

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 5 OF THE MESQUITE CITY CODE, AS AMENDED, BY DELETING SECTIONS 5-31 AND 5-32 IN THEIR ENTIRETY AND ADDING A NEW SECTION 5-19 THEREBY PROHIBITING REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS OR AESTHETIC METHODS USED IN THE CONSTRUCTION OR RENOVATION OF RESIDENTIAL OR COMMERCIAL BUILDINGS; PROVIDING A REPEALER CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Texas enacted H.B. No. 2439 to be codified in Title 10 of the Government Code, adding Subtitle Z. Miscellaneous Provisions Prohibiting Certain Governmental Actions, Chapter 3000. Governmental Action Affecting Residential and Commercial Construction; and

WHEREAS, the Mesquite City Code requires amendments because the Government Code now prohibits certain governmental actions relating to regulations adopted by local municipalities for the building products, materials, or aesthetic methods used in the construction or renovation of residential or commercial buildings.

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

SECTION 1. That Chapter 5 of the Mesquite City Code, as amended, is hereby amended by deleting Sections 5-31 and 5-32 in their entirety and adding a new Section 5-19 to read as follows, in all other respects said Code and Chapter shall remain in full force and effect:

Sec. 5-19. Certain regulations regarding building products, materials or aesthetic methods prohibited.

- (a) *Limits on use or installation of building products or materials of a residential or commercial building prohibited.* The City shall not adopt or enforce any ordinance or other regulation that prohibits or limits, directly or indirectly, the use or installation of a building product or material, approved for use by a national model code published within the last three code cycles, in the construction, renovation, maintenance or other alteration of a residential or commercial building.
- (b) *Standards for a building product, material or aesthetic method of a residential or commercial building prohibited.* The City shall not adopt or enforce any ordinance or other regulation that establishes a more stringent standard for a building product, material or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance or other alteration of a residential or commercial building.
- (c) *Terms defined.* For purposes of the application and enforcement of this section, the following terms are defined:
 - (1) *Building* is defined as any roofed structure used or intended to be used for the shelter or enclosure of persons, animals or property.
 - (2) *Other regulation* shall include, but not be limited to, building codes, charter provisions, manuals, orders, publications, resolutions and rules.

(d) *Exceptions.* This section does not apply to:

- (1) a program established by a state agency that requires particular standards, incentives or financing arrangements in order to comply with requirements of a state or federal funding source or housing program;
- (2) a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Insurance Code;
- (3) an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that:
 - a. is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark Sky Association as part of the International Dark Sky Places Program; or
 - b. applies to outdoor lighting within five miles of the boundary of a military base in which an active training program is conducted;
- (4) an ordinance or order that:
 - a. regulates outdoor lighting; and
 - b. is adopted under Subchapter B, Chapter 229, Local Government Code, or Subchapter B, Chapter 240, Local Government Code;
- (5) a building located in a place or area designated for its historical, cultural or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:
 - a. is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or
 - b. has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission.
 - c. If the City is not a municipality described by Subsection (5)a or (5)b, the City may adopt or enforce a regulation described by Sec. 5-19(a) and (b) that applies to a building located in a place or area designated on or after April 1, 2019, by the City for its historical, cultural or architectural importance and significance, if the City has the voluntary consent from the building owner.
- (6) a building located in a place or area designated for its historical, cultural or architectural importance and significance by a governmental entity, if designated before April 1, 2019;
- (7) a building located in an area designated as a historic district on the National Register of Historic Places;
- (8) a building designated as a Recorded Texas Historic Landmark;
- (9) a building designated as a State Archeological Landmark or State Antiquities Landmark;
- (10) a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity;
- (11) a building located in a World Heritage Buffer Zone;

- (12) a building located in an area designated for development, restoration or preservation in a main street city under the main street program established under Section 442.014; and
- (13) provisions regarding the installation of a fire sprinkler protection system under Section 1301.551(i), Occupations Code, or Section 775.045(a)(1), Health and Safety Code.
- (e) *Amendments to adopted building codes shall not conflict with this section.* City amendments made to an adopted building code amending a provision governing the construction, renovation, maintenance or other alteration of a residential or commercial building are permissible only if the amendment does not conflict with this section.
- (f) *Conflicts of law.* In the event of a conflict between any provision of the Mesquite City Code, Mesquite Zoning Ordinance or any other regulation adopted by the City of Mesquite and applicable federal or State law, federal or State law shall control.

State Law reference— Governmental action affecting residential and commercial construction, V.T.C.A. Government Code, § 3000.001 et seq.

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 this ordinance shall take effect and be in force immediately from and after the passage thereof.

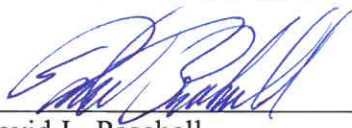
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th day of August 2019.

Stan Pickett
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary



David L. Paschall
City Attorney