

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, ESTABLISHING A RESIDENTIAL LANDLORD AND TENANT ORDINANCE; PROVIDING FOR DEFINITIONS; PROVIDING FOR LICENSE REQUIRED, TRADE NAME REGISTRATION; PROVIDING FOR LICENSE APPLICATION, PLACE OF BUSINESS, ISSUANCE, RENEWAL AND EXPIRATION; PROVIDING FOR FEES; PROVIDING FOR LICENSE DISPLAY, REPLACEMENT, AND NON-TRANSFERABILITY; ESTABLISHING APPOINTMENT, POWERS AND DUTIES OF BUILDING OFFICIAL; PROVIDING FOR MINIMUM STANDARDS, RESPONSIBILITIES OF LANDLORD; PROVIDING FOR RESPONSIBILITIES OF TENANT; PROVIDING FOR REPAIR DUTIES; PROVIDING FOR NOTICE REQUIREMENTS; PROVIDING FOR AFFIRMATIVE DEFENSES; PROVIDING FOR RENTAL AGREEMENT, DISCLOSURE, ADMINISTRATIVE RESPONSIBILITIES; PROVIDING FOR RETALIATORY EVICTION CLAUSE; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY CLAUSE AND DECLARING AN EMERGENCY:

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

SECTION 1. DEFINITIONS

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Actor" means a person identified in a complaint as having committed an offense under this ordinance or whose criminal responsibility is in issue in a criminal action.

(b) "Bathroom" means an enclosed space containing one or more bathtubs, showers, or both, and which may also include toilets, lavatories, or fixtures serving similar purposes.

(c) "Floor Space" means the total area of all habitable space.

(d) "Habitable Space" means the space occupied by one or more persons while living, sleeping, eating, and cooking, excluding kitchenettes, bathrooms, toilet rooms, laundries, pantries, dressing rooms, closets, storage spaces, foyers, hallways, utility rooms, heater rooms, boiler rooms and basement or cellar recreation rooms.

(e) "Kitchen" means a space, sixty (60) square feet or more in floor area with a minimum width of five (5) feet, used for cooking or preparation of food.

(f) "Kitchenette" means a space, less than sixty (60) square feet in floor area, used for cooking or preparation of food.

(g) "Owner" means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to:

- 1) Holder of fee simple title;
- 2) Holder of life estate;

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- 3) Holder of a leasehold estate for an initial term of five years or more;
- 4) The buyer in a contract for deed;
- 5) A mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

(h) "Plumbing Fixtures" include gas pipes, water pipes, toilets, lavatories, sinks, laundry tubs, dishwashers, garbage disposals units, clothes washing machines, catch basins, wash basins, bathtubs, shower baths, sewer pipes, sewage systems, septic tanks, drains, vents, traps, and other fuel burning or water using fixtures and appliances, together with all connections to pipes.

(i) "Property Manager" means a person who for compensation has managing control of real property for owner.

(j) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(k) "Person" includes an individual, corporation, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(l) "Resident Manager" means a property manager or agent of a property manager who resides in an apartment building.

(m) "Dwelling Unit" means a structure or that part of a structure which is used as a home, residence or sleeping place by one or by two or more persons, maintaining a common household, to the exclusion of all others.

(n) "Premises" means a lot, plot, or parcel of land, including any structure thereon, and furthermore, including a dwelling unit, appurtenances thereto, grounds and facilities held out for the use of tenants generally and any other area or facility whose use is promised to the tenant.

(o) "Apartment Building" means any structure containing four or more dwelling units.

(p) "Apartment Complex" means one or more adjacent apartment buildings which are under common ownership and management.

(q) "Rental Agreement" means and includes all written agreements, which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit in an apartment building.

(r) "Landlord" means the owner, property manager or resident manager of an apartment building or any other person held out by any owner or property manager as the appropriate person with whom the tenant normally deals with concerning the rental agreement or apartment building.

(s) "Tenant" means any person who occupies a dwelling unit in an apartment building for living or dwelling purposes with the landlord's consent.

(t) "Lender" means any person who holds a mortgage, deed of trust or any other security interest in the premises.

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SECTION 2. LICENSE REQUIRED; TRADE NAME REGISTRATION

(a) No person shall maintain, conduct, operate, or rent a dwelling unit in an apartment complex for compensation within the city, or act as agent for another who is renting dwelling units in an apartment complex without first obtaining an apartment license from the Building Official. Should a person own or maintain an apartment complex at more than one location, a duplicate license is required for each additional location. The license issued to an owner authorizes such owner and its bona fide agents or employees to rent dwelling units to tenants.

