

ORDINANCE NO. _____
Zoning Text Amendment No. 2021-07

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE, AS AMENDED, BY AMENDING PART 1A BY MAKING REVISIONS AND DELETIONS TO VARIOUS PARTS AND SECTIONS REGARDING THE MUNICIPAL ARBORIST AND APPEALS OF THE DECISIONS OF THE CITY’S ARBORIST; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE IN AN AMOUNT NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite, Texas (the “**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, 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, it is the intent of the City Council of the City (the “**City Council**”) to protect the public health, safety, and welfare; 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 September 27, 2021, the City’s Planning and Zoning Commission considered text amendments to the Mesquite Zoning Ordinance (“**MZO**”) and after having given proper public notice and holding a public hearing, the Planning and Zoning Commission recommended the City Council adopt the text amendments to the MZO as was first presented to the City Council on October 18, 2021; and

WHEREAS, the City Council gave public notice and held a public hearing regarding the proposed MZO text amendments on October 18, 2021; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the MZO as herein provided.

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

SECTION 1. The statements, facts, findings, and recitals contained in the preamble of this ordinance are hereby found and declared to be true and correct and are incorporated herein and adopted as part of this ordinance for all purposes.

SECTION 2. That the MZO, as amended, be and the same is hereby amended by making certain deletions and additions as identified in Exhibit A. The amended sections of the MZO shall now read as shown in Exhibit B. Said exhibits are attached hereto and made a part hereof, and in all other respects said MZO, parts, and sections shall remain in full force and effect.

SECTION 3. All ordinances, or portions thereof, of the City of Mesquite 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 not in conflict herewith, the same shall remain in full force and effect.

SECTION 4. Should any word, sentence, clause, paragraph, phrase or section of this ordinance be held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Mesquite Zoning Ordinance as a whole.

SECTION 5. 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 \$2,000.00 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 6. 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 18th day of October 2021.

Bruce Archer
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary


David L. Paschall
City Attorney

MESQUITE CITY CODE

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APPENDIX C – MESQUITE ZONING ORDINANCE

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

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

1A-200 - LANDSCAPE REQUIREMENTS

1A-201 - General landscape requirements.

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B. *Landscape plan required:*

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2. *Review and approval:* Landscape plans shall be reviewed by the ~~Municipal~~City's Arborist and shall be subject to Site Plan approval.

* * *

C. *Landscape installation:*

1. *Permitted materials:* Landscape materials shall consist of permanent turf, ground cover, seasonal color, shrubs and trees. . . .

* * *

Equivalent alternative plant materials may be approved by the ~~Municipal~~City's Arborist. Artificial plants may not be used as landscaping.

* * *

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

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1A-300 - SCREENING AND BUFFERING REQUIREMENTS

1A-301 - General screening and buffering requirements.

* * *

C. *Screening and buffering installation:*

1. *General:* If no other standard of installation is specified, the requirements of [1A-500](#) shall apply.
2. *Shrubs:* Shrubs installed to establish a required screening or buffering element shall be evergreen and shall be a minimum 5-gallon in size, approximately 3-feet in height at the time of planting, and planted at a maximum 3-feet on center, unless otherwise approved by the ~~Municipal~~ [City's](#) Arborist. Shrubs shall be selected from Section 1A-500-2 Shrub Schedule
3. *Parking screens:* Where a parking screen is required, a four (4) foot high solid screen shall be provided along the perimeter of the parking area to screen the view of the parking and to shield from headlight glare. . . .

* * *

Drought and freeze-resistant shrubs shall be used, including but not limited to Dwarf Burford Holly, Nellie R. Stevens Holly, Eleagnus, Wax Leaf Ligustrum, or other plants approved by the ~~Municipal~~ [City's](#) Arborist.

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1A-400 - TREE PRESERVATION

* * *

1A-402 - General provisions.

* * *

- D. *Protection during construction:* During any construction or land development, the developer or builder shall clearly mark all protected trees or groups of protected trees to be preserved. A fence shall be provided around the drip line of all protected trees. Such fence shall be four (4) feet in height with T-posts every eight (8) feet. The ~~Municipal~~ [City's](#) Arborist may approve other equivalent fencing materials. . . .

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1A-403 - Application to remove protected trees.

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A. *Submission, review and approval:*

1. *Tree removal in conjunction with development or building projects:* Whenever a construction project requires review and approval of a site plan, plat, or building permit, the application for tree removal shall be processed in conjunction with the site plan, plat, or building plan review, and the Director, Planning & Zoning Commission, and/or City Council shall have authority to approve tree removal in accordance with their respective authority to approve the site plan, plat, and/or building plan under consideration.
2. *Tree removal without construction/tree removal permit required:* When removal of a protected tree is proposed and the removal is not in conjunction with a construction project requiring review of a site plan, plat, and/or building permit, a Tree Removal Permit is required. Tree Removal Permit applications shall be reviewed by the ~~Municipal~~ City's Arborist, who shall approve or deny said application within twenty-one (21) days. The application for removal shall be deemed automatically granted if not denied on or before the close of business on the twenty-first (21st) day following the date the application was accepted. Unless otherwise stated on the permit, the tree(s) for which the Tree Removal Permit has been issued must be removed within one hundred eighty (180) days of the issuance of the permit. The ~~Municipal~~ City's Arborist may waive submission requirements if less information is required to evaluate the situation and make a determination. Decisions of the ~~Municipal~~ City's Arborist may be appealed to the ~~Tree Board~~ Board of Adjustment in accordance with 5-210 (Appeals of administrative decisions to Board of Adjustment); ~~Decisions of the Tree Board may be appealed to the City Council whose decision shall be final.~~

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- C. ~~Municipal~~ City's *Arborist review:* An application meeting the requirements set out in subsection B, above must be submitted to the ~~Municipal~~ City's Arborist for evaluation and recommendation prior to approval of any site plan, any preliminary plat for a residential subdivision, or any building permit application other than single-family residential permits. Such site plan, plat or application shall not be accepted for processing without a report from the ~~Municipal~~ City's Arborist, unless more than fourteen (14) days has passed and there is no report from the Arborist. The report from the ~~Municipal~~ City's Arborist shall make a recommendation regarding the protection and/ or removal of the protected trees. If the applicant represents that there are no protected trees on a property, the ~~Municipal~~ City's Arborist shall confirm that fact.

* * *

- E. *Mitigation:* When it is deemed necessary to approve an application for protected tree removal, a replacement tree or trees shall be required to be planted on the property where the trees are removed in accordance with the following guidelines. The authority approving removal may stipulate other or lesser replacement requirements after considering the following: the size, value, and other features of trees to be removed; related on-site landscaping, trees, and vegetation; property use, visibility and relationships; and other similar factors. In circumstances where space is limited, tree mitigation can be in the form of a fee in lieu of replacement upon approval of the ~~Municipal~~ City's Arborist. Fee in lieu of shall be paid for at a rate to be established by the City Council and shall be placed in a Park Improvement Fund. The Director of Parks and Recreation shall administer the Park Improvement Fund to fund landscape improvements, reforestation, and the improvement of parkland projects.

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1A-500 - PLANT SCHEDULES

For the purposes of satisfying the Landscaping and Screening Requirements in [Section 1A-200](#) or requirements in other sections of this Code, plant materials shall be selected from the Tables listed in this section. Alternatives to species listed in this section may be permitted with approval from the ~~Municipal~~ [City's](#) Arborist. Trees shall be planted per utility spacing requirements.

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MESQUITE CITY CODE

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