

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 7 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY DELETING SECTIONS 7-1, 7-2 AND 7-3 OF ARTICLE I IN THEIR ENTIRETY AND ADDING NEW SECTIONS 7-1, 7-2 AND 7-3 OF ARTICLE I THEREBY ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE, 2015 EDITION, AND PROVIDING CERTAIN ADDITIONS AND DELETIONS THERETO; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1: That Chapter 7 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by deleting Sections 7-1, 7-2 and 7-3 of Article I in their entirety and adding new Sections 7-1, 7-2 and 7-3 of Article I to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

ARTICLE I. PROPERTY MAINTENANCE CODE

DIVISION 1. GENERALLY

Sec. 7-1. Adopted.

The *International Property Maintenance Code*, 2015 Edition, a publication of the International Code Council (I.C.C.), is hereby adopted and designated as the official property maintenance code of the City of Mesquite to the same extent as if such Code were copied verbatim in this Article subject to the amendments prescribed in this Article. The Code shall be applicable to all existing residential and nonresidential structures and all existing premises and constitutes minimum requirements and standards for premises, structures, equipment and facilities for safe and sanitary maintenance. A copy of the *International Property Maintenance Code*, 2015 Edition, and the amendments thereto shall be maintained in the office of the City Secretary as an original document and ordinance of the City.

Sec. 7-2. General terms.

The following terms shall be applicable in the *International Property Maintenance Code* adopted in Section 7-1:

Housing advisory and board of appeal. All references to housing advisory and board of appeal used in the *International Property Maintenance Code* shall mean the Building Standards Board established in Section 5-25 of the City Code.

Sec. 7-3. Amendments to the International Property Maintenance Code, 2015 Edition.

The following amendments are made to the *International Property Maintenance Code*, 2015 Edition:

- (1) *Chapter 1. Scope and Administration.* Amend by deleting Chapter 1 in its entirety and add a new Chapter 1 to read as follows:

**CHAPTER 1
SCOPE AND ADMINISTRATION**

PART 1—SCOPE AND APPLICATION

**SECTION 101
GENERAL**

101.1 Title. These regulations shall be known as the International Property Maintenance Code of the City of Mesquite, Texas, hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner’s authorized agent, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**SECTION 102
APPLICABILITY**

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, owner's authorized agent, operator or occupant shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's authorized agent shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code and National Electric Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Mesquite Zoning Ordinance.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the repair, removal or demolition of any structure that is dangerous, unsafe, unfit for human occupancy and insanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sections 102.7.1 and 102.7.2. Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

102.7.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

102.7.2 Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

PART 2 — ADMINISTRATION AND ENFORCEMENT

SECTION 103 CODE OFFICIAL

103.1 General. The Building Official of the City of Mesquite shall be known as the Code Official.

103.2 Appointment. The Code Official shall be appointed by the chief appointing authority of the jurisdiction or his designee.

103.3 Deputies. In accordance with the established organization and prescribed procedures of this jurisdiction, the Code Official shall have the authority to appoint deputies from among the employees of his department or other departments. Such employees shall have powers as delegated by the Code Official.

103.4 Liability. The Code Official, member of the Building Standards Board or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.

103.4.1 Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Code Official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The Code Official is hereby authorized and directed to enforce the provisions of this code. The Code Official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Inspections. In accordance with the established organization and procedures of this jurisdiction, the Code Official or deputies shall make the required inspections. The Code Official

is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

104.4 Identification. The Code Official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.5 Notices and orders. The Code Official shall issue all necessary notices or orders to ensure compliance with this code.

104.6 Department records. The Code Official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 105 APPROVAL

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Code Official shall have the authority to grant modifications for individual cases upon application of the owner or owner's authorized agent, provided the Code Official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction may be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is approved, the Code Official shall provide such approval in writing.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the Code

Official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.

105.3.2 Test reports. Reports of tests shall be retained by the Code Official for the period required for retention of public records.

105.4 Used material and equipment. The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and approved by the Code Official.

105.5 Approved materials and equipment. Materials, equipment and devices approved by the Code Official shall be constructed and installed in accordance with such approval.

