

ORDINANCE NO. 2657

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE CODE OF THE CITY OF MESQUITE, TEXAS, BY ADDING A NEW CHAPTER 7A ESTABLISHING FAIR HOUSING REGULATIONS; PROVIDING FOR INVESTIGATION AND CONCILIATION; PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED (\$200.00) DOLLARS FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That the Code of the City of Mesquite is hereby amended by adding a new Chapter 7A to read as follows, in all other respects said code and chapter to remain in full force and effect:

CHAPTER 7A

FAIR HOUSING

Sec. 7A-1. Declaration of Policy.

It is the policy of the City of Mesquite to bring about through fair, orderly and lawful procedures the opportunity for each person to obtain housing without regard to race, color, sex, religion, handicap, familial status, or national origin. This policy is grounded upon a recognition of the right of every person to have access to adequate housing of that person's choice, and the denial of this right because of race, color, sex, religion, handicap, familial status, or national origin, is detrimental to the health, safety and welfare of the inhabitants of this city and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent.

Sec. 7A-2. Definitions.

As used in this ordinance:

- A. "Administrator" means the individual serving as the fair housing administrator, and includes the assistants, agents, or employees designated by the administrator.
- B. "Actor" means a person identified in a complaint as having committed an offense under this ordinance.
- C. "Age" refers to persons of all ages including minors living with parent or guardian.
- D. "Discriminatory housing practice" means any act that is unlawful under the terms of this ordinance.

- E. For the purpose of this chapter only, "Family" includes a single individual.
- F. "Housing accommodation" means premises that are occupied or designed or intended to be occupied by a family as a residence, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- G. "Minor" shall be as defined by the laws of the State of Texas.
- H. "Person" means an individual, family, corporation, or agency trust, partnership, or two or more persons having a joint or common economic interest.
- I. "To rent" means to lease, sublease, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

Sec. 7A-3. Discriminatory Housing Practices.

- A. It shall be unlawful on the basis of race, color, sex, religion, handicap, familial status, or national origin to:
 - (1) Refuse to sell or rent to any person, a housing accommodation after an offer to buy or rent the accommodation has been made.
 - (2) Refuse to negotiate with any person for the sale or rental of a housing accommodation.
 - (3) Discriminate against any person in the terms, conditions, or privileges of, or in providing a service or facility in connection with, the sale or rental of a housing accommodation.
 - (4) Represent to any person that a housing accommodation is not available for inspection, sale, or rental, if the accommodation is available.
 - (5) Discriminate against a person who proposes to buy or rent in connection with the showing of a housing accommodation.
 - (6) With respect to a multiple listing service, real estate brokers' organization, or other business related to selling or renting housing accommodations, to:
 - (a) Deny any person access to or membership in the business; or
 - (b) Discriminate against any person in the terms or conditions of access to or membership in the business.
- B. It shall be unlawful to:
 - (1) Induce any person to sell or rent a housing accommodation by representing that a person of a particular race, color, sex, religion, handicap, familial status, or

national origin is in proximity to, is present in, or may enter into the neighborhood in which the accommodation is located.

- (2) Make an oral or written statement indicating a policy to discriminate on the basis of race, color, sex, religion, handicap, familial status, or national origin.
 - (3) Print or publicize, or cause to be printed or publicized, an advertisement expressing a preference or policy of discrimination based on race, color, sex, religion, handicap, familial status, or national origin in the selling or rental of a housing accommodation.
- C. It shall be unlawful for any commercial lending business (e.g., a bank, mortgage company, building and loan association) with respect to financial assistance for the purchasing, construction, improvement, repair, or maintenance of a housing accommodation, on the basis of race, color, sex, religion, handicap, familial status, or national origin, to:
- (1) Deny the financial assistance to any person; or
 - (2) Discriminate in the amount, interest rate, duration of repayment, or other basic term or condition of the financial assistance.

Sec. 7A-4. Exemptions and Exclusions.

Nothing in this ordinance shall:

- (1) Apply to the rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as a residence.
- (2) Prevent a religious organization or a non-profit organization that is affiliated with a religious organization, which sells or rents for non-commercial purposes housing accommodations, from restricting individuals not of the religion from the housing accommodations, provided that membership in that religion is not restricted on the basis of race, color, sex, handicap, familial status, or national origin.
- (3) Prevent a bona fide, non-profit private club, not in fact open to the public, which sells or rents for non-commercial purposes lodging for its members, from restricting non-members from the housing accommodations.
- (4) Prevent any person from owning and operating a housing accommodation in which a room or rooms are rented only to persons of the same sex, when such housing accommodations contain common lavatory or similar facilities for the use of all persons occupying the housing accommodations.
- (5) Prevent the establishment and maintenance of housing accommodations designed or otherwise intended specifically for elderly persons, provided that occupation is

not restricted on the basis of race, color, sex, religion, handicap, familial status, or national origin except under Section 4(2) above.

- (6) Prevent the establishment and maintenance of housing in connection with special services for minors (e.g., orphanages, runaway shelters), provided that occupation is not restricted on the basis of race, color, sex, religion, handicap, familial status, or national origin except under Sections 4(2) and 4(4) above.
- (7) Prevent the exclusion of minors living independently of parents or guardians, provided that such individuals are not excluded on the basis of race, color, sex, religion, handicap, familial status, or national origin.
- (8) Prevent a financial institution from refusing a loan or financial assistance to a minor.
- (9) Apply to any single-family house sold or rented by an owner: Provided, that such private individual owner does not own more than three (3) such single-family houses at any one time: Provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 7A-3B.3 of this chapter; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

Sec. 7A-5. Fair Housing Administrator.

