

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 92.04 (NUISANCES DEFINED), OF THE ORDINANCES OF THE CITY OF MANSFIELD, TEXAS, TO DECLARE A TREE, SHRUB OR OTHER SIMILAR PLANT OF ANY DESCRIPTION WHICH CREATES A HAZARD OR RISK OF DAMAGE OR DESTRUCTION TO PERSONS OR PROPERTIES AS A PUBLIC NUISANCE; 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 defining nuisances 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 of the Code of Ordinances of the City of Mansfield, which regulates health and sanitation;

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

SECTION 1.

Section 92.04; Nuisances Defined; Prohibited; Notice; Abatement of the Code of Ordinances of the City of Mansfield is hereby amended by adding the following:

92.04 (B) (14) A tree, shrub or other similar plant of any description which creates a hazard or risk of damage or destruction to persons or property, contrary to the public health, safety or welfare or in violation of the codes and ordinances of the city.

**SECTION 2.
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with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.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 3.
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 4. 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 Section 1 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. 9204 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 5. SAVINGS

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of Chapter 92 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 6. 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 7.
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