

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 94, “FOOD ESTABLISHMENT REGULATIONS,” OF TITLE IX “GENERAL REGULATIONS” OF THE CODE OF MANSFIELD, TEXAS, BY REVISING SECTION 94.03 “REGULATIONS, PERMITS, AND PREOPERATIONAL INSPECTIONS”, SECTION 94.04 “INSPECTIONS AND POSTING OF SCORES”, AND 94.16 “FEE SCHEDULE”; 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; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Mansfield, 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 Council has previously adopted regulations regarding the standards, permit, and inspection requirements for food establishments; 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.

Subsections (A), (E), and (J) of 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 established in the Master Fee Schedule adopted by City Council, as amended from time to time set forth in the city’s 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 a conspicuous place of every food establishment visible to the public. Permits shall remain in effect until the last day of the month of issuance unless sooner revoked for cause, or as otherwise provided herein.

...

(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 required fees. When 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. Any person desiring to operate a food establishment shall make application for a permit through the city's 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. The application shall be accompanied by a nonrefundable permit fee, as established in the Master Fee Schedule adopted by City Council, as amended from time to time set forth in the city's Regulatory Compliance fee schedule, on file and available for inspection in the office of the City Secretary.

...

(J) 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. A copy of the licensed professional engineer's calculations for the grease trap shall be provided with the plans. The calculation for determining the size of the grease trap to be installed shall be in accordance with the adopted international codes and local and state regulations and be subject to review and approval by the regulatory authority.

SECTION 3.

Subsections (E)(4), (E)(6), and (H) of Section 94.04 "Inspections and posting of scores," of Chapter 94 "Food Establishment Regulations," of Title IX "General Regulations," of the Code of Mansfield, Texas, is hereby amended to read as follows:

"§ 94.04 INSPECTIONS AND POSTING OF SCORES.

(D) 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:

(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 14 calendar days. If said priority foundation item violation is not corrected during the initial inspection and a reinspection must be performed within the following 14

calendar days, the permit holder will be subject to a reinspection fee as as established in the Master Fee Schedule adopted by City Council, as amended from time to time, set forth in the city's Regulatory Compliance fee schedule and shall be assessed prior to the inspection.

...

(6) If a facility is placed on a compliance plan more than two times in one 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 Master Fee Schedule adopted by City Council, as amended from time to time fee schedule.

...

(H) Inspectors shall have the authority to issue citations for any violations of this chapter.”

SECTION 4.

Section 94.16 “Fee schedule,” of Chapter 94 “Food Establishment Regulations,” of Title IX “General Regulations,” of the Code of Mansfield, Texas, is hereby amended to read as follows:

“§ 94.16 FEE SCHEDULE.

All fees referenced herein shall be as established from time to time by the City Council and set forth in the City of Mansfield Master Fee Schedule ~~Regulatory Compliance fee schedule~~.”

SECTION 5.

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 6.

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 7.

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 8.

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 food establishments, 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 9.

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 provided by the City's charter.

SECTION 10.

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:

Ashley Dierker, City Attorney