

ORDINANCE NO. 2681

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE PROVISIONS OF CITY OF MESQUITE ORDINANCE NO. 2652 BY SUSPENDING THE PARTS OF SAID ORDINANCE RELATING SPECIFICALLY TO SENSITIVE SAFETY FUNCTION EMPLOYEES; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, substance abuse procedures set forth in City of Mesquite Ordinance No. 2652 include provisions which were mandated by Urban Mass Transportation Administration (UMTA); and

WHEREAS, in *Amalgamated Transit Union, et al v. Skinner*, 894 F.2nd 1362 (D.C. Cir. 1990) the Court found that UMTA did not have the authority to impose drug testing requirements on local transit authorities; and

WHEREAS, the employees affected by the UMTA requirements, incorporated into Ordinance No. 2652, are covered by the substance abuse policies and procedures set forth in Ordinance No. 2652 with or without the UMTA requirements; and

WHEREAS, because of the decision of the Federal Appeals Court, the suspension of the procedures set forth in Ordinance No. 2652, relating specifically to employees affected by the UMTA requirements, will preclude possible conflicts and complications which could result should the City's procedures continue to include the rules which the Court held UMTA had no right to impose;

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

SECTION 1. That City of Mesquite Ordinance No. 2652 be and is hereby amended by suspending the provisions of the Ordinance that relate to Sensitive Safety Function Employees, specifically:

- 1) The definition of Sensitive Safety Function in Section 2 part 2 of the Ordinance.
- 2) Parts e, f, and h within part 6, CURRENT EMPLOYEE TESTING, of Section 2 of the Ordinance.
- 3) Any other reference to Sensitive Safety Function positions or employees.

These provisions shall be suspended until action reinstating such provisions is taken by the City Council.

SECTION 2. That should any word, sentence, clause, paragraph, or provision of this ordinance be held to be invalid or unconstitutional, the remaining portions of this ordinance shall remain in full force and effect.

SECTION 3. The fact that the present ordinances of the City of Mesquite do not adequately protect the public interest, comfort, and welfare of the City of Mesquite, creates an urgency and 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 as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 2nd day of July, 1990.

George A. Vencer, Sr.
George A. Vencer, Sr.
Mayor

ATTEST:

Lynn Prugel
Lynn Prugel
City Secretary

APPROVED:

B.J. Smith
B.J. Smith
City Attorney

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