – Special exception.

* * *

- E. *Applicability.* An application for a special exception may be filed only for the use or modifications listed below, or as otherwise provided for in this Zoning Ordinance:

Nonconforming Situations:

1. Nonconforming uses. Section 1-302 (B).
2. Nonconforming structures and premises. Section 1-303 (B).

Temporary Uses:

3. Temporary uses.
 - a. Temporary classrooms. Section 1-603 (A).
 - b. Temporary residences. Section 1-603 (B).

Telecommunications Towers and Antennas:

4. Accessory telecommunications facilities—Oversized antenna. Section 1-702 (A)(2).

Landscaping, Buffering, and Screening and Tree Preservation:

5. Special exception for tree preservation. Section 1A-403 (G).

Reasonable Accommodations for Persons with Disabilities:

6. Reasonable accommodations for persons with disabilities. Section 5-205.

Residential Districts:

7. Principal or accessory uses. Section 2-201 (C) and Section 2-203.
8. Garage conversions-Relocation of converted parking not required. Section 2-202 (E)(4)(a).
9. Accessory dwelling units. Section 2-203 (C)(3) and Section 2-603 (N).
10. Keeping of horses and ponies (private). Section 2-203 (C)(9).
11. Keeping of livestock (private) (includes poultry / fowl / chickens). Section 2-203 (C)(10).
12. Ponds (Over 1 ½ feet deep). Section 2-203 (C)(16).
13. Minimum unit size. Section 2-305.
14. Lighted game courts. Section 2-603 (J) and Section 2-604 (D).
15. Oversized accessory structure. Section 2-604 (A).
16. Front carports. Section 2-604 (B).
17. Front or exterior porch covers. Section 2-604 (C).

Nonresidential Districts:

- 18. Principal or accessory uses. Section 3-201(C) and Section 3-203.
- 19. Livestock production. Section 3-203 (A)(02).
- 20. Livestock production as an accessory use. Section 3-203 (A)(02); Section 2-203 (C)(9); and Section 2-203 (C)(10).
- 21. Railroad transportation. Section 3-203 (E)(40).
- 22. Railroad passenger terminal. Section 3-203 (E)(40)(a).
- 23. Local transit, highway transportation. Section 3-203 (E)(41).
- 24. Pipelines. Section 3-203 (E)(46).
- 25. Ponds (Over 1 ½ feet deep). Section 3-203 (L)(9).
- 26. Off-site parking. Section 3-403 (A).
- 27. Joint use parking. Section 3-403 (B).
- 28. Parking reduction. Section 3-403 (C).
- 29. Flagpoles over seventy-five (75) feet in height. Section 3-702 (D) and Section 3-703 (B).
- 30. Oversize accessory buildings. Section 3-703 (A).
- 31. Reverse vending machines. Section 3-703 (C).

- ~~1. Nonconforming uses. 1-302(B).~~
- ~~2. Nonconforming structures and premises. 1-303(B).~~
- ~~3. Temporary uses.~~
 - ~~a. Temporary classrooms. 1-603(A).~~
 - ~~b. Temporary residences. 1-603(B).~~
- ~~4. Accessory telecommunications facilities—Oversized antenna. 1-702 (A)(2).~~
- ~~5. Special exception for tree preservation. 1A-403(G).~~
- ~~6. Principal or accessory uses in residential districts. 2-201(C) and 2-203.~~
- ~~7. Minimum unit size in residential districts. 2-305(A).~~
- ~~8. Lighted game courts in residential districts. 2-603(J) and 2-604(C).~~
- ~~9. Accessory dwelling units in residential districts. 2-603(N).~~
- ~~10. Oversized accessory structure in residential districts. 2-604(A).~~
- ~~11. Front carports in residential districts. 2-604(B).~~
- ~~12. Front or exterior porch covers in residential districts. 2-604(C).~~
- ~~13. Principal or accessory uses in nonresidential districts. 3-201(C) and 3-203.~~
- ~~14. Off-Site parking in nonresidential districts. 3-403(A).~~
- ~~15. Joint use parking in nonresidential districts. 3-403(B).~~
- ~~16. Parking reduction in nonresidential districts. 3-403(C).~~
- ~~17. Flagpoles over seventy-five (75) feet in height. 3-702(D).~~
- ~~18. Reasonable accommodations for persons with disabilities. 5-205.~~

EXHIBIT B

To Ordinance No. _____

ZTA 2020-07

Mesquite Zoning Ordinance

Part 1. – General Provisions

* * *

1-300 – NONCONFORMING SITUATIONS.