105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.3 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

106.4 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 107 GENERAL NOTICES AND ORDERS

107.1 Notice to person responsible. Whenever the Code Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the structure or premises into compliance with the provisions of this code.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the Code Official shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Official.

107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

107.6 Transfer of ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation

and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

SECTION 108

UNSAFE, UNLAWFUL AND UNFIT STRUCTURES AND EQUIPMENT

108.1 General. When a structure, premises or equipment is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, or found to be dangerous, the defects or conditions of such structure shall be corrected, cured, repaired or abated pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous under Section 108.1.5; or one that is a threat to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire; or a structure with any of the unsafe conditions enumerated in Sections 304.1, 305.1 or 306.1 of this code; or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code; or is in a state of accelerated deterioration; or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code; or was erected, altered or occupied contrary to law; or is used or occupied, in whole or in part, by a function not authorized for its certificate-of-occupancy.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.

2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. A retaining wall, or part of a retaining wall, is so out of plumb, neglected or dilapidated that it no longer provides effective subjacent support and the affected land is sloughing or eroding, or the supported structures or improvements are likely to collapse, or the retaining wall so encroaches upon or over adjoining public or private property that the encroachment or collapse would unreasonably impede or interfere with passage, storm water easements, or emergency ingress or egress.
7. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
8. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
9. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
10. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

11. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.
12. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

108.2 Securement of vacant structures. If the structure is vacant and unsafe, unlawful or unfit for human habitation and occupancy, but does not constitute an imminent danger as provided in Section 109.1, the Code Official is authorized to post a placard on the premises stating “Occupancy and Use Prohibited. This structure is UNSAFE, UNLAWFUL OR UNFIT and its occupancy or use is prohibited by the Code Official.” As soon as practical thereafter, the Code Official shall give notice as provided in Section 110 ordering the structure closed up or secured so as not to be an attractive nuisance and to prevent unlawful entry. Upon failure of the owner or owner’s authorized agent to close up and secure the premises within the time specified in the order, the Code Official may cause the premises to be closed and secured in accordance with Section 110.

108.3 Authority to disconnect service utilities. The Code Official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The Code Official shall notify the serving utility and, whenever possible, the owner or owner’s authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner, owner’s authorized agent or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

108.4 Placard for unsafe equipment. Whenever the Code Official has found unsafe equipment, a placard shall be posted in a conspicuous place on or about the affected equipment and notice shall be served as soon as practical thereafter on the owner, owner’s authorized agent or the person or persons responsible for the equipment as provided by Section 107.

108.5 Vacating occupied structures. If the structure or any portion thereof is occupied and unsafe, unlawful or unfit for human habitation and occupancy, but does not constitute an imminent danger as provided in Section 109.1, the Code Official is authorized to post on the premises, or on the portion of the structure so affected, a placard stating, “Occupancy and Use Prohibited. This structure [or affected space] is UNSAFE, UNLAWFUL OR UNFIT and its occupancy or use is prohibited by the Code Official.” As soon as practical thereafter, the Code Official shall give the owner or owner’s authorized agent notice as provided in Section 107 and order the structure or affected portion thereof to be vacated and provide a time of not less than 24 hours, for the owner or owner’s authorized agent to relocate, and where applicable relocate occupants to alternative premises.

108.6 Failure to comply. Any structure or portion thereof placarded by the Code Official shall be vacated and remain vacated as ordered by the Code Official until the Code Official has

determined that the defects upon which the placarding action was based have been corrected cured or eliminated. Any equipment placarded by the Code Official shall be shut down, de-energized and not returned to service until the Code Official has determined that the equipment has been repaired to original performance specifications or replaced. A person commits an offense and shall be subject to the penalties provided by this code if he occupies a placarded premises or operates placarded equipment, or if he suffers or permits any person to occupy a placarded premises or operate placarded equipment.

108.6.1 Placard removal. Any person who defaces or removes a placard without the approval of the Code Official shall be subject to the penalties provided by this code.

108.7 Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe, unlawful or unfit by the Code Official shall abate or cause to be abated or corrected such unsafe, unlawful or unfit conditions either by repair, rehabilitation, demolition or other approved corrective action.