(b) An owner shall register with the Building Official the trade name of his apartment complex and shall not use or permit to be used more than one trade name at a single location.

SECTION 3. LICENSE APPLICATION, PLACE OF BUSINESS, ISSUANCE, RENEWAL AND EXPIRATION

(a) An applicant for a license shall file with the Building Official a written application upon a form provided for that purpose, which shall be signed by the owner and his property manager. Should an applicant own an apartment complex at more than one location, a separate application must be filed for each location. The following information shall be required in the application:

Name, primary address, telephone number of the owner, property manager, resident manager and lender and the street address of the apartment building, and if incorporated, the name of the registered agent on file with the Secretary of State.

(b) All apartment complexes now in operation must apply for a permit within 60 days after the effective date of this ordinance.

(c) The apartment complex licenses expire on the 31st day of May of each year.

(d) The Building Official may, at any time, require additional information of the owner or property manager to clarify items on the application.

(e) When the resident manager of an apartment complex is changed, notice of such change together with name, address and telephone number of new agent shall be provided to the Building Official within ten (10) days.

SECTION 4. FEES

The annual fee for an apartment complex license is \$50.00 for the first location and \$25.00 for a duplicate license for each additional location. The fee for license issued during the year will be prorated on the basis of whole months. The fee for issuing a replacement for one lost, destroyed or mutilated is \$10.00. The fee is payable to the City of Mesquite upon issuance of the license. No refund of a license fee will be made.

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SECTION 5. LICENSE, DISPLAY, REPLACEMENT, AND TRANSFERABILITY

(a) Each license issued pursuant to this ordinance together with a copy of this ordinance must be posted, displayed and kept in three (3) conspicuous places in the apartment complex to which the tenant has access.

(b) A replacement license may be issued for one lost, destroyed or mutilated upon application on the form provided by the Building Official. A replacement license shall have the word "replacement" stamped across its face and shall bear the same number as the one it replaces.

(c) An apartment complex license is not assignable or transferable.

(d) An owner or property manager shall notify the Building Official within ten (10) days of a change or partial change in ownership, lender or management of the apartment complex or a change of address or trade name.

SECTION 6. APPOINTMENT, POWERS AND DUTIES OF BUILDING OFFICIAL

(a) The Building Official is hereby designated as the administrator of this ordinance.

(b) In addition to the powers and duties previously prescribed for the Building Official, as administrator of the ordinance he is required to:

- 1) Administer and enforce all provisions of this ordinance.
- 2) Keep records of all licenses issued.
- 3) Adopt rules and regulations, not inconsistent with the provisions of this ordinance, with respect to the form and content of application for licenses, the investigation of applicants, and other matters incidental or appropriate to his powers and duties as may be necessary for the proper administration and enforcement of the provisions of this article; and
- 4) Conduct, on his own initiative, periodic investigations of apartment buildings throughout the city concerning their compliance with this article.

SECTION 7. MINIMUM STANDARDS; RESPONSIBILITIES OF LANDLORD

(a) Property standards. A landlord shall:

- 1) Eliminate a hole, excavation, sharp protrusion, and other objects or conditions that exist on the premises and is reasonably capable of causing injury to a person;
- 2) Securely cover or close a well, cesspool, or cistern;
- 3) Provide an adequate number of solid waste receptacles or containers on the premises;
- 4) Provide drainage to prevent standing water and flooding on the land;
- 5) Remove dead trees and tree limbs that are reasonably capable of causing injury to a person;