* * *

1-302 – Nonconforming uses.

B. *Special exception for substitution of use.* The Board of Adjustment may authorize a special exception regarding nonconforming uses to allow the substitution of a less objectionable use for the existing nonconforming use where the Board determines that:

- (1) the substitute use will have less adverse impacts on the adjacent properties; and
- (2) the substitute use will be more compatible with the surrounding neighborhood;

Note: The special exception approval standards identified in [Section 5-206](#) (L) are not applicable to special exceptions for substitution of use.

When a substitution has been authorized, only the substituted use retains nonconforming status.

1-303 – Nonconforming structures and premises.

* * *

B. *Special exceptions.* The Board of Adjustment may authorize the following special exceptions regarding nonconforming structures and/or premises.

1. *Major Improvements and Enlargement of a Nonconforming Structure on Nonconforming Premises.*

The Board may grant a special exception to allow major repair, alteration, renovation, enlargement, or extension of a nonconforming structure in situations when all nonconformity in the premises will not be eliminated where the Board determines that:

The elimination of the nonconformity is not reasonably possible because it cannot be accommodated (because of one or more of the following):

- (1) without adding additional land; or
- (2) without moving a substantial structure on a permanent foundation; or
- (3) without creating an unacceptable situation regarding practical and reasonable utilization of the property, particularly in regard to access and circulation; or
- (4) without creating a health or safety hazard.

Note: The special exception approval standards identified in [Section 5-206](#) (L) are not applicable to this subsection.

2. *Major Reconstruction.*

The Board may grant a special exception to allow the major reconstruction of a structure with dimensional nonconformity on the existing foundation where the Board determines that:

- (1) the structure previously existed without substantial impact on the adjacent properties; and
- (2) that the reconstruction will not create more adverse impacts.

Note: The special exception approval standards identified in [Section 5-206](#) (L) are not applicable to this subsection.

* * *

1-600 – TEMPORARY USES AND STRUCTURES

* * *

1-603 – Special Exceptions.

The Board of Adjustment may authorize the following Special Exceptions for temporary uses. In accordance with [Section 5-206](#), the Board may require that a special exception be: (1) revocable; (2) effective for a specified time period; or (3) subject to one or more conditions.

A. Temporary classroom buildings.

The Board may grant a special exception to allow the use of temporary classroom buildings by elementary and secondary schools, churches, boy/girl scouts, and similar organizations where the Board determines that the approval standards identified in [Section 5-206](#) (L) are met.

NOTE: When considering the approval standards identified in [Section 5-206](#) (L), such temporary classroom buildings shall be considered “compatible with the surrounding neighborhood” if the following criteria are met:

1. *Permanent Site.*

A temporary building is prohibited unless it is to be located on a site where an existing permanent building housing an authorized main use is located. For purposes of this requirement, an authorized main use is one for which a valid certificate of occupancy has been issued. The use of the temporary building shall be limited to the main use for which a certificate of occupancy has been issued or an authorized use accessory to that main use.

2. *Proposed Construction.*

The applicant shall submit a proposed schedule and a plan of construction/expansion of permanent facilities that eliminate the need for the long-term use of the temporary buildings.

3. *Alternate Space.*

There are no reasonable alternatives for providing needed space in a functional manner.

4. *Site Adequacy.*

Parking, circulation, electrical and utility connections, drainage, fire protection and all other health and safety considerations can be accommodated and provided for with the addition of temporary buildings in an orderly and safe manner.

5. *Adjacent Properties.*

The placement of the temporary buildings on the site will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted.

6. *Setbacks.*

The placement of the temporary buildings on the site will comply with all setback requirements.

Approval of temporary classroom buildings shall be for no more than a three-year period, provided that the Board may specify conditions under which the approval period may be extended.

B. *Temporary residences.*

The Board may grant a special exception to permit placement and occupancy of a temporary residence, which may be a mobile home, under the following enumerated circumstances listed below:

1. *Emergency Residence.*

A temporary residence located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by persons displaced by such disaster during the reconstruction of the permanent residence.

