

ORDINANCE NO. 2262

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS AMENDING CHAPTER 9A.2-1, OF THE CODE OF THE CITY OF MESQUITE BY ADOPTING THE 1985 EDITION OF THE UNIFORM HOUSING CODE WITH CERTAIN RIGHTS TO AND PROCEDURES FOR APPEAL, PROVIDING FOR APPOINTMENT OF A BOARD OF APPEALS, PROVIDING CERTAIN MINIMUM STANDARDS FOR HOUSING IN THE CITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 9A.2-1, of the Code of the City of Mesquite, Texas is hereby amended effective January 1, 1986 as follows, in all other respects to remain in full force and effect.

A. Section 9A.2-1. is hereby amended by changing the phrase Uniform Housing Code, "1982" Edition to Uniform Housing Code "1985" Edition.

SECTION 2. Amendments and Deletions. To the extent that certain amendments and deletions are provided herein, same shall modify and amend the text of the attached copy of the Uniform Housing Code and be physically inserted therein.

1. Section 201(c). The following language is added to Section 201 (c). Nothing contained in this Section shall be construed to impair the validity of existing contracts. Culpability under existing contracts shall be measured by right of control. All contracts entered into after the effective date of this Act shall be subject to the public policy established herein with regard to the right of owner to contract away his right of control to comply with this provision.

2. Section 202. Section 202 is hereby deleted and a new section is added as follows:

All buildings or portions thereof which are determined to be substandard as defined in this code are declared to be prima facie public nuisances to the extent of such substandard condition, subject to rebuttal as in other cases, and shall be abated by repair, rehabilitation, demolition or removal, in accordance with the procedure provided in this Code.

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3. Section 203. The next to the last sentence of Section 203 is deleted.

4. Section 901. The following language is added to Section 901;

"Subject to such legal non-conforming uses as may otherwise be provided."

5. Section 1001(a). The following language is added to Section 1001(a):

"To such extent".

6. Section 1103(a)1. is hereby amended to read as follows:

"1. Any building declared a substandard building under this ordinance shall either be repaired to the extent that it is not substandard or be demolished, at the option of the owner."

"In determining whether such building has been repaired to the extent that it is no longer substandard, the reviewing authority shall take into consideration the area in which the structure is located, the quality of other structures in the area, the date constructed and the requirements then in effect as well as the degree of permanency of the use of the structure. Based upon the foregoing criteria and the probable usefulness of the structure, the reviewing authority shall determine to what degree the structure is to be repaired or modified toward meeting current standards. Cost versus utility shall not be the determining factor but may be given consideration in a proper case. It is not the intent of this ordinance that such substantial and costly renovation be required where not required for human safety, so as to perpetuate older type structures and, in proper instances, the reviewing authority may approve repairs or modifications constituting less than total compliance or repairs of less than usual duration where the perpetuation of the existing structure would not be in the interest of the City."

7. Chapters 12, 13, 14, 15 and 16 are deleted.

8. A new Chapter 14 is hereby adopted to read as follows:

Section 1401(a). Any party aggrieved by any order of the Building Official hereunder, prior to the expiration of the period for compliance in said order, may appeal said Order to a board to be appointed by the City Council for hearing such appeals by giving written notice to the Building Official of such appeal.

Upon receipt of said written notice of appeal, the Building Official shall advise the hearing board and obtain a hearing date for a time not less than ten (10) days after written notice is mailed to the appellant. Appellant shall be notified by the Building Official of said hearing date by certified mail, return receipt requested.

Upon appearance of the parties on the hearing date, the hearing board shall advise the parties of the rules of procedure adopted by the board as provided by law and shall proceed to swear witnesses and to take testimony. The rules of evidence and procedure shall be generally that employed by other boards and commissions of the City and the City Council when sitting as a fact finding body and may be modified or supplemented by the board from time to time by majority vote.

Upon close of evidence, the hearing board shall proceed to a decision as expeditiously as possible and cause same to be reduced to writing, a copy of which shall be furnished to the appellant.

Where constitutional right of appeal lies to the Courts, any property owner desiring to avail himself of such appeal shall do so within thirty (30) days from the date of the hearing board's decision or such decision shall become final and the Building Official shall proceed with enforcement.

Except in cases where vacation orders are made to protect the immediate safety and welfare of the inhabitants, any order appealed hereunder shall be stayed until such appeal is decided, but shall not be stayed after decision and pending appeal in the courts except on proper order of such court.

9. Wherever the terms "Housing Advisory and Appeals Board" and "Board of Appeals" are used in the Uniform Housing Code same shall mean the Board appointed by the City Council for such purposes and designated Board of Appeals currently established as the Building Code Board of Appeals.

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 (\$200.00) dollars for each offense.

SECTION 5. The fact that the present ordinances of the City of Mesquite fail to provide a minimum standard for existing housing 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 by the City Council of the City of Mesquite, Texas, on the 16th day of December, A.D., 1985.

Mrs. Brunhilde Nystrom

Mrs. Brunhilde Nystrom
Mayor

ATTEST:

APPROVED AS TO FORM:

Lynn Prugel

Lynn Prugel
City Secretary

Elland Archer
City Attorney

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