

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 94 “FOOD ESTABLISHMENTS REGULATIONS,” OF TITLE IX “GENERAL REGULATIONS” OF THE CODE OF MANSFIELD, TEXAS BY REVISING DEFINITIONS; PERMITS AND INSPECTIONS; COMPETENCY OF INSPECTORS; FOOD PROTECTION MANAGERS; PHYSICAL FACILITIES; AND MOBILE FOOD VENDORS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Mansfield (City) Texas (“the City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City terminated an inspection agreement with Tarrant County, wherein Tarrant County provided food establishment inspection services; and

WHEREAS, the City’s previously adopted Food Establishment Regulations were adopted in 2014 and drafted to reflect Tarrant County’s enforcement, the City now requires Food Establishment regulations intended to be enforced by the City, and drafted to reflect the City’s current needs; and,

WHEREAS, the City Council has determined that the amendment outlined herein is in the best interest of the health, safety, and general welfare of the citizens of the City of Mansfield and the public.

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

SECTION 1.

That the findings and recitations set out in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2.

Section 94.02 “Definitions,” of Chapter 94 “Food Establishment Regulations,” of Title IX “General Regulations,” of the Code of Mansfield, Texas, is hereby amended to read as follows:

“§94.02 DEFINITIONS

For the purpose of this chapter, the following terms shall have the meaning given below:

APPROVED. Acceptable to the ~~R~~egulatory ~~a~~Authority, as hereinafter defined, based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

AUTHORIZED REPRESENTATIVE. The City of Mansfield Manager of Regulatory Compliance Department, or his/her authorized designee.

CENTRAL PREPARATION FACILITY. A facility used in conjunction with a mobile food vendor in which:

1. Food is prepared, stored, and/or wrapped;
2. Fresh water and ice are supplied;
3. The mobile food vendor's waste water is emptied into a proper waste disposal system; and/or
4. The mobile food vendor is cleaned, including washing, rinsing, and sanitizing of those food contact surfaces or items not capable of being immersed in a utensil-washing sink located in the mobile food vendor.

~~**CERTIFICATE OF REGISTRATION.** The regulatory authority shall issue a certificate of registration to any person who submits the required application, remits the registration fee, and provides evidence of being a certified food protection manager who has shown proficiency of required information through the successful completion of an accredited program as required by the City of Mansfield Code of Ordinances.~~

CERTIFIED FOOD PROTECTION MANAGER. An individual that has obtained certification by successfully completing and passing a Texas Department of State Health Services (DSHS) approved certified food manager training program.

~~**CITY MANAGER.** The City Manager of the City of Mansfield, Texas, or the duly authorized designee of the City Manager of the City of Mansfield Texas.~~

COMPLIANCE PLAN. A plan under which a food establishment is placed on should an inspection result in a score of 79 or below. Based on the inspection score, the food establishment shall be subject to periodic reinspection, reinspection fees, and must achieve minimum score requirements to be removed from the plan. Upon removal from the plan the food establishment shall be subject to routine inspections based on their priority rating.

CONCESSION STAND. A food establishment operated on a seasonal basis for the purpose of providing food at sporting events associated with an independent school district, City of Mansfield, privately owned school, university, or community college.

CORE ITEM. A provision of Tex. Admin. Code Chapter 15 or this chapter that is not designated as a priority item or a priority foundation item and includes an item that usually relates to general sanitation, operation controls, sanitation operating procedures, facilities or structures, equipment design, or general maintenance.

COTTAGE FOOD. Foods produced by a cottage food production operation as defined by 25 Tex. Admin. Code § 229.661(b)(3).

COTTAGE FOOD PRODUCTION OPERATION. An individual operating out of the individual's residence in which they produce cottage food.

~~**DEMONSTRATION.** The preparation of food as an example, sample, instruction, or for marketing purposes at an event, including but not limited to, a farmer's market, fair, restaurant food show, or similar event.~~

FARMERS' MARKET. An area at which two or more vendors offer produce and other agricultural products for retail sale, sample, or consumption. It shall not include stands that only sell whole, uncut produce.

FARMERS' MARKET VENDOR. Any person who offers or sells produce or other agricultural products at a farmers' market.

FOOD. A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, to also specifically include chewing gum.

FOOD ESTABLISHMENT. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.

FOOD ESTABLISHMENT—CONVENIENCE. A retail food establishment that sells a limited selection of foods, not to include fresh produce, fresh meats, or fresh seafood, exclusively for off-premise consumption. Any food establishment with a seating area accessible to the general public that contains at least one table and/or one chair is presumed to prepare foods for on-premise consumption.

FOOD ESTABLISHMENT—GROCERY. Any retail food establishment that sells fresh produce, fresh meats, or fresh seafood for either on-premise or off-premise consumption.

FOOD ESTABLISHMENT—RESTAURANT. A retail food establishment that prepares and/or sells food for either on-premise or off-premise consumption.

FOOD ESTABLISHMENT—TO-GO. A retail food establishment that prepares and/or sells food exclusively for off-premise consumption. Any food establishment with a seating area accessible to the general public that contains at least one table and/or one chair is presumed to prepare foods for on-premise consumption.

FOOD HANDLER. An individual working with unpackaged food, food equipment or utensils, or food contact surfaces.

IMMINENT HEALTH HAZARD. A significant threat or danger to health due to a practice, circumstance, or event which creates a situation that would likely lead to injury or a foodborne illness, as determined by the ~~R~~egulatory ~~a~~Authority, as hereinafter defined.

~~These~~**IMMINENT HEALTH HAZARDS** include but are not limited to lack of hot water, no electrical power, sewage back up, no water service, rodent or insect infestation as determined by the ~~R~~egulatory ~~A~~uthority, or a food establishment receiving a score of 69 or below during an inspection.

INSPECTOR. A person conducting inspections of food establishments as a representative of the ~~R~~egulatory ~~A~~uthority, as defined herein.

MOBILE FOOD VENDOR. A vehicle mounted, self-contained food establishment, designed to be readily moveable and used to store, prepare, display, serve or sell food.

MOBILE FOOD VENDORS must completely maintain their mobility at all times.

~~Notwithstanding, a **MOBILE FOOD VENDOR** shall also refer to "food trucks, hot trucks, cold trucks, and ice cream trucks."~~

NONCOMMERCIAL FOOD SERVICE EQUIPMENT. Equipment that is not designed specifically for food service and/or is labeled "for household use only".

NSF-APPROVED. Shall mean that an independent, third-party organization, such as the National Sanitation Foundation, has determined that the equipment or product complies with the relevant standards and/or protocol set by said organization.

PERSON IN CHARGE (PIC). The person present at a food establishment at the time of the inspection who is responsible for the food establishment's operations.

PRIORITY FOUNDATION ITEM. Application of a provision of Title 25, Tex. Admin. Code ~~Chapter 228~~ ~~Chapter 15~~ Title 25 or this chapter that supports, facilitates, or enables one or more priority items. This term shall include an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury.

PRIORITY ITEM. Application of a provision of Title 25, Tex. Admin. Code ~~Chapter 228~~ ~~Chapter 15~~ Title 25 or this chapter that contributes directly to the elimination, prevention, or reduction of hazards associated with foodborne illness or injury to an acceptable level. This term shall include items with a quantifiable measurement to show control of hazards, including but not limited to cooking, reheating, cooling, and handwashing.

~~**REGISTERED CERTIFIED FOOD PROTECTION MANAGER.** A certified food-protection manager who has registered with the City of Mansfield Regulatory Compliance Department and received a certificate of registration from the Department.~~

REGULATORY AUTHORITY. The City of Mansfield Department of Regulatory Compliance, or its authorized designee.

~~**SAMPLING.** The preparation of food as an example, instruction, or for marketing purposes at an event including, but not limited to, a farmers' market, fair, restaurant food show or other similar event that is served, sold, or otherwise offered for human consumption.~~

SEASONAL FOOD ESTABLISHMENT. A food service establishment that operates at a fixed location for a period greater than 14 consecutive days, but not less than 365 days, and is restricted to limited food preparation, unless approved by the regulatory authority.

