

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 92.05, (VEGETATION) OF THE ORDINANCES OF THE CITY OF MANSFIELD, TEXAS, BY REMOVING A 12" MAXIMUM HEIGHT, ADDING A TEN (10) INCH MAXIMUM HEIGHT AND REMOVING THE WORDS "ON AVERAGE" IN SECTION 92.05 A (1); PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mansfield, Texas 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 ordinances and regulations prohibiting the growth of grass, weeds, and other vegetation in an uncultivated manner and the accumulation of rubbish, brush, or any other objectionable, unsightly, and unsanitary matter within the city; and

WHEREAS, the City Council has found and determined that to properly implement this Ordinance and abate violations thereof, it is necessary to investigate complaints, determine the property owner's name and address, prepare and send out appropriate notices, file certain notices and liens with the county clerk, and supervise the conduct of the work; and

WHEREAS, the City Council has determined the minimum administrative cost to the city to abate a violation of this Ordinance; and;

WHEREAS, pursuant to Texas Health and Safety Code §342.004, the City Council wishes to amend Chapter 92.05 of the Code of Ordinances of the City of Mansfield, which requires owners of lots within the city to keep the lots free of weeds, brush, and high grass;

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

SECTION 1.

Section 92.05 Of the Code of Ordinances of the City of Mansfield is hereby amended by deleting the 12" maximum height, adding a 10" maximum height and deleting the words "on average":

Sec. 92.05. VEGETATION

**(A) Overgrown Vegetation, Rubbish, and Other Unsanitary Matter
Prohibited.**

- (1) Except as provided in subsection (4) of this division, 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 uncultivated grass, weeds, or brush, to grow to a height greater than ~~12 inches on average~~ ten (10) inches, including along the sidewalk or street adjacent to the premises between the property line and the curb or, if there is no curb, between the property line and the driving surface.
- (2) It shall be the duty of any person owning, leasing, claiming, occupying, or having supervision or control of any real property within the city to cut or cause to be cut, grass, weeds and brush, as often as necessary to comply with the requirements of this chapter.
- (3) Except as provided in subsection (4) of this division, all grass, weeds, vegetation, or brush not regularly cultivated and which exceed ~~12 inches~~ 10 inches in height shall be presumed to be objectionable, unsightly, and unsanitary, and are hereby declared a public nuisance.
- (4) For tracts of land in excess of five acres, or that are used for the active production of livestock, it shall be required only that grass, weeds and vegetation, not regularly cultivated, be mowed to a height of no greater than ~~12 inches~~ 10 inches within a minimum of 200 feet of all adjacent property lines and public or private streets. This minimum may be increased on a case by case basis when deemed necessary by the Fire Department to insure adequate fire safety of adjacent property containing structures or equipment.

**SECTION 3.
ORDINANCE CUMULATIVE**

This Ordinance shall be cumulative of all provisions of ordinances of the city of Mansfield, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such

ordinances are hereby repealed.

SECTION 4. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections 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 sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

SECTION 5. PENALTY

Notwithstanding any notice provisions contained in this Ordinance, 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 Chapter 92 of this Ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. A person who violates the provisions of Sec. 9-49 shall be fined not more than \$200.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 6. SAVINGS

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of Divisions I and 2 of Article 11 of Chapter 9 of the Mansfield Code of Ordinances, as amended, or any other ordinances affecting public health and sanitation, including dumping of refuse, or the abatement of nuisances 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 7.
PUBLICATION REQUIREMENTS**

The City Secretary of the City of Mansfield is hereby directed to publish in the official newspaper of the City of Mansfield, the caption, penalty clause, publication clause and effective date clause of this ordinance one (1) time within ten (10) days after the final reading of this ordinance as required by the Charter of the City of Mansfield.

**SECTION 8.
EFFECTIVE DATE**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS ____ DAY OF _____ 2017,

PASSED AND APPROVED ON THIS ____ DAY OF _____ 2017,

**DULY PASSED ON THE THIRD AND FINAL READING BY THE CITY COUNCIL
OF THE CITY OF MANSFIELD, TEXAS, THIS _____ DAY OF _____,
2017.**

DAVID COOK, MAYOR

ATTEST:

**JEANNE HEARD
CITY SECRETARY**

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY

