

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY DELETING SECTIONS 5-141 AND 5-142 IN THEIR ENTIRETY AND ADDING NEW SECTIONS 5-141, 5-142, 5-150 AND 5-151, THEREBY AMENDING REGULATIONS ADDRESSING THE CONSTRUCTION, MAINTENANCE AND STANDARDS FOR FENCES; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE THEREOF.

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

SECTION 1. That Chapter 5 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by deleting Sections 5-141 and 5-142 in their entirety and adding new Sections 5-141, 5-142, 5-150 and 5-151 to read as follows, in all other respects said Code and Chapter shall remain in full force and effect:

- (a) *Sec. 5-141.* Amend by deleting the section in its entirety and adding a new Section 5-141 to read as follows:

Sec. 5-141. Fence permit and fee required.

In the following circumstances, it shall be unlawful for any person to construct, replace, relocate or repair a fence on any lot, tract or parcel without having first obtained a fence permit from the building inspection offices and paying the fee in accordance with Section 5-20 of this chapter:

- (1) Construction of any fence over two feet in height;
 - (2) Replacement of a fence if replacing 50 percent or more of the fencing on the subject lot, tract or parcel;
 - (3) Repairs or replacements of a fence using different materials;
 - (4) Increasing the height of a fence if the increase results in a fence over two feet in height; or
 - (5) Any relocation of a fence.
- (b) *Sec. 5-142.* Amend by deleting the section in its entirety and adding a new Section 5-142 to read as follows:

Sec. 5-142. Construction on or over public property.

No fence, guy wires, braces or any part of such fence shall be constructed upon or caused to protrude over public property.

- (c) *Sec. 5-150.* Amend by adding a new Section 5-150 to read as follows:

Sec. 5-150. Maintenance and other standards.

Fences shall be maintained in compliance with the following standards:

- (1) Fences shall not lean and must be maintained in a vertical position. An exterior support shall not be used for vertical alignment of fences.
- (2) Fences, including posts, shall be maintained in sound structural condition or be removed.
- (3) Broken, damaged, removed or missing parts of a fence shall be replaced with the same material composition, size, shape and quality of the original fence to which the repair is being made. No person shall use materials not specifically allowed by Section 5-144 of this chapter, as provided therein, for repair of a fence.
- (4) All components of fences shall be properly installed and maintained in a state of good repair, in a safe, secure condition, and in a manner so as not to create a hazard. Fence components include but are not limited to braces, bolts, nails, screws, rivets and other fasteners, supporting frames, fastenings and pickets.
- (5) Fences shall be maintained free from deterioration, termite infestation, rot, rust damage and loosening, and shall be constructed in a manner capable of withstanding the wind pressure as required by other applicable provisions of this Code.
- (6) Except for signage required by a governmental entity, symbols, writings and graffiti are prohibited on fences. See additional regulations for signs on fences in Chapter 13, Section 13-72, "Prohibited Signs," of this Code.

- (d) *Sec. 5-151.* Amend by adding a new Section 5-151 to read as follows:

Sec. 5-151. Offense and enforcement.

- (a) A person commits an offense if the person is an owner, occupant or person in control of occupied or unoccupied premises in the City and the person fails to comply with the requirements for fences in this and other chapters of the Code of Ordinances of the City of Mesquite.
- (b) A person commits an offense if the person is an owner, occupant or person

in control of occupied or unoccupied premises in the City and the person fails to maintain and keep the area between the property line and fence free and clear of debris and high weeds.

- (c) In addition to criminal enforcement and other civil remedies, a fence in violation of this chapter constitutes a nuisance and is subject to the applicable provisions of Chapter 10 of this Code.

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 Five Hundred (\$500.00) 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 and be in force from and after five days after publication.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of July, 2018.

Stan Pickett
Mayor

ATTEST:

APPROVED:

Sonja Land
City Secretary


Paula Anderson
Interim City Attorney