The City Manager shall appoint and the Council shall confirm a Fair Housing Administrator, who shall have the responsibility for implementing this ordinance. The administrator may delegate authority to investigate and conciliate complaints. The administrator shall cooperate with the Secretary of Housing and Urban Development and the Attorney General of the United States in the enforcement of the Fair Housing Act of 1968, Public Law 90-284, and may assist the Secretary or the Attorney General in any way appropriate to further the policies of this ordinance.

Sec. 7A-6. Complaints.

- A. A person who claims to have been the subject of a discriminatory housing practice may file a complaint with the administrator. Such complaints shall be in writing, and shall contain the following information:
- (1) The identity of the actor;
 - (2) The date of the offense and the date of filing the complaint;
 - (3) A statement of the fact of the offense, including the basis of the discrimination (race, color, sex, religion, handicap, familial status, or national origin); and
 - (4) The name and signature of the complainant.

The administrator shall prepare complaint forms and provide them without charge to any person, upon request.

- B. If the administrator has reason to believe that a discriminatory housing practice has occurred to which no complaint has been filed, the administrator may file a complaint, which shall be treated in the same manner as a complaint filed by a person aggrieved.
- C. The administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States in the same manner as a complaint filed directly by the person aggrieved.
- D. All complaints shall be filed within 30 days following the offense. Upon receipt of a complaint, the administrator shall provide a copy of the complaint to the accused. The accused may file a written response to the complaint within 15 days of receipt of the written complaint. All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

Sec. 7A-7. Investigation and Conciliation.

- A. Upon the filing or referral of a complaint, the administrator shall conduct a prompt and full investigation of the matter stated in the complaint.
- B. In conducting an investigation, the administrator shall have access at all reasonable times to premises, records, documents, individuals, and other evidence of possible sources of evidence, and may examine, record, and copy such materials, and take and record testimony or statements of such persons as are necessary for the furtherance of the investigation. The administrator may request the City Council to issue subpoenas to this end wherever necessary.
- C. If the administrator determines that there is not probable cause to believe that a particular alleged offense has been committed, no further action with respect to that offense will be taken.
- D. If the administrator determines that a violation has occurred, the administrator, the actor, and the person aggrieved shall voluntarily enter into a conciliation agreement. A conciliation agreement must be in writing in the form approved by the City Attorney, and

must be signed and verified by the administrator and all parties to the agreement. A conciliation agreement that is not executed before the expiration of 30 days after notification to the actor must include the City Attorney as a party. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

- E. A conciliation agreement must contain an identification of the discriminatory housing practice, the responsible actor, and the housing accommodation subject to the agreement. A conciliation agreement must also contain a statement that each party agrees not to violate this ordinance or the agreement. The actor must agree to file with the administrator a periodic activity report, which must state, with respect to each person of the specified class (race, color, sex, religion, handicap, familial status, or national origin as alleged as the basis for discrimination in the complaint) who contacts the actor with respect to the sale, rental, financing, or a business relating to the sale, rental, or financing of a housing accommodation, the name, address, and telephone number, the date and result of each contact, and any other information as stated in the conciliation agreement. The activity report shall be signed and verified by the party who prepared it. An activity report shall be filed each month on the date specified in the conciliation agreement for a period of not fewer than three nor more than 24 months, as stated in the conciliation agreement.
- F. Upon completion of formal endeavors at conciliation but within 30 days of the filing of the complaint, if the administrator has been unable to secure a voluntary conciliation agreement, the administrator shall refer the case to the City Attorney for prosecution in Municipal Court. The City Attorney must prosecute the complaint within 30 days after the determination to prosecute.
- G. If, after a complaint is filed in the Municipal Court charging an actor with a discriminatory housing practice, a conciliation agreement is executed before commencement of a trial, the City Attorney may cease prosecution and move for dismissal of the case.

Sec. 7A-8. Penalty.

A person who violates this ordinance is guilty of a separate offense for each day or portion of a day on which the violation is committed, and each offense is punishable by a fine of not more than \$200.00. A person violating any provision of this ordinance may be enjoined by a suit filed by the City in a court of competent jurisdiction, and this remedy is in addition to any other penalty provision.

Sec. 7A-9. Cumulative Effect.

This ordinance is cumulative in its legal effect and is not in lieu of any and all other legal remedies which the person aggrieved may pursue.

Sec. 7A-10. Unlawful Intimidation.

It shall be unlawful for any person to willfully or to attempt to injure, intimidate, harass, threaten, or otherwise interfere with any person for exercising rights under this ordinance or for making a charge, testifying, or assisting in any manner in any investigation or proceeding under

this ordinance, or for affording another person or class of persons opportunity or protection under this ordinance.

Sec. 7A-11. Education and Public Information.

The administrator may conduct educational and public information programs that are designed to promote the policy of this ordinance.

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

SECTION 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4. The fact that the present ordinances of the City of Mesquite are inadequate to prohibit discriminatory housing practices based on handicap and familial status 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 day of February, 1990.

George A. Venner, Sr.
Mayor

ATTEST:

APPROVED:

Lynn Prugel
City Secretary

B. J. Smith
City Attorney