

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING TITLE VII “TRAFFIC REGULATIONS” OF THE CODE OF MANSFIELD, TEXAS BY ADDING SECTION 70.03 “GENERAL POWERS AND DUTIES TO ENFORCE” AND SECTION 70.04 “LIABILITY OF OWNER OR OPERATOR AND PROPERTY OWNER” TO SUBCHAPTER “GENERAL PROVISIONS” OF CHAPTER 70 “GENERAL PROVISIONS”; BY ADDING SECTION 71.31 “PARKING COMMERCIAL MOTOR VEHICLES” TO SUBCHAPTER “COMMERCIAL MOTOR VEHICLES” OF CHAPTER 71 “TRAFFIC REGULATIONS”; BY REPEALING AND RESERVING SECTION 72.21 OF SUBCHAPTER “PARKING ZONES” OF CHAPTER 72 “STOPPING, STANDING AND PARKING”; 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**, parking commercial motor vehicles may create safety hazards including obstructed roadways and visibility issues or otherwise impede the public health and safety; and,

**WHEREAS**, the City Council finds and determines that it is in the best interest of the public to prohibit commercial motor vehicles from parking in designated areas of the City without a legitimate purpose.

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

**SECTION 1.**

Subchapter “General Provisions” of Chapter 70 “General Provisions” of Title VII “Traffic Code” of the Code of Mansfield, Texas, is hereby amended by adding a new Section 70.03 “General Powers and Duties to Enforce” to read as follows:

**“§ 70.03 GENERAL POWERS AND DUTIES TO ENFORCE.**

Unless specifically declared otherwise:

(1) The Chief of Police, or any member of the police department designated by the Chief of Police, shall have the responsibility for and duty to enforce all of the provisions of this title; and

(2) 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

any provision of this title; and

(3) In addition to any applicable fine, any vehicle in violation of the provisions of this title may be subject to being towed, at the discretion of the Chief of Police, or his designee, to a place of impoundment in the manner provided for by law.”

## SECTION 2.

Subchapter “General Provisions” of Chapter 70 “General Provisions” of Title VII “Traffic Code” of the Code of Mansfield, Texas, is hereby amended by adding a new Section 70.04 “Liability of Registered Owner or Operator and Property Owner” to read as follows:

### **“§70.04 LIABILITY OF REGISTERED OWNER OR OPERATOR AND PROPERTY OWNER.**

(A) If any vehicle is found in violation of any provision of this title, and the identity of the operator of said vehicle cannot be determined, the registered owner shall be the presumed operator at the time of the violation.

(B) If the operator or registered owner is a corporation, then the senior or managing officer of the corporation shall be the presumed operator of the vehicle at the time of the violation.

(C) When the registered owner or operator is charged with having committed and violating any provision of this title, or commits an act which is prohibited under this title and which violates state law or city ordinance, proof that the vehicle was, on the date of the offense alleged, owned or operated by the person charged with the offense shall constitute prima facie evidence that the act which constitutes the violation under this title was committed by the registered owner or operator.

(D) Property Owner shall be responsible for adherence to applicable provisions within this title, specifically Section 71.31(B). Failure to do so may result in liability of the Property Owner for violations of said section.

(E) Unless specifically declared otherwise, the following shall apply for provisions of this title:

(1) *Owner* shall mean the person registered with the state as the present owner of a vehicle in the most current registration records available to the city, or any transferee not designated in such records, provided that actual notice of the transfer is given. The term shall also include a person entitled to the use and possession of a vehicle; and

(2) *Operator* shall mean the person having possession of, in charge of, or using such vehicle during the time any violation under this title is committed.

(3) *Property Owner* shall mean the person holding title to the property. The term shall also include the property manager or agent for commercial and retail establishments.”

### SECTION 3.

Subchapter “Commercial Motor Vehicles” of Chapter 71 “Traffic Regulations” of Title VII “Traffic Code” of the Code of Mansfield, Texas, is hereby amended by adding a new Section 71.31 “Parking Commercial Motor Vehicles” to read as follows:

#### **“§71.31 PARKING COMMERCIAL MOTOR VEHICLES.**

(A) For purposes of this section, Commercial Vehicle shall include Commercial Motor Vehicles, Mobile Homes, Recreational Vehicles, Pole Trailers, Truck-Tractors, Trailers, and Semitrailers.

(B) It shall be unlawful for any person to park or store, or allow to be parked or stored, any Commercial Vehicle upon any public street, parkway, boulevard, public place, public right-of-way, parking lot, public parking lot, or railroad right-of-way within the corporate limits of the city.

(C) Any Commercial Vehicle left in violation of this Section for more than forty-eight (48) hours is subject to the additional enforcement action, including but not limited to removal and impoundment, by the Chief of Police, or any member of the police department designated by the Chief of Police, applicable to Section 71.01 for Abandoned Vehicles.

(D) This section is not intended to apply to, and it shall be an affirmative defense under this section that the Commercial Vehicle described in this section is:

(1) Parked or standing in such zoned areas for the purpose of expeditiously loading and unloading passengers, freight or merchandise;

(2) Parked or standing at a lawfully zoned business establishment, wherein such vehicle is utilized as an integral part of such lawfully zoned business;

(3) Street construction equipment, maintenance and repair equipment or trucks, rollers and implements, equipment trailers or vehicles used by public service utility companies engaged in repairing or extending public service utilities when used, or intended for use, in the general vicinity;

(4) Utilized by the City (its employees or contractors) in constructing, maintaining, or repairing public infrastructure or in the scope of their employment;

(5) Experiencing mechanical difficulties or defects and are receiving emergency repairs, or are parked in line awaiting repairs or maintenance outside from a business that provides such repairs or maintenance if the driver remains with the Commercial Vehicle;

(6) Parked upon an approved parking surface within an area zoned industrial according to the city zoning ordinance or is parked at a lawfully zoned business establishment, wherein such Commercial Vehicle is utilized as an integral part of such lawfully zoned business;

(7) A passenger bus or Commercial Vehicle parked on a parking lot in an area designated by the owner of the parking lot for the parking of buses or Commercial Vehicles, and with the consent of the owner, during such period as the bus passengers or operator of the Commercial Vehicle are attending an event at a facility zoned for such activities, or are customers at a retail center or business establishment, or, in the case of a hotel or motel, during such periods of time that the bus passengers or operator of the Commercial Vehicle are customers of the hotel or motel;

(8) Parked in a designated area at an exhibit or exhibition hall, convention center, entertainment, or similar facility when the Commercial Vehicle is involved in the delivery and removal of equipment, products, merchandise, livestock or other items to and from the facility; or

(9) A truck or trailer, each individually, no greater than twenty-six (26) feet in length, bumper to bumper being used for the purpose of transporting personal property from one location to another and parked for less than forty-eight (48) hours.”

#### **SECTION 4.**

Section 72.21 “Liability of Owner Committing Parking Violation” of Subchapter “Parking Zones” of Chapter 72 “Stopping, Standing and Parking” of Title VII “Traffic Code” of the Code of Mansfield, Texas, is hereby repealed and reserved.

#### **SECTION 5.**

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 6.**

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 7.**

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. Each day that a violation is permitted to exist shall constitute a separate offense.

**SECTION 8.**

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 9.**

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

**SECTION 10.**

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 13<sup>TH</sup> DAY OF NOVEMBER, 2023.**

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**Michael Evans, Mayor**

**ATTEST:**

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**Susana Marin, City Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

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**Bradley Anderle, City Attorney**