

ORDINANCE NO. 1685

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 10 OF THE CODE OF THE CITY OF MESQUITE REGULATING THE PARKING IN SPACES RESERVED FOR THE HANDICAPPED, AND PROVIDING CERTAIN DEFINITIONS AND DEFENSES; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) UPON CONVICTION AND DECLARING AN EMERGENCY.

WHEREAS, certain business establishments have provided specially marked parking spaces for the handicapped in locations convenient for such handicapped persons; and,

WHEREAS, the City of Mesquite has determined that regulation of such parking spaces is necessary to assure the maximum effectiveness of such spaces for those in need thereof;

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

SECTION 1. Chapter 10 of the Code of the City of Mesquite is hereby amended by providing a new Section 10-56.1 to read as follows; in all other respects to remain in full force and effect:

That no person except those defined herein as "handicapped" shall park a motor vehicle, bicycle, trailer or other vehicle in a parking space when such space is marked or signed as reserved for the handicapped or in any wise bearing a legend or representation pertaining to handicapped persons; provided however, that this act shall not apply to lawfully authorized emergency vehicles during an emergency or to vehicles actually being used to effect the repair of a vehicle immediately adjacent to such reserved space such as wreckers or tow vehicles during actual hookup or vehicles supplying electrical power for the purpose of starting another vehicle during such starting operation.

SECTION 2. The term "handicapped" for the purpose of this ordinance shall mean those persons visibly apparent to be handicapped such as those in wheel chairs or using artificial support such as crutches, canes or "walkers" or of a physical condition wherein walking would obviously be rendered difficult. Provided, however, that proof in court of a non-apparent physical ailment that, in the determination of trier of fact, would render walking a greater distance painful or hazardous to the health of the individual shall be a defense to prosecution. Proof of age over seventy (70) years shall be prima facie evidence of such fact subject to rebuttal by the State as in other cases.


The term handicapped, for the purpose of this ordinance , shall also include a person in actual attendance upon a handicapped person defined herein for the purpose of assisting such handicapped person in traveling from such parking place to the business establishment providing such parking space but shall be limited to those situations wherein the handicapped person actually requires assistance.

SECTION 3. Should any word, phrase, sentence, paragraph or section of this ordinance be held to be invalid or unconstitutional, the remaining provisions shall not be affected because of such invalidity or unconstitutionality.

SECTION 4. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed to be guilty of a misdemeanor, and upon conviction in the Municipal Court, shall be subject to a fine not to exceed Two Hundred Dollars (\$200.00).

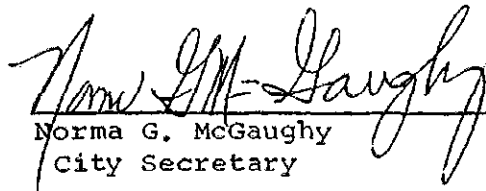
SECTION 5. The fact that the present ordinance of the City of Mesquite fail to regulate parking in spaces reserved for the handicapped creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from its passage and publication as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of April, A.D., 1981.

  
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B. J. SMITH  
MAYOR

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Norma G. McGaughy  
City Secretary

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Elland Archer  
City Attorney