108.7.1 Demolition. The Code Official may order the owner or owner's authorized agent to demolish and remove any structure, which after review and in the Code Official's judgment, is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, that it is unreasonable to repair the structure. The Code Official may temporarily suspend for up to 120 days any permit application for the repair or rehabilitation of such structure pending a hearing before the Building Standards Board in accordance with the procedures of Section 110.

108.7.2 City abatement. Upon the failure or refusal of the owner or the owner's authorized agent to correct, cure, repair, demolish or abate such unsafe, unlawful or unfit conditions or structures, the Code Official may abate the same in accordance with the procedures of Section 110, or in any other manner authorized by law.

108.7.3 Pool enclosures. In addition to any other authority granted by law, the Code Official may inspect, repair, replace, secure or otherwise remedy a swimming pool enclosure required under Section 303.2 that is damaged, deteriorated, substandard, dilapidated or otherwise in a state that poses a hazard to the public health, safety and welfare in accordance with Section 214.101 of the Texas Local Government Code.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation or re-occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous mechanical, fuel gas or electrical equipment, or any of the conditions listed in Section 108, the Code Official is hereby authorized and empowered to order and require the owner, owner's authorized agent or occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a

notice reading as follows: "Occupancy and Use Prohibited. This structure is an IMMINENT DANGER and its occupancy or use is prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Immediate securement. Notwithstanding other provisions of this code, whenever, in the opinion of the Code Official, the structure or any part thereof is an imminent danger, or regardless of its structural condition, the structure is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children, the Code Official may perform the necessary work to close up or secure the structure so as not to be an attractive nuisance and to prevent unlawful entry, or render such structure temporarily safe, whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

109.2.1 Notice of hearing. Before the 11th day after the date the structure is secured, the Code Official shall give notice to the owner or the owner's authorized agents of the owner's entitlement to a request a hearing as prescribed in Section 214.0011 of the Texas Local Government Code.

109.3 Closing streets. When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the Code Official may contract with a third party for the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Upon compliance with the procedures provided in Section 110, the City may recover costs incurred in the performance of emergency work. The legal counsel of the jurisdiction may institute appropriate action against the owner of the premises or owner's authorized agent for the recovery of such costs.

SECTION 110 ENFORCEMENT OF CERTAIN ORDERS

110.1 General. If the Code Official finds that a building or premises is vacant, unsafe, dangerous, or unfit for human occupancy to the extent that such building or premises must be secured, or that the repair, demolition or removal of the unsafe building, dangerous or unfit conditions is required, the Code Official may have the building or premises secured, repaired, demolished or removed in accordance with the orders and proceedings of this Section 110.

110.2 Final orders and proceedings. The Code Official may, but is not required, to provide notice under Section 107 prior to issuing a Final Corrective Order or instituting proceedings before the Building Standards Board.

110.2.1 Final corrective order. The Code Official shall send a Final Corrective Order by certified mail to the owner or owner's authorized agent that enumerates the defects or conditions with the building or premises that render the same in need of securement, or unsafe, dangerous or unfit for human occupancy. Included in said order, the Code Official shall order the owner or owner's authorized agent to take correction action, secure, repair or demolish the structure by a date certain, which date shall not be less than ten (10) nor more than thirty (30) days after the date of the corrective order.

110.2.2 Notice of hearing. If the securement, defects or conditions with the building or premises are not repaired, corrected, demolished, removed or eliminated by the date specified in the Final Corrective Order, the Code Official shall send the owner or owner's authorized agent by certified mail a Notice of Hearing before the Building Standards Board for the purpose of having the Board determine whether the building or premises should be secured, or repaired, demolished or removed in order to abate the defects or unsafe conditions.

110.2.3 Proceedings. The form and content of the Notice of Hearing, and proceedings and orders of the Building Standards Board, shall conform to Section 214.001 of the Texas Local Government Code.

110.3 Failure to comply. If the owner of a premises or owner's authorized agent fails to comply with a securement, repair or demolition order of the Building Standards Board within the time prescribed, the Code Official shall cause the structure to be secured, repaired, demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such securement, repair, demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the City shall have the right, but not the obligation, to sell the salvage and valuable materials, or where provided by contract or arrangement with private persons, offset the expense to the City of the expenses of such demolition and removal.

110.5 Recovery of costs incurred by the City of Mesquite. Recovery of costs incurred by the City in vacating, securement, repairing, demolishing or removing a building pursuant to this code shall be in accordance with the provisions of Chapter 214, Subchapter A of the Texas Local Government Code.

110.6 Remedies cumulative. The remedies available in proceedings before the Building Standards Board may be pursued concurrently with, and shall be cumulative to all other remedies available to the City of Mesquite, including but not limited to the issuance of citations to and prosecution of the owner or owner's authorized agent for any or all applicable violations of this code and revocation of the certificate-of-occupancy for unlawful structures.

SECTION 111 APPEALS

111.1 Interpretive appeals. Any person directly affected by a decision of the Code Official regarding the interpretation or application of any provision under this code shall have the right to

appeal to the Building Standards Board, provided that a written application for appeal must be filed with the Code Official within 7 days after the day the decision is rendered. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

111.2 Section 107 appeals. Any person directly affected by a notice or order of the Code Official issued pursuant to Section 107 of this code shall have the right to appeal to the Building Standards Board, provided that a written application for appeal must be filed with the Code Official on or before the date for corrective action provided in the notice or order.

111.3 Section 110 appeals. Any person directly affected by a Final Corrective Order of the Code Official issued pursuant to Section 110 of this code shall have the right to appeal to the Building Standards Board, provided that a written application for appeal must be filed with the Code Official within 10 days after the certified date of mailing of the corrective order.

111.4 Stays of enforcement. Appeals of notices and orders of the Code Official issued pursuant to Section 107 and Section 110, other than notices and orders based upon Imminent Danger, shall stay the enforcement of the notice and order until the appeal is heard by the Building Standards Board.

111.5 Court review from the Building Standards Board. Once the decision of the Board becomes final under this section, the person affected by an order may only appeal the decision to the State district court. Appeal to the district court must be filed within 30 days from the date that notice of final board findings is personally delivered or mailed to the affected person(s) by first class mail certified, return receipt requested. Appeal in the district court shall be limited to a hearing under the substantial evidence rule.

SECTION 112 STOP WORK ORDER

112.1 Authority. Whenever the Code Official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the Code Official is authorized to issue a stop work order.

112.2 Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

112.3 Emergencies. Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work.

112.4 Failure to comply. A person commits an offense if he continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition.

- (a) *Section 202.* Amend by adding a new definition as follows:

ACCELERATED DETERIORATION. A condition of the structure wherein interior or sub-layered exterior components and materials of the structure or building envelope are exposed or subjected to the possibility of rapid or advanced decay or abnormal reduction in standard life cycle of such components and materials.

- (3) *Chapter 3, General Requirements.*

- (a) *Section 302.4.* Amend by deleting the first sentence of the section in its entirety and adding a new first sentence to Section 302.4 to read as follows:

All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches.

- (b) *Section 302.7.1.* Amend by adding a new Section 302.7.1 to read as follows:

Freestanding signs. Freestanding signs, supports and appurtenances not subject to removal shall be maintained plumb, with no missing or broken panels, bent or broken cabinet frames, missing letters, broken or unmortared masonry, and free from deterioration, rust or unprotected wood or metal surfaces.

- (c) *Section 302.10.* Amend by adding a new Section 302.10 to read as follows:

Retaining walls. Retaining walls shall be maintained plumb and free from *deterioration*, capable of safely supporting the imposed dead and live loads and providing effective subjacent support.

- (d) *Section 303.1.1.* Amend by adding a new Section 303.1.1 to read as follows:

Swimming pool, definition. A swimming pool, for the purpose of this article shall be any pool, hot tub or spa containing or normally capable of containing water to a depth of one and one-half feet or more. No such swimming pool shall be constructed or operated unless it complies with the conditions and requirements of this article.

- (e) *Section 303.1.* Amend by deleting the section in its entirety and adding a new Section 303.1 to read as follows:

Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, in good repair, and in good operating order. An owner that fails to maintain in good operating order or abandons

an in-ground swimming pool shall have the swimming pool demolished, removed, and the void filled and compacted in accordance with specifications approved by the Building Official.