~~**SNOW CONE STAND.** A seasonal operation that prepares and sells chipped or shaved ice and flavored syrup treats to the public for off-site consumption and may sell prepackaged TCS foods.~~

TEMPORARY FOOD ESTABLISHMENT. A food establishment operated for a temporary event not to exceed 14 consecutive days.

TIME AS A PUBLIC HEALTH CONTROL. Using time only to monitor food instead of temperature.

TIME/TEMPERATURE CONTROLLED FOR SAFETY FOOD (TCS FOOD). A food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

SECTION 3.

Section 94.03 “Regulations, permits, and preoperational inspections,” of Chapter 94 “Food Establishment Regulations,” of Title IX “General Regulations,” of the Code of Mansfield, Texas, is hereby amended to read as follows:

§ 94.03 REGULATIONS, PERMITS, AND PREOPERATIONAL INSPECTIONS.

- A. It shall be unlawful for any person to operate a food establishment within the city limits without having been issued a valid food establishment permit, the fee for which is based on the type of food establishment being operated, as set forth in the City of Mansfield Regulatory Compliance Department fee schedule. Only a person who complies with the requirements in this chapter shall be entitled to receive or retain a permit, and notwithstanding the fact that all inspections necessary for obtaining a food establishment permit have been completed, such permit shall not be issued until after the building or suite in which the establishment is to be located has been issued a certificate of occupancy by the city. Permits are not transferable from one person, place or entity to another person, place, or entity. A valid permit shall be posted in ~~or on~~ a conspicuous place of every food establishment visible to the public in public view. Permits shall remain in effect until the last day of the month of issuance unless sooner revoked for cause, or as otherwise provided herein.
- B. A temporary food establishment may apply for a temporary food establishment permit, which shall be in effect for a period of time not to exceed 14 consecutive days, in conjunction with an approved special event.
- C. Mobile food vendors shall be considered food establishments and shall comply with all pertinent regulations contained herein, including obtaining an annual mobile food vendor permit. A mobile food vendor shall obtain either a valid City of Mansfield or Tarrant County mobile food vendor permit to operate within the boundary of the city limits of Mansfield; or, a mobile food vendor must obtain a valid City of Mansfield mobile food vendor permit to operate within the boundary of the city limits of Mansfield. Mobile food vendors shall operate from a central preparation facility or other permitted food establishment and shall report to such location daily for supplies and for cleaning and servicing operations. Use of a private residence as a central preparation facility is prohibited. Mobile food vendor applications must provide a valid driver's license, proof of insurance for the mobile food unit, notarized central preparation facility letter, and the latest central preparation facility inspection report from the ~~R~~egulatory ~~A~~uthority. Mobile food vendors must be inspected by the ~~Health Inspector~~Fire Marshall or their designee before selling food at any event or any location.

- D. A temporary food establishment operated by or solely for the benefit of a nonprofit organization is exempt from the permit fee requirement. However, such food establishment is not exempt from the remaining permit requirements of this chapter, or from compliance with the rules.
- E. A farmers' market permit shall be issued upon receipt and review of such an application to determine compliance with the provisions of this chapter, and with remittance of required fees, and completion of an inspection performed by the regulatory authority of the establishment to determine compliance with the provisions of this chapter. When inspection review of such an application reveals that the applicable requirements of this chapter have been met, a permit shall be issued to the applicant by the Regulatory Authority.
- F. Any person desiring to operate a food establishment shall make application for a permit through the City of Mansfield Regulatory Compliance Department. The application shall include the name and address of each applicant and the location and type of food establishment. An application for a temporary food establishment shall include the inclusive dates of the proposed temporary food establishment and the location of the event. Applications for a temporary food establishment shall be submitted no later than seven days prior to the event. If applications are accepted after seven days prior to the event, at the Regulatory Authority's sole discretion, they may be subject to additional fees.
- G. The application shall be accompanied by a nonrefundable permit fee, as set forth in the City of Mansfield Regulatory Compliance Department fee schedule, on file and available for inspection in the Office of the City Secretary.
- H. The Mansfield Independent School District shall be exempt from the permit fee.
- I. Every permit holder or PIC shall at all times have available on the premises for inspection the registered and certified food manager certificate, posted in a conspicuous place, and food handler certificates for all employees of the food establishment.
- J. A food establishment permit that has lapsed for non-payment of the annual food establishment permit fee will be reinstated upon payment of a reinstatement fee; excluding permits lapsed for more than three months, which may not be reinstated without the appropriate plan review application, plan review fee, and food establishment permit fee.
- K. Whenever a food establishment is constructed or extensively remodeled, and whenever an existing structure is converted to use as a food establishment, or a change of ownership occurs, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the Regulatory Authority for review and approval before construction, remodeling or conversion is commenced. The plans and specifications shall include a proposed menu, proposed layout, equipment arrangement, mechanical plans, and construction materials of work areas, finish schedules and the type and model of proposed fixed equipment and facilities. No food establishment shall be constructed, extensively remodeled, or converted except in accordance with said approved plans and specifications. Plans shall be submitted to the