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- 6) Keep the doors and windows of a vacant dwelling unit or vacant portion of an apartment building securely closed to prevent unauthorized entry; and
 - 7) Keep all areas of the building, grounds, facilities and appurtenances in a clean and sanitary condition.
- (b) Structural standards. A landlord shall:
- 1) Protect the exterior surfaces of a structure which are subject to decay by application of paint or other coating;
 - 2) Provide and maintain railings for stairs, steps, balconies, porches, and elsewhere as specified in the Mesquite Building Code;
 - 3) Repair holes, cracks, and other defects reasonably capable of causing injury to a person in stairs, porches, steps and balconies;
 - 4) Maintain a dwelling unit or apartment building in a weather-tight and water-tight condition;
 - 5) Maintain floors, walls, ceilings and all supporting structural members in a sound condition, capable of bearing imposed loads safely.
 - 6) Repair or replace chimney flue and vent attachments that do not function properly;
 - 7) Repair holes, cracks, breaks, and loose surface materials that are health or safety hazards in or on floors, walls, and ceilings.
- (c) Utility standards. A landlord shall:
- 1) Provide and maintain in working order connections to discharge sewage from a structure or land into a public sewer system;
 - 2) Provide and maintain in working order a toilet connected to a water source and to a public sewer in each dwelling unit;
 - 3) Provide and maintain in working order connections and pipes to supply potable water at adequate pressure to a dwelling unit;
 - 4) Provide and maintain a device to supply hot water of a constant minimum temperature of 120 degrees Fahrenheit within each dwelling unit;
 - 5) Provide, connect and maintain in working order a kitchen sink, bathtub or shower and lavatory to a cold and hot water source in a dwelling unit;
 - 6) Connect plumbing fixtures and heating equipment that the owner supplies in accordance with the Mesquite Plumbing Code and Mesquite Mechanical Code;
 - 7) Provide heating equipment capable of maintaining a minimum inside temperature of 68 degrees Fahrenheit in each room of a dwelling unit;
 - 8) Provide and maintain air conditioning equipment capable of maintaining a maximum inside temperature of 78 degrees Fahrenheit with an outside temperature of 98 degrees Fahrenheit;
 - 9) Provide and maintain supply lines for electrical service to each dwelling unit;
 - 10) Connect each heating device that burns solid fuel to chimney or flue;

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- 11) Provide and maintain electrical circuits and outlets sufficient to safely carry a load imposed by normal use of appliances and fixtures;
 - 12) Maintain all electrical, plumbing, heating and other facilities supplied by Owner in good working condition at all times; and
 - 13) Pay all utility bills on time to prevent all cut-off of utilities by utility companies.
- (d) Health standards. A Landlord shall:
- 1) Eliminate rodents and vermin in or on the land;
 - 2) Maintain the interior of a vacant structure or vacant portion of a structure free from rubbish and garbage;
 - 3) Keep the interior of a vacant structure or vacant portion of a structure free from insects, rodents and vermin; and
 - 4) Provide and maintain appropriate receptacles and conveniences for the removal of ashes, rubbish, garbage and any other waste material and to arrange for frequent removal of such waste materials
- (e) It is a defense to prosecution under Subsection (a) of this section that the premises concerned is the site of new construction and reasonable and continuous progress is being made to complete the construction.

SECTION 8. RESPONSIBILITIES OF TENANT

- (a) A Tenant shall:
- 1) Maintain the interior of a dwelling unit occupied by tenant free from rubbish and garbage;
 - 2) Remove an animal or animals from a dwelling unit if the presence of the animal or animals is a health hazard to a tenant;
 - 3) Connect plumbing fixtures and heating equipment that the tenant supplies in accordance with the Mesquite Plumbing Code and the Mesquite Mechanical Code;
 - 4) Place all ashes, rubbish, garbage and any other waste material in the appropriate receptacles provided for same by said landlord;
 - 5) Not alter a structure or its facilities so as to create a nonconformity with Section 7 of this ordinance;
 - 6) Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, and other facilities and appliances including elevators in the premises;
 - 7) Not deliberately or intentionally destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so;
 - 8) Conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors peaceful

enjoyment of the premises. For purposes of this ordinance, such unpermitted conduct includes, but is not limited to, any loud playing of music, television, radio, instrument or any other mechanical device.

- 9) When vacating the apartment, remove all trash and debris or risk the loss of a portion of the security deposit.

SECTION 9. REPAIR DUTIES

(a) The landlord has the duty to furnish and maintain premises in accordance with the standards enumerated in Section 7 of this ordinance. In addition, the landlord shall at all times during the occupancy of a tenant make all repairs necessary to keep and maintain the premises in accordance with the standards provided for in Section 7 hereof.

(b) The landlord shall provide to all tenants an emergency telephone number which is answered at all times during night or day.

(c) Upon notice by the tenant in writing of any defective condition in the premises or dwelling unit in noncompliance with the standards stated in Section 7, the landlord shall repair such condition within a reasonable period of time. If the landlord fails to complete such repairs within seven days, the tenant may file a complaint in writing to the Building Official for enforcement of the ordinance. The Building Official shall establish a time in which the repair must be completed based upon the nature of repair and the difficulty involved and shall issue a citation if the defect is not corrected within such reasonable time.

(d) In emergency situations, tenant shall notify the landlord immediately by way of the emergency telephone number. For purposes of this ordinance, "emergency situations" are defined as a stopped up commode, overflowing bathtub or sink, broken pipes, leaking roof, emergency electrical malfunction or other situations having immediate adverse effects on the health or safety of the tenant or his/her property. Upon notification, the landlord shall respond immediately and furnish assistance to the tenant within one (1) hour from such notification where possible.

SECTION 10. NOTICE REQUIREMENTS

(a) A person "notifies" or gives a notice" or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when (1) it comes to his attention, or (2) in case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at any place held out by him as the place for receipt of the communication or in the case of the tenant it is delivered in hand to the tenant or mailed by registered or certified mail to him at the place held out by him as the place for receipt of the communication or in the absence of such designation, to his last known place of residence.

(b) A tenant may not file a complaint with the Building Official under the terms of this ordinance until seven (7) days have elapsed following written notice to the manager.

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SECTION 11. AFFIRMATIVE DEFENSES

Notwithstanding all other sections of this ordinance, it will be an affirmative defense to a complaint if the defendant landlord or tenant is able to establish that:

- (a) The non-complying condition described in the complaint was repaired within the prescribed time limits set forth in Section 9 of this ordinance.
- (b) The non-complying condition was repaired within the time limits established by the Building Official, or that the period for repair was reasonable due to circumstances beyond the control of the landlord;
- (c) The required notice in Section 10 of this ordinance was not provided;
- (d) The non-complying condition was caused by the deliberate or intentional conduct of the complaining party;
- (e) The non-complying condition could have been corrected but for the tenant's refusal to permit access to his apartment.

SECTION 12. RENTAL AGREEMENT, DISCLOSURE, ADMINISTRATIVE RESPONSIBILITIES

- (a) A landlord shall disclose to the tenant by properly posting in the office the name and address of:
 - 1) Each property manager and resident manager;
 - 2) The management company responsible for the operation of the company.
- (b) A landlord shall leave notice of entry whenever it is necessary to enter an apartment without the specific permission of the tenant. Such notice shall include date, time, purpose and the person who has entered the apartment unit.
- (c) A landlord shall distribute to all tenants a copy of this ordinance describing the rights and responsibilities of the tenants and shall keep a log book with name, date and signature of person receiving same, for a period of one year for Official use by City.

SECTION 13. RETALIATORY EVICTION

A landlord shall not retaliate against a tenant by increasing rent or cutting off utilities, or evict the tenant from the premises because:

- 1) The tenant has made a complaint to the Building Official about conditions in the apartment or dwelling unit which might not be in compliance with the health, housing or fire codes of this ordinance, and which conditions materially affect the health and safety of the tenant, and the condition was not caused by the tenant;
- 2) The tenant makes a general complaint to the landlord about violation of his rights under this ordinance;
- 3) The tenant files a complaint against landlord under this ordinance.

Even if the tenant claims "retaliation," the landlord may still evict him or her if:

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- 1) The rent is overdue;
- 2) There are code violations caused by the tenant or his or her visitor;
- 3) The tenant is damaging property, disturbing the peace, or using the apartment for illegal purposes.

SECTION 14. PENALTIES

(a) Any person violating any provision of this ordinance shall, upon conviction thereof, be subject to a fine of not less than Fifty Dollars (\$50.00) and not more than Two Hundred Dollars (\$200.00).

(b) After notice, a person who knowingly continues to violate a provision of this ordinance, or fails to perform an act required of him by this ordinance, commits an offense, and upon conviction thereof, shall be fined not less than Fifty Dollars (\$50.00) and not to exceed Two Hundred Dollars (\$200.00). A person commits a separate offense each day or portion of a day during which a violation occurs or continues.

SECTION 15. SEVERABILITY

If any section, paragraph, sub-division, clause or phrase of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not effect the validity of this ordinance as a whole or any part of any provision thereof other than the part so decided to be invalid or unconstitutional.

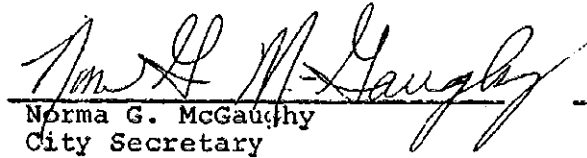
SECTION 16. The fact that the present ordinances are not adequate to regulate the rental of apartment units creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th of December, A.D., 1983.


Mrs. Brunhilde Nystrom
Mayor

ATTEST:

APPROVED AS TO FORM:


Norma G. McGaughey
City Secretary

Elland Archer
City Attorney

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