- (f) *Section 303.2.* Amend by deleting the section in its entirety and adding a new Section 303.2 to read as follows:

Enclosures:

- (a) Every person in possession of land where a swimming pool, spa or hot tub exists shall be maintained at all times.
 - (b) A swimming pool, spa or hot tub must be located behind a fence, wall or other structure designed to prevent small children from inadvertently wandering into the swimming pool.
 - (c) The required fencing or other structure shall be measured not less than five feet in height except a fence for an above ground pool that is 42 inches or less in depth may be constructed at a minimum height of four feet. No openings in the required fence, wall or structure, other than openings in which a door or gate is located, may exceed four inches measured in horizontal direction, or three inches as measured between the bottom of the fence, wall or structure and the ground or supporting surface abutting the ground.
 - (d) All doors or gates opening into a swimming pool enclosure shall be equipped with self-closing and self-latching devices designed to keep, and capable of keeping such doors and gates securely closed at all times when not being used for entry to or exit from the swimming pool enclosure. The required self-latching device shall be attached to the upper quarter of any such door or gate. The requirements for self-closing and self-latching devices shall not apply to the door of a dwelling that forms part of the swimming pool enclosure if the door is transparent.
 - (e) It shall be unlawful to maintain any swimming pool in the corporate limits of the City that is not fenced in accordance with the requirements of this Code.
- (g) *Section 304.1.1.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence to Section 304.1.1 to read as follows:

Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Residential Code*.

- (h) *Section 304.1.1.* Amend by adding a new paragraph 14 to read as follows:

14. Exterior walls, shingles or roof systems, doors and windows, caulking or sealants, insulating systems, or other protective membranes that are in disrepair, have been damaged or penetrated, or lack maintenance create a state of *accelerated deterioration*.

- (i) *Section 304.14.* Amend by deleting the section in its entirety and adding a new Section 304.14 to read as follows:

Insect screens. Every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

- (j) *Section 305.1.1.* Amend by deleting the first sentence in the section in its entirety and adding a new first sentence to Section 305.1.1 to read as follows:

Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Residential Code*.

- (k) *Section 305.1.2.* Amend by adding a new Section 305.1.2 to read as follows:

Animal waste. The duty of occupants to maintain the interior of a structure in a clean and sanitary condition shall include, but not be limited to, keeping the interior clean of any animal carcasses or accumulation of waste, urine or other excrement and the prompt removal and approved disposal of carpet, flooring, sheetrock or other furniture, fixtures or building materials, which due to contamination or excessive soiling constitute a source of stench, bio aerosols, ammonia concentration or may contribute to the transmission of zoonotic disease. It shall be unlawful and an offense for the owner of the structure to fail or refuse to remove and dispose of said furniture, fixtures or building materials when so ordered by the Code Official, or when permitted by the Code Official, to fail or

refuse to seal contaminated or soiled concrete or other hard surface structural components.

(4) *Chapter 4, Light, Ventilation and Occupancy Limitations.*

- (a) *Section 401.3.* Amend by deleting the section in its entirety and adding a new Section 401.3 to read as follows:

Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *International Building Code* or the *International Residential Code* shall be permitted.

- (b) *Table 404.5.* Amend by deleting Table 404.5 in Section 404.5 in its entirety and adding a new Table 404.5 to read as follows:

TABLE 404.5 MINIMUM AREA REQUIREMENTS			
SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living Room	No requirements	120	150
Dining Room	No requirements	80	100
Bedrooms	Shall comply with Section 404.4		

(5) *Chapter 6, Mechanical and Electrical Requirements.*

- (a) *Section 602.3.* Amend by deleting the section in its entirety and adding a new Section 602.3 to read as follows:

Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68 degrees F (20 degrees C) in all habitable rooms, bathrooms and toilet rooms.

SECTION 2. 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 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

SECTION 5. That this ordinance shall take effect on June 1, 2017.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of April, 2017.

Stan Pickett
Mayor

ATTEST:

APPROVED:

Sonja Land
City Secretary



B. J. Smith
City Attorney