Building Safety Department using the city's self-service portal. Deviation from the approved plans and specifications shall result in a food establishment permit denial, suspension, or revocation.

L. If a food establishment is required to install a grease trap or grease interceptor, the trap or interceptor shall be located outside. A variance to this requirement may be granted to a food establishment located in the Historic Downtown District. A licensed professional engineer will be responsible for determining the size of the grease trap to be installed to service a food establishment.

M. Equipment~~The provisions in 25 Tex. Admin. Code § 228.106(x) relative to food equipment acceptability, certification and classification is amended to read: "Food equipment that is certified or classified for sanitation by the National Sanitation Foundation (NSF) or the American National Standards Institute (ANSI) will be deemed to comply with §§ 228.101-228.106 of this Title."~~

- 1) Equipment labeled "for household use only" shall not be used in a food service establishment.
- 2) If a facility is using noncommercial food service equipment upon the date of passage of this revision, they shall be considered legally nonconforming, until such time that the establishment or equipment a) is being extensively remodeled, b) the equipment is being replaced, or c) if the equipment is insufficient to meet current food temperature or service standards. At such a time as described, the facility will be required to replace the noncommercial food service equipment with NSF-approved commercial food service equipment as defined by this ordinance.
- 3) Noncommercial food service equipment shall be documented during inspections and monitored for conformance with current food temperature or service standards.

SECTION 4.

Subsection (E) of Section 94.04 "Inspections and posting of scores," of Chapter 94 "Food Establishment Regulations," of Title IX "General Regulations," of the Code Mansfield, Texas, is hereby amended to read as follows:

E) Food establishments shall receive a deduction of three to four points for each violation of a priority item, deduction of two points for each violation of a priority foundation item, and deduction of one point for each violation of a core item, as defined by this chapter, as found by an inspector during an inspection.

- 1) Food establishments that score between 70 to 79 points will be placed on a Compliance Plan and inspected quarterly until three consecutive inspections with in which a score of 85 points are or more is achieved consecutively three times met. Failure to meet a score of 85 points on an inspection during the compliance plan will extend the compliance plan period until such time and the food establishment can meet this requirement All compliance plan inspections are subject to a reinspection fee for each inspection.

