

DRAFT

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, ESTABLISHING A MORATORIUM ON THE ISSUANCE OF CONSTRUCTION PERMITS AND/OR THE RECEIPT OF SITE PLAN SUBMITTALS FOR RESTAURANT OR FOOD SERVICE OPERATIONS WHOSE BUSINESS OPERATIONS TRADITIONALLY PROVIDE THAT MORE THAN TEN PERCENT OF THEIR BUSINESS IS DEVOTED TO DRIVE THROUGH LANE SERVICE, SUCH MORATORIUM TO EXTEND FOR A PERIOD OF 120 DAYS DURING THE PREPARATION OF A STAFF STUDY TO DETERMINE WHAT, IF ANY, SAFEGUARDS AND PERFORMANCE STANDARDS SHOULD BE ESTABLISHED TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE IN THE ESTABLISHMENT AND OPERATION OF THESE FACILITIES, PROVIDING FOR A VARIANCE PROCESS IN THE EVENT OF HARDSHIP.

WHEREAS, the City of Mansfield has recently been engaged in the re-evaluation, review and preliminary updating of portions of its Community Master Plan relating to the development of commercial corridors throughout the City; and

WHEREAS, in the course of conducting the Master Plan update and review, the City staff has concentrated on the evaluation of impacts on surrounding uses created by certain categories of commercial activities; and

WHEREAS, in the course of this evaluation, the staff has identified a particular category of restaurant and/or food service operation that seems to create land use impacts disproportionate to the size of the business and which impact adjoining and surrounding land uses; and

WHEREAS, the City Council of the City of Mansfield believes that it is reasonable and appropriate to periodically re-evaluate land use regulations to determine whether or not they provide appropriate performance standards and/or safeguards to ensure that businesses located within the City are constructed and operated in a manner that does

not negatively impact adjoining land uses; and

WHEREAS, the preliminary review by the Mansfield staff has determined that restaurant and/or food service operations that are operated in a manner in which more than ten percent (10%) of their business is devoted to providing food and beverage products to customers in drive through lanes have the potential to negatively impact adjoining land uses due to certain common operational characteristics which include:

1. The entry and exit points to accommodate the drive through service lanes frequently result in curb cut access ways that create traffic hazards for vehicles moving along public roadways.
2. Vehicles utilizing the drive through service lanes frequently stack during peak operating hours to a point where they may create traffic disruptions or blockages on adjacent public thoroughfares.
3. Drivers leaving food service windows are frequently distracted while checking orders or distributing food products and do not display the degree of caution necessary for vehicular operations when entering adjoining public roadways or passing through congested parking areas.
4. The mixing of drivers attempting to negotiate food service and delivery lanes in parking areas over which pedestrians are going and coming to access the food service facilities creates an enhanced risk of a pedestrian/vehicular accident.
5. When large orders are received in drive through lanes customers may be asked to move into vehicle holding areas which create the potential for congestion in parking and vehicle maneuvering areas creating additional accident risks and creating the additional problem of vehicles having

difficulty exiting adjacent public thoroughfares to access the establishments parking and service roadways.

6. The signage necessary to direct and control traffic utilizing drive through service lanes can create visual clutter and can generate confusion for motorists increasing the risks of vehicular accidents.
7. The packaging material used in the distribution of food service products from these establishments correlates with increased volumes of trash along public rights-of-way and thoroughfares lying in close proximity to the drive through food service establishments.

WHEREAS, the City of Mansfield City Council has determined, after careful review, that existing City land use regulations such as the Municipal Zoning Ordinance, do not contain sufficient, appropriate, specific safeguards and performance standards such as business spacing requirements, stacking depth restrictions on service lanes designed to accommodate the unique characteristics of drive through food service establishments, the installation of barriers to separate vehicular and pedestrian traffic, regulation of signage to minimize disruptive visual effects and curb cut spacing requirements designed specifically to accommodate the potential conflict in vehicular entry and exits from adjoining public thoroughfares; and

WHEREAS, the Mansfield City Council believes that it is reasonable and appropriate to ask the City staff to do a comprehensive study on the operational impacts of these type of food service establishments for the purpose of determining what type of performance standards should be adopted by the municipality to ensure the safe, efficient and effective business operation of these types of facilities; and

WHEREAS, such study should also determine the appropriate locations and spacial separation for businesses of this type to ensure that they do not unreasonably impact adjoining business operations that might share common frontage on public thoroughfares; and

WHEREAS, the Mansfield City Council believes that the 120 day moratorium period to prevent the initiation of any new restaurant or food service operations that envision a significant portion of their business being directed at drive through food service operations is reasonable and appropriate to allow the staff sufficient time to complete such a study; and

WHEREAS, the City Council believes it is reasonable and appropriate to establish a variance procedure to permit any person who believes they are unreasonably impacted by this moratorium and will be subject to a hardship that is not appropriate based upon the character of the activity they propose to undertake, should have the opportunity to present their request to the City Council for prompt resolution.

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

SECTION 1.

The City Council of the City of Mansfield hereby directs the City Manager to institute a study on the operational characteristics and impacts of restaurants or food service operations where more than ten percent (10%) of the projected business activity is provided by food service delivery to drive through lanes for customers. The purpose of the study is to develop a full operational picture of the characteristics and impacts of these facilities on adjoining thoroughfares and adjoining land uses. The study shall be undertaken as soon as practical and shall be completed within 120 days from the date of

the adoption of this Resolution. If the City Manager should determine that the study will require additional time, his office shall so notify the City Council and this Resolution may be extended by City Council action to provide sufficient time to ensure that a thorough study is completed in order to protect the public health, safety and welfare of the citizens of Mansfield.

SECTION 2.

A moratorium is hereby established on the issuance of construction permits or the receipt, processing or approval of site plans for the construction, development and use of restaurants or food service operations whose business model provides that more than ten percent (10%) of the business activity is directed at providing food products or services to customers in drive through lanes. This moratorium shall be effective for 120 days following the adoption of this Resolution but may be extended if the City Council should subsequently adopt a new Resolution providing a new time limitation in order to permit the completion of the appropriate study on the characteristics and operational impacts of these types of facilities.

SECTION 3.

Any party, individual or business who feels that they are being unreasonably impacted by this moratorium and who believe that they can present evidence demonstrating that their proposed business activities will not constitute a threat to the public health, safety and welfare may submit a letter requesting a variance to the requirement of this moratorium to the office of the City Manager. The City Manager's office will place any such requests for a variance on a regular City Council agenda for consideration and action within three weeks of the receipt of such variance request. The

City Council will allow the applicant the opportunity publically present such information and evidence as they deem appropriate to demonstrate the justification for not applying the moratorium to their business. The City Council will permit any interested person or party to offer testimony or evidence that they believe would be beneficial in making a determination on the variance request. The City Council will decide whether a variance should or should not be granted based upon whether or not they believe the evidence submitted by the applicant is sufficient to demonstrate that there is no threat to the public health, safety or welfare.

SECTION 4.

This Resolution shall be effective immediately upon adoption.

APPROVED this _____ day of _____, 2014.

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ATTEST:

Mayor

City Secretary