

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING TITLE VII “TRAFFIC CODE” OF THE CODE OF MANSFIELD, TEXAS BY ADDING SECTION 72.24 “DESIGNATING PARKING SPACES FOR DISABLED PERSONS”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Mansfield (“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 Texas Local Government Code; and,

WHEREAS, pursuant to Texas Transportation Code Section 681.009, the City may require disabled parking on private property to conform to certain standards; and,

WHEREAS, the City Council finds and determines that the regulations and amendments set forth herein are in the best interest of the public and are in furtherance of the public health, safety, and general welfare.

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

SECTION 1.

Subchapter “Parking Zones” of Chapter 72 “Stopping, Standing and Parking” of Title VII “Traffic Code” of the Code of Mansfield, Texas, is hereby amended by adding a new Section 72.24 “Designating Parking Spaces for Disabled Persons” to read as follows:

“§ 72.24 DESIGNATING PARKING SPACES FOR DISABLED PERSONS.

(A) Under the provisions of Section 681.009 of the Texas Transportation Code, as amended, it is hereby required that the owners of all private property or persons who control property used for parking in the City and establish parking spaces or areas for persons with disabilities shall conform said parking spaces or areas to the standards and specifications referred to in Section 681.009(b) of the Texas Transportation Code.

(B) The use of any parking space established for disabled persons shall be unlawful except for use by those persons parking vehicles which are being operated by or for a person with disabilities and which vehicle displays a valid disabled parking placard issued pursuant to Chapter 681, Texas Transportation Code or special license plates issued pursuant to Section 504.201 or 504.202, Texas Transportation Code.

(C) Pursuant to Section 681.011(f), Texas Transportation Code, it is hereby provided that Section 681.011, as amended, shall apply to a parking space or area for persons with

disabilities on private property that is designated in compliance with the identifications requirements set forth in Section 681.009(b) of the Texas Transportation Code.

(D) The Chief of Police, or any member of the police department designated by the Chief of Police, is hereby authorized to issue a citation to any person who is found to have violated Subsection (B) of this Section; and

(E) The Director of Regulatory Compliance, or designee, is hereby authorized to enforce the provision of Subsection (A) of this Section as follows:

- (1) It is an offense for any person owning, leasing, claiming, occupying, or having supervision or control of any real property within the city to suffer, permit, or allow disabled accessible parking spaces to be in violation of the standards and specification referred to in Section 681.009(b), Texas Transportation Code.
- (2) All existing, non-conforming disabled accessible parking spaces shall be repaired within sixty (60) days from the date of the adoption of this ordinance. It shall be considered a nuisance to maintain a disabled accessible parking space that is not in compliance with this Section.
- (3) *Notice of violation prior to abatement by city.*
 - i. *Notice required.* If the person owning, leasing, claiming, occupying, or having supervision or control of any property fails to comply with the requirements of these provisions, a city official may cause the property owner notified to comply within thirty (30) days of the date of notice.
 - ii. *Method of notice.* The notice shall be given:
 1. Personally to the owner in writing;
 2. By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the Appraisal District in which the property is located;
 3. Personally to the person owning, leasing, claiming, occupying, or having supervision or control of the property; or
 4. By letter addressed to the person owning, leasing, claiming, occupying, or having supervision or control of the property.
 - iii. *Unclaimed notice.* If notice is mailed in accordance with this subsection, and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
 - iv. *Work to be performed.* If the owner does not cause to be repaired the violations of this ordinance, the city may go on such property or authorize another to go on such property, and do or cause the work to be done and charge the expenses incurred to the owner of the property and assess the expenses against the real estate on which the work was done. The remedy provided in this section is in addition to any criminal penalties or other remedies authorized by this chapter or other law.
 - v. *Contents of notice.* The notice shall contain:
 1. The name and address of the record owner;
 2. An identification, which is not required to be a legal description, of the property upon which the violation is located;
 3. A statement describing the violation and the work necessary to correct the violation;
 4. A statement advising the owner that if the work is not completed within thirty days, the city will complete the work and charge the expenses to the owner; and
 5. A statement that if the city performs the work and the owner fails to pay the expenses, a priority lien may be placed on the property.