- 2) Food establishments that score 69 points or less shall constitute an imminent health hazard and the food establishment shall immediately cease operations and remain closed until the ~~R~~egulatory ~~A~~uthority conducts a reinspection. The inspector who documents the violation shall provide his/her cell phone number and his/her supervisor's cell number to coordinate a re-inspection over the weekend, if necessary, but in no event shall a reinspection occur ~~earlier~~ ~~later~~ than 24 hours following the closure~~the next business day~~, unless conditions exist that make such re-inspection not feasible. A reinspection occurring sooner than 24 hours following the closure may occur only at the discretion of the ~~R~~egulatory ~~A~~uthority. Inspections on the weekend for closure will be considered an emergency inspection. The inspector shall endeavor to perform a reinspection as soon as possible. It shall be the responsibility of the permit holder to contact the ~~R~~egulatory ~~A~~uthority at the provided phone numbers and schedule a reinspection and pay the reinspection fee prior to the reinspection being conducted. The food establishment shall remain closed until a reinspection of the food establishment results in a score of 80 points or more.
- 3) Food establishments that score 69 points or less, upon resuming operations based on the requirements of division (E)(2) above, shall be placed on a compliance plan and inspected monthly until the food establishment receives one time per month for three consecutive months in which a score of 80 points or more for three consecutive months is met. ~~During these consecutive monthly inspections, a reinspection fee will be paid for each inspection. The food establishment must attain a score of 80 points or more in each consecutive inspection. Failure to meet a score of 80 points on an inspection during the compliance plan will extend the compliance plan period until such time as the and the food establishment can meet this requirement. All compliance plan inspections are subject to a reinspection fee for each inspection.~~
- 4) If, during a routine inspection, immediate correction of a priority foundation item violation, as defined by this chapter, is not achieved, the regulatory authority shall verify correction of the violation within ~~ten~~fourteen calendar days. If said priority foundation item violation is not corrected during the initial inspection and a reinspection must be performed within the following ~~ten~~fourteen calendar days, the permit holder will be subject to a reinspection fee as set forth in the City of Mansfield Regulatory Compliance fee schedule and shall be assessed prior to the inspection.
- 5) Failure to pay the required reinspection fees outlined in this ordinance shall result in the immediate suspension of the food establishment's permit to operate, and the facility shall immediately cease operations and remain closed until all required fees are paid and an inspection is conducted which results in the food establishment meeting the minimum score required by the compliance plan. Citations may be issued for noncompliance.
- ~~4)6)~~ If a facility is placed on a compliance plan more than two times in one (1) year, the Director of Regulatory Compliance or their designee shall have a compliance plan meeting in which the establishment will provide a detailed plan for achieving compliance. A mandatory training for all employees of the facility will be conducted with the Department of Regulatory Compliance regarding food code compliance and an emergency reinspection fee shall be charged per the fee schedule.

- F) Based upon the scoring process outlined in 94.04(e) a letter grade for each Food Establishment shall be determined by the Regulatory Authority. The grade of each Food Establishment shall be evidenced by the posting of an inspection card as outlined in the following Subsection (i).
- (i) Grade cards shall be provided by the Regulatory Authority and shall be posted in a conspicuous place, so as to be clearly visible to the general public and to the patrons entering the Food Establishment.
- (e) In conjunction with the QR Code grade card, a placard provided by the Regulatory Authority with the a categorized designation ~~of "Pass" or "Closed"~~ will be provided by the Regulatory Authority based on the Food Establishment inspection score.
- (f) ~~Pass/Closed p~~Placards shall be posted in a conspicuous place so as to be clearly visible to the general public and patrons entering the Food Establishment."

SECTION 5.

Subsection (A), (B), and (C) of Section 94.05 "Competency of Inspections," of Chapter 94 "Food Establishment Regulations," of Title IX "General Regulations," of the Code of Mansfield, Texas, is hereby amended to read as follows:

§ 94.05 COMPETENCY OF INSPECTORS.

A. All inspectors shall be a registered professional sanitarian or a sanitarian-in-training in Texas.

B. Inspectors shall remain proficient and knowledgeable of current ordinances and professional standards.

~~B-C.~~ The Director of the Regulatory Compliance Department shall have the discretion to make an exception to §94.05(A) to employ an inspector who demonstrates proficiency in the profession and meets the Food and Drug Administration (FDA) Voluntary National Retail Food Regulatory Program Standards basic curriculum and field training elements.

SECTION 6.

Subsections (I) through (L) of Section 94.06 "Certified food protection manager and food handler requirements," of Chapter 94 "Food Establishment Regulations," of Title IX "General Regulations," of the Code of Mansfield, Texas, is hereby amended by revising Subsection (I), deleting Subsection (J) and renumbering and revising Subsections (K) and (L) to read as follows:

§ 94.06 CERTIFIED FOOD PROTECTION MANAGER AND FOOD HANDLER REQUIREMENTS.

~~All certified food protection managers must register with the City of Mansfield Regulatory Compliance Department and receive a certificate of registration.~~

~~J) A certificate of registration, unless otherwise revoked by the regulatory authority, expires on the same expiration date listed on the approved food protection manager certificate. Certificates of registration are non-transferable.~~

~~K)D~~ A food establishment shall, within 30 days of the effective date of resignation, termination, or permanent transfer of any previously ~~registered~~ certified food protection manager, employ another ~~registered~~ certified food protection manager. The regulatory authority City of Mansfield authorized representative shall have the discretion to grant an extension of time to obtain a new ~~registered~~ certified food protection manager upon a written, printed, or electronic request.

