

ORDINANCE NO. 1794

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS,
PROHIBITING THE MAINTAINING OF NUISANCES ON
PRIVATE PROPERTY AND IMPOSING A DUTY OF MAIN-
TAINING PRIVATE PROPERTY; PROVIDING A SEVER-
ABILITY CLAUSE; PROVIDING A PENALTY CLAUSE;
AND DECLARING AN EMERGENCY.

WHEREAS, the City of Mesquite has determined that it is the duty of individual property owners to maintain their property free and clear of material constituting a nuisance; and

WHEREAS, it is the policy of the City of Mesquite to protect the property value of property owners of the City of Mesquite; and

WHEREAS, it has been determined that the maintenance of a nuisance defined herein will be harmful to the health safety and welfare of the inhabitants of the City and adversely affect the tax base of the City.

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

SECTION 1. Definition of "Nuisance". For the purpose of this Ordinance, the term nuisance is defined to mean the maintenance of a premises in an unhealthy, unsanitary or grossly unsightly condition as to constitute a substantial deterioration of property values in the neighborhood or render living conditions in the neighborhood unsuitable over a prolonged period. Maintenance of a premises in an unhealthy, unsanitary or grossly unsightly condition may include one or more of those conditions presently prohibited elsewhere in the City Code, singly or in combination thereof or in combination with any of the conditions expressed herein, to wit:

The storage outside of an enclosed structure of furniture other than furniture designed for outside use; household items, products of a commercial trade or business enterprise, whether such items are so used or not; items of salvage such as scrap metal, rags, papers, bottles, cans and similar items; lumber and building materials not currently being used or held for immediate use upon the premises and inoperable, unused or unsightly vehicles, motorized or otherwise.

Such term shall further include a delapidated condition of a structure, including fences, that although functional, creates an unsightly condition that substantially detracts from the appearance of the neighborhood.

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The term "prolonged period" absent unusual circumstances shall generally mean thirty (30) days but shall, in no event be less than seven (7) days after notice of the existence of such condition. When a condition has existed in excess of thirty (30) days and has existed seven (7) days after notice, such fact shall be prima facie evidence that such condition has existed for a "prolonged period" but shall be rebuttable upon showing by a defendant of reasonable circumstances necessitating a greater period such as weather conditions or the complexity or magnitude of the repairs to be made or the work to be performed to rectify a condition.

SECTION 2. Duty to Determine. Upon becoming aware of conditions set forth herein the official designated by the City Manager shall, based upon the criteria set forth above make a determination whether or not the conditions and circumstances constitute a nuisance as herein defined and if it is determined that the conditions, if not abated, will constitute a nuisance, said official shall give notice to the owner, tenant or person in control of said premises, or an agent thereof to remedy such condition within seven (7) days. Provided, however, that such determination shall not be binding upon the Court, but the Court shall determine, upon trial, the existence or non-existence of a nuisance according to the criteria established herein.

SECTION 3. Duty of Maintenance of Private Property. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing a substantial diminution in the value of the other property in the neighborhood in which such premises are located.

SECTION 4. Enforcement of Ordinance. Enforcement of this Ordinance may be accomplished by the City in any manner authorized by law, and in addition, any person who by reason of another's violation of any provision of this Ordinance, suffers special damage to himself different from that suffered by other property owners throughout the City generally, may bring an action to enjoin or otherwise abate an existing violation.

SECTION 5. Severability Clause. That if any section, part of a section or provision of any section of this Ordinance shall be held to be void, ineffective, or unconstitutional by a court of competent jurisdiction, the holding of such section, part of a section, or provision of any section to be void, ineffective or unconstitutional for any cause whatsoever shall in no way affect the validity of the remaining sections and provisions of the Ordinance which shall remain in full force and effect.

SECTION 6. Penalty Clause. That any person, firm or corporation violating any of the provisions of this Ordinance shall be fined a sum not to exceed Two Hundred Dollars (\$200.00) and each day's violation thereof shall constitute a separate offense.

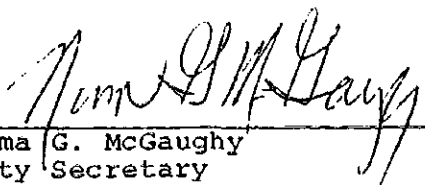
SECTION 7. Emergency Clause. The fact that the ordinances of the City of Mesquite do not provide for the protection of the property values of the property owners of the City of Mesquite as set out in this ordinance creates an urgency and an emergency and in the preservation of the public health, safety and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance as the law and charter in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 6th day of July, A.D., 1982.


LEN GIBBENS
MAYOR

ATTEST:

APPROVED AS TO FORM:


Norma G. McGaughy
City Secretary

Elland Archer
City Attorney

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