- (4) *Assessment of expenses; lien; appeal.*
- i. *Notice.* In assessing the expenses incurred pursuant to this subsection against the property on which the work is done or improvements made, the city shall send the owner of the property upon which the work was done a notice which shall include:
 1. Identification of the property;
 2. A description of the violation;
 3. A statement that the city abated the condition;
 4. A statement of the city's expenses in abating the condition;
 5. An explanation of the property owner's right to request a hearing within ten (10) days of the date of the letter; and
 6. A statement that if the owner fails or refuses to pay the expenses within thirty (30) days of the date of the notice, the city shall place a lien against the property by filing with the County Clerk of the county in which the property is located a notice of lien and statement of expenses incurred.
 - ii. *Method.* The notice shall be sent in the same manner as provided in subsection (E)(3)(ii) of this division.
 - iii. *Hearing.* The City Manager or designee will conduct a hearing if the property owner submits a written request within ten (10) days of the date of the notice. At the hearing:
 1. The owner and the city may testify or present witnesses or written information related to the city's abatement of the nuisance.
 2. The city has the burden to show that a violation of this chapter existed, notice was given in substantial compliance with this chapter, and expenses were incurred to abate the violation.
 3. At the close of the hearing, the City Manager or designee may find, based upon a preponderance of the evidence, that the expenses are valid, or that they are erroneous or he may adjust them.
 - iv. *Placement of lien.* If no hearing is requested, or a hearing is held and the expenses are determined to be valid or are otherwise appropriately adjusted, and the owner fails or refuses to pay the expenses within thirty (30) days after written notification to pay, the city shall place a lien against the property by filing with the County Clerk of the county in which the property is located a notice of lien and statement of expenses incurred.
 - v. *Security.* The lien is security for the expenses and interest accruing at the rate of ten percent (10%) per annum from the date the work was performed or the expenses were incurred by the city.
 - vi. *Filing.* When the statement is filed, the city shall have a privileged lien on that property, second only to tax liens and liens for street improvements.
 - vii. *Suit.* The city may institute suit to recover the expenses, with interest, and may foreclose on the property. The original or a certified copy of the statement of expenses is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(F) In addition to any applicable fine, any vehicle in violation of this Section, whether on public or private property, may be removed and stored at the expense of the owner or operator of the vehicle in accordance with the provisions of Chapter 2308 of the Texas Occupations Code, as amended."

SECTION 2.

All ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3.

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

SECTION 4.

Any person, firm, corporation, agent, or employee thereof who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Five Hundred and No/100 Dollars (\$500.00) for each offense in violation of Section 72.24(A). Offenses in violation of Section 72.24(B) shall constitute a misdemeanor enforceable and punishable as permitted by Section 681.011 of the Texas Transportation Code. Each day that a violation is permitted to exist shall constitute a separate offense. The requirements of this Ordinance shall apply to all parking spaces or areas established or designated for disabled persons whether the spaces were established prior to the approval date of this Ordinance, except that any parking spaces established for disabled persons existing on the approval date of this Ordinance shall come into compliance with the requirements of this Ordinance not later than sixty (60) days from the approval date of this Ordinance.

SECTION 5.

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of the Code of Mansfield, Texas, as amended, or any other ordinances affecting traffic or parking which 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 6.

The City Secretary of the City of Mansfield is hereby directed to publish this Ordinance to the extent required by law.

SECTION 7.

This Ordinance shall take effect immediately upon and after its passage and the publication of the caption and penalty clause, as the law and charter in such cases provide.

DULY PASSED ON THE FIRST AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS 22ND DAY OF APRIL, 2024.

Michael Evans, Mayor

ATTEST:

Susana Marin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Bradley Anderle, City Attorney