~~L)J~~ The certificate of each certified food protection manager registration must be displayed in a conspicuous place.

SECTION 7.

Subsection (K) of Section 94.10 “Physical Facilities,” of Chapter 94 “Food Establishment Regulations,” of Title IX “General Regulations,” of the Code Mansfield, Texas, is hereby amended to read as follows:

§ 94.10 PHYSICAL FACILITIES.

K) This section shall not apply to any existing food establishments in operation with a valid food establishment permit in existence on the date of the adoption of this chapter. Food establishments that contain physical features that are not in compliance with this section and that present clear threat to public health, safety, or welfare shall be required to bring said physical feature into conformance with this section. All new or extensively remodeling food establishments shall comply with the physical facility standards set forth in this section and all other applicable regulations within the Mansfield Code of Ordinances. Extensive remodeling shall mean the repair or alteration of 50% or more of the existing square footage of an existing building, a change of occupancy, an addition, or the relocation of an existing building. This shall include the addition of new facilities requiring a permit or extensive modification of facility scope or menu to a separate facility type, use, or permit.

SECTION 8.

Subsection (D) of Section 94.17 “Mobile Food Vendors,” of Chapter 94 “Food Establishment Regulations,” of Title IX “General Regulations,” of the Code Mansfield, Texas, is hereby amended to read as follows:

§ 94.17 MOBILE FOOD VENDORS.

D) A mobile food vendor:

1) Must be permitted by the ~~R~~regulatory ~~A~~authority. A mobile food vendor shall obtain either a valid City of Mansfield or Tarrant County mobile food vendor permit to operate within the boundary of the city limits of Mansfield;

~~1)2)~~ Must receive a permit from the Fire Department;

- ~~2~~3) _____ Shall be permitted to operate only in those zoning districts where the use is permitted as a matter of right or approved by a specific use permit in accordance with applicable provisions of the City of Mansfield Zoning Ordinance;
- ~~3~~4) _____ May not be located within 50 feet of a lot with a building that contains both a residential and commercial use;
- ~~4~~5) _____ May not be operated between the hours of 3:00 a.m. and 6:00 a.m.;
- ~~5~~6) _____ May not be located within 20 feet of a general or limited restaurant use;
- ~~6~~7) _____ May operate as part of a special event permit that has been approved by the City of Mansfield Planning and Zoning Department and/or the City of Mansfield Parks and Recreation Department;
- ~~7~~8) _____ May not operate within city parks unless vendors have written agreement from the city and are part of an approved special event;
- ~~8~~9) _____ May not operate on any street, median, or sidewalk of the city or residential property, except for ice cream trucks; and
- ~~9~~10) _____ Mobile food vendors are subject to inspection in the field. The Regulatory Compliance Department and the Fire Marshal's office will perform inspections prior to being approved to operate and during operation at a special event.

SECTION 9.

This Ordinance shall be cumulative of all provisions of the ordinances and of the Code of Mansfield, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of the other ordinances and such code are hereby repealed.

SECTION 10.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and section of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and section of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence paragraph or section.

SECTION 11.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with

or who resists the enforcement of any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 10.99 of the Code Mansfield, Texas. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

SECTION 12.

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of Chapter 94 of Title IX of the Code of Ordinances, City of Mansfield, Texas, or any other ordinance regarding the regulation of public swimming pools and spas, including interactive water features, that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 13.

The City Secretary is hereby directed to publish in the official newspaper of the City of Mansfield, the caption and penalty clause of this Ordinance as provide by the City's charter.

SECTION 14.

This Ordinance shall take effect immediately from and after its passage on the first and final reading and the publication of the caption, as the law and charter in such cases provided.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MANSFIELD THIS _____ DAY OF _____, 2024.

Michael Evans, Mayor

ATTEST:

Susana Marin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Resolution No. _____

Page 13 of 13

Ashley Dierker, City Attorney

23- 