2. *Construction Residence – Nonresidential.*

A temporary residence located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such site.

The special exception approval standards identified in [Section 5-206](#) (L) are not applicable for said temporary residences. A special exception for temporary residences identified in this sub-section shall be approved where the Board determines that:

1. the building site is of a size sufficient enough to accommodate such temporary residence and the related construction so as to meet required setbacks; and
2. the temporary residence will not substantially injure the use and enjoyment of other property in the immediate area.

Approval may be for no more than one (1) year, provided that the Board may specify conditions under which the approval period may be extended.

* * *

1-700 – TELECOMMUNICATIONS TOWERS AND ANTENNAS

* * *

1-702 – Accessory telecommunications facilities.

The following situations shall be classified as accessory telecommunication facility uses and shall be permitted in all zoning districts in accordance with the following conditions. All other telecommunications facilities shall be classified as principal uses and shall be regulated by subsequent sections of this regulation.

A. Amateur Radio Station Operators/Receive Only Antennas.

* * *

2. Special Exception for oversized antenna.

The Board of Adjustment, in accordance with the approval standards in [Section 5-206](#) (L), may authorize the erection of a facility which exceeds 75 feet in height.

* * *

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

* * *

1A-400 – TREE PRESERVATION.

* * *

1A-403 – Application to remove protected tree.

Except as otherwise provided herein, no person, corporation, or governmental agency shall remove or cause the removal of any protected tree without first submitting appropriate application and securing approval in accordance with the following procedures and criteria.

* * *

G. *Special exception for tree preservation:* Where removal of a protected tree would become unnecessary if the development standards required by zoning were modified, the application for removal shall be denied and an application to the Board of Adjustment shall be initiated at no fee. The Board shall be authorized to approve a Special Exception for Tree Preservation, which may modify the development standards required, where the Board determines that:

- (1) the approval standards for a special exception identified in [Section 5-206](#) (L) are met; and
- (2) the Board shall consider the value and benefit of tree preservation.

* * *

PART 2. – RESIDENTIAL DISTRICTS

2-200 – USE REGULATIONS.

* * *

2-201 – General use regulations.

No land shall hereafter be used and no structure shall hereafter be erected, altered, or converted in a residential district which is arranged, designed or used for any use other than a use specified in [Section 2-203](#) as permitted in the district in which it is located, except as otherwise permitted herein or as specified in [Section 4-1500](#).

* * *

C. S – Special Exceptions.

Principal or accessory uses indicated as "S" (Special Exception) in [Section 2-203](#) may be permitted in the districts specified if expressly authorized by the Board of Adjustment in accordance with the procedures set out in [Section 5-206](#), or as otherwise authorized by this Zoning Ordinance.

* * *

2-300. – DEVELOPMENT STANDARDS

* * *

2-305 – Special exception – minimum unit size.

The Board of Adjustment may grant a special exception to allow construction of a single-family residence which does not comply with the required minimum unit size. This Special Exception may be considered in neighborhoods where existing residences were predominantly constructed smaller than the currently required minimum size. The special exception may be granted by the Board where the Board determines that the approval standards identified in [Section 5-206](#) (L) are met.

* * *

2-600 – ACCESSORY STRUCTURE REGULATIONS

* * *

2-603 – Permitted modifications – Specific structures.

* * *

J. *Game courts.* Game courts with permanently installed nets, poles, other apparatus, or paving shall not be permitted in the required front yard, provided however that basketball hoops installed over an existing driveway shall be permitted. Lighted game courts shall require approval as a Special Exception in accordance with [Section 5-206](#).

* * *

N. *Accessory dwelling units.* Accessory dwelling units may be approved by Special Exception, in accordance with [Section 5-206](#), and shall comply with all of the following criteria, unless modified:

1. Minimum lot size shall be 21,780-square feet (one-half acre).
2. The accessory dwelling unit must share utility meter/connections with the primary structure.
3. The property must have a minimum of four off-street parking spaces that are located behind the front and exterior side building lines. All four spaces must be arranged such that four parked vehicles can exit the property without having to move another parked vehicle.
4. The property owner must live on the property.
5. The accessory dwelling unit shall not be rented or sold separately.
6. The accessory dwelling unit must meet the same setback requirements as the primary structure, provided that the rear setback requirement shall be a minimum of 10 feet.
7. The accessory dwelling unit shall not exceed the height of primary structure or 15 feet, whichever is less.
8. Maximum area of the accessory dwelling unit shall be 500-square feet, provided that on lots exceeding one acre and zoned Agriculture, the maximum area shall be 1,000 square-feet.
9. The accessory dwelling unit must be located in the rear yard and behind the rear façade of the primary structure.
10. No property shall have more than one accessory dwelling unit.

2-604 – Special exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards identified in [Section 5-206](#) (L), and any additional criteria set forth in this section for any specific Special Exception.

A. Oversize Accessory Structure.

The Board may grant a special exception to allow an oversize accessory structure, which shall be any detached structure which exceeds the height, size, or coverage limits set out in [Section 2-602](#). An existing accessory building shall not become an oversize structure due to the attachment of a minor building with separate entrances. Buildings exceeding 10% of the lot area are generally considered to be incompatible.

* * *

C. Front or Exterior Porch Covers.

1. A porch cover encroaching into the front or exterior side yard setback may be approved as a Special Exception if the Board determines that the porch cover meets the approval standards contained in [Section 5-206](#) (L). Porch covers exceeding 1/3 of the façade width and/or having a depth of more than eight feet are generally considered to be incompatible in the absence of other beneficial characteristics. A porch cover approved by a Special Exception shall comply with the design standards prescribed in [Section 2-603](#) (B).
2. The Board may approve a porch cover with a flat roof and a metal exterior if the Board determines that a flat roof and a metal exterior would be compatible with the surrounding neighborhood. When making its determination, the Board shall consider, among other things, the same characteristics enumerated in subsection [2-604](#) (B)(2). If approved, the porch cover shall comply with the design standards prescribed in subsection [2-604](#) (B)(3).

* * *

PART 3. – NONRESIDENTIAL DISTRICTS

* * *

3-200 – USE REGULATIONS

3-201 – General use regulations.

No land shall hereafter be used and no structure shall hereafter be erected, altered, or converted in a nonresidential district which is arranged, designed or used for any use other than a use specified in [Section 3-203](#) as permitted in the district in which it is located, except as otherwise permitted herein.

* * *

C. **S – Special exceptions.** Principal or accessory uses indicated as "S" (Special Exception) in [Section 3-203](#) may be permitted in the districts specified if expressly authorized by the Board of Adjustment in accordance with the procedures set out in [Section 5-206](#), or as otherwise authorized by this Zoning Ordinance.

* * *

3-400 – OFF-STREET PARKING AND LOADING REGULATIONS

* * *

3-403 – Special Exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards contained in [Section 5-206](#) (L); and where it finds that the peculiar nature of the use, the shape or size of the property, or other exceptional conditions would justify such action.

A. Off-site parking. A special exception may be granted by the Board to allow required parking spaces to be provided on a building site other than that of the use for which the spaces are required. In general, such exception may be considered for employee parking or for institutional type uses such as hospitals, churches, or other uses where longer term parking is common. A permanent and irrevocable easement of the parking facilities in favor of the premises to be benefited thereby shall be dedicated and recorded in Dallas County records as a condition of such use.

B. Joint use parking. A special exception may be granted by the Board to allow joint use or collective parking. Joint use parking shall mean that required spaces provided for one use may also be credited as required spaces for a complementary use. A permanent and irrevocable easement of the parking facilities in favor of the use to be benefited thereby shall be dedicated and recorded in Dallas county records as a condition of such use.

The following definitions and examples shall be used as guidelines in considering requests for special exceptions for joint use parking:

* * *

C. Parking reduction. The Board may approve a reduction in required parking if the use meets the approval criteria for a special exception, as contained in [Section 5-206](#) (L), and the Board finds that the reduction in parking will not adversely impact parking on adjacent properties, the provision of public safety, or unreasonably impede the public right-of-way. As a guideline for evaluating a mixed-use development, the Board may consider the shared parking benefits identified in [Section 4-954](#) (A)(8) and the availability of public parking within proximity of the site.

* * *

3-700. – Accessory Structure Regulations

* * *

3-702 – Permitted modifications – Specific structures.

* * *

D. Antenna, Aerials, Flagpoles.

Antenna, aerials and associated masts shall comply with the requirements of [Section 1-700](#). Flagpoles shall comply with the requirements of [Section 3-701](#), except as otherwise permitted herein, provided however, that a total maximum height of 75 feet shall be permitted. When flagpole is taller than 30 feet, the required setbacks from the side and rear property lines shall be increased by one foot for each foot in height over 30 feet. Flagpoles over 75 feet in height shall require approval as a Special Exception in accordance with the approval standards contained in [Section 5-206](#) (L).

3-703 – Special exceptions.

The Board of Adjustment may authorize the following Special Exceptions in accordance with the approval standards contained in [Section 5-206](#) (L), and any additional criteria set forth in this section for any Special Exception.

A. Oversize Accessory Buildings.

The Board may grant a special exception to allow an oversize accessory building, which shall be an accessory structure which exceeds the height and/or size limits set out in [Section 3-701](#). This provision shall apply only to structures which are clearly accessory and shall not be used to exclude a principal structure from the requirements for exterior fire-resistant construction.

B. Oversize Flagpoles.

The Board may grant a special exception to allow a flagpole which exceeds 75 feet in height.

C. Reverse Vending Machines.

The Board may grant a special exception to allow placement of reverse vending machines which are totally enclosed and self-contained when operated for recycling purposes.

PART 5. – ADMINISTRATION

* * *

5-200 – SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS OF ADMINISTRATIVE DECISIONS

* * *

5-206 – Special exception.

* * *

- E. *Applicability.* An application for a special exception may be filed only for the use or modifications listed below, or as otherwise provided for in this Zoning Ordinance:

Nonconforming Situations:

1. Nonconforming uses. [Section 1-302](#) (B).
2. Nonconforming structures and premises. [Section 1-303](#) (B).

Temporary Uses:

3. Temporary uses.
 - a. Temporary classrooms. [Section 1-603](#) (A).
 - b. Temporary residences. [Section 1-603](#) (B).

Telecommunications Towers and Antennas:

4. Accessory telecommunications facilities—Oversized antenna. [Section 1-702](#) (A)(2).

Landscaping, Buffering, and Screening and Tree Preservation:

5. Special exception for tree preservation. [Section 1A-403](#) (G).

Reasonable Accommodations for Persons with Disabilities:

6. Reasonable accommodations for persons with disabilities. [Section 5-205](#).

Residential Districts:

7. Principal or accessory uses. [Section 2-201](#) (C) and [Section 2-203](#).
8. Garage conversions—Relocation of converted parking not required. [Section 2-202](#) (E)(4)(a).
9. Accessory dwelling units. [Section 2-203](#) (C)(3) and [Section 2-603](#) (N).
10. Keeping of horses and ponies (private). [Section 2-203](#) (C)(9).
11. Keeping of livestock (private) (includes poultry / fowl / chickens). [Section 2-203](#) (C)(10).
12. Ponds (Over 1 ½ feet deep). [Section 2-203](#) (C)(16).
13. Minimum unit size. [Section 2-305](#).
14. Lighted game courts. [Section 2-603](#) (J) and [Section 2-604](#) (D).
15. Oversized accessory structure. [Section 2-604](#) (A).
16. Front carports. [Section 2-604](#) (B).
17. Front or exterior porch covers. [Section 2-604](#) (C).

Nonresidential Districts:

18. Principal or accessory uses. [Section 3-201](#)(C) and [Section 3-203](#).
19. Livestock production. [Section 3-203](#) (A)(02).
20. Livestock production as an accessory use. [Section 3-203](#) (A)(02); [Section 2-203](#) (C)(9); and [Section 2-203](#) (C)(10).
21. Railroad transportation. [Section 3-203](#) (E)(40).
22. Railroad passenger terminal. [Section 3-203](#) (E)(40)(a).
23. Local transit, highway transportation. [Section 3-203](#) (E)(41).
24. Pipelines. [Section 3-203](#) (E)(46).
25. Ponds (Over 1 ½ feet deep). [Section 3-203](#) (L)(9).
26. Off-site parking. [Section 3-403](#) (A).
27. Joint use parking. [Section 3-403](#) (B).
28. Parking reduction. [Section 3-403](#) (C).
29. Flagpoles over seventy-five (75) feet in height. [Section 3-702](#) (D) and [Section 3-703](#) (B).
30. Oversize accessory buildings. [Section 3-703](#) (A).
31. Reverse vending machines. [Section 3-